

# Supplemental Information on New York State's National Electric Vehicle Infrastructure Formula Program Plan

Initial Submittal – July 31, 2022

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## Contracting

The New York State Department of Transportation (NYSDOT) anticipates engaging state agency partners and the private industry to site, construct and/or operate and maintain NEVI compliant direct current fast charging (DCFC) electric vehicle (EV) charging stations to build out New York's EV Alternate Fuel Corridors and maximize the effective use of the National Electric Vehicle Infrastructure (NEVI) formula funds. NYSDOT will consider the optimal contracting approach to best serve long distance travel in New York State and to maximize administrative efficiency as well as the management and oversight of federal reporting requirements. NYSDOT does not anticipate owning any NEVI funded EV charging stations, however, if any state-owned property is involved, there may be different contracting approaches for state-owned versus privately owned sites.

NYSDOT has established procedures for Locally Administered Federal Aid Projects contained within its Local Projects Manual (LPM)<sup>1</sup>. These comprehensive procedures are designed to assist non-NYSDOT transportation project sponsors in New York State who seek federal funding through the Federal Highway Administration (FHWA), and to provide an overview of the processes, procedures, documentation, authorizations, approvals, and certifications required throughout the scoping, design, construction, and maintenance of transportation-related projects. NYSDOT will consider how it can leverage the LPM as a guide to develop procedures to assist private industry partners who may seek to participate in future NEVI funded contract solicitations.

NYSDOT will be focusing on opportunities to deploy the charging stations necessary to fill the gaps identified in New York's NEVI plan. Any contracts with private industry partners will be procured through a competitive solicitation process. Contract provisions including but not limited to:

- Performance-based reimbursement,
- maintenance and variable operating cost sharing based on utilization and risk-sharing;
- property ownership or site owner property use agreement requirements;
- site amenity requirements and resilience;
- minimizing charging station maintenance and maximizing reliability;
- technology utilization;
- minimizing supply chain disruptions;
- effective utility coordination to minimize cost and construction delay;
- Disadvantaged Business Enterprise (DBE) participation;
- cybersecurity;
- payment methods;
- data collection and reporting.

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<sup>1</sup> NYSDOT Local Projects Manual (LPM) is available at: <https://www.dot.ny.gov/divisions/operating/opdm/local-programs-bureau/locally-administered-federal-aid-projects>

In addition, it is clear from the plan's gap analysis that New York has two very different gap "environments". "Corridor Gaps" and some of the "Border Gaps" are located in areas where there is forecasted to be very low usage for EV chargers over at least the five-year life of the program. "Anchor Gaps" and several "Border Gaps" are located in areas which are likely to have much higher and possibly even very robust usage. The relatively extreme differences in the two user environments may call for different contracting strategies to best address this range of different user environments.

Detailed solicitation language will be developed following approval of this Plan, finalization of federal standards for NEVI-funded DCFC equipment and reporting, and ongoing clarification of the application of federal regulations to the NEVI program.

All NEVI-funded deployments will be monitored throughout the 5-year deployment period and NYSDOT will revise its strategy, as appropriate. Contract terms are expected to last for at least the duration of the reporting requirements.

In addition to the potential to fund the construction, operation and maintenance of EV charging stations, New York will engage Disadvantaged Community liaisons within the state to identify opportunities to provide benefits from the expenditure of NEVI funds, including opportunities for workforce training and education to support a clean energy job pipeline, job training, and enterprise creation. NYSDOT anticipates working with its partner state agencies, including the State University of New York, the Empire State Development Corporation and the New York State Energy Research and Development Authority to leverage their experience and existing state programs that achieve such worker training and education goals.

## **Civil Rights**

It is the policy of NYSDOT to prevent and eliminate discrimination in all of its operations and services as well as all aspects of employment. NYSDOT plans, develops and implements its programs and activities so that no person is subjected to unlawful discrimination based on race, creed, color, gender, age, national origin, religion, disability, sexual orientation, marital status or Vietnam era veteran status.

As referenced by this policy, NYSDOT actively promotes and enforces actions that protect the Civil Rights not only of its employees but those that are directly impacted by NYSDOT projects. NYSDOT implements a variety of programs that are all focused on promoting equity and protecting Civil Rights including:

- Title VI
- Limited English Proficiency (LEP)
- Americans with Disabilities Act (ADA)
- Disadvantaged Business Enterprises (DBE) and DBE Supportive Services
- Minority and Women-Owned Business Enterprise Program
- Service-Disabled Veteran-Owned Business Program
- On the Job Training (OJT) and OJT Supportive Services

NYSDOT includes Civil Rights requirements within its contracts with consultants, contractors, vendors and others and will do so, as appropriate, in any opportunities provided with New York State's NEVI funding.

Any contractors engaged as part of the NEVI program will be required to assure compliance with nondiscrimination in Federally-assisted programs of the Department of Transportation of the United

States, Title 49, Code of Federal Regulations, Part 21, and the Federal Regulations, Part 200 as they may be amended from time-to-time, which are incorporated by reference and made a part of the contract. Consultants and contractors, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors/subconsultants, including procurements or materials and leases of equipment.

In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor/subconsultant or supplier shall be notified of the contractor's obligations relevant to Title VI and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

The contractors shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, Section 21.5 of the Regulations, including employment practices. The contractors are also required to provide relevant information and reports.

These entities will be subject to ongoing monitoring and enforcement actions (where needed) to ensure that all Civil Rights requirements will be met.

Related to ADA, New York has awareness of, and experience with, accessible EV charging design and will work to incorporate new access board recommendations (<https://www.access-board.gov/tad/ev/>) as well as any other NEVI program ADA requirements into future NEVI opportunities.

## **Cybersecurity**

The NEVI program requires the inclusion of strategies to mitigate charging infrastructure, grid, and consumer vulnerability associated with the operation of charging stations. NYSDOT will comply with all cybersecurity related regulations and guidance that are issued by FHWA or the Joint Office with respect to funded chargers. New York recognizes the importance of cybersecurity and is incorporating such strategies in its current programs. For example, New York currently requires Open Charge Point Protocol (OCPP) 1.6 certification in its EVolve NY charging program. While OCPP 2.0.1 is available, it is not universally supported at this time. New York anticipates initially requiring OCPP 1.6 certification with a specified upgrade path defined for OCPP 2.0.1.

New York supports ISO 15118 vehicle to grid communication interface capability on the charger and the network. However, ISO 15118 has not been adopted by all charger manufacturers or automobile original equipment manufacturers (OEMs). New York State will require detailed plans from any vendor on its ISO 15118 functionality and roadmap and will require vendors to implement capabilities as they become commercialized.