



Department of
Environmental
Conservation

**2018 Environmental Restoration Program
Grant Opportunity**

**GRANT GUIDELINES AND APPLICATION
INSTRUCTIONS**

New York State

Department of Environmental Conservation

***Reimburses Remediation Design and Construction Costs
of Municipally owned Brownfield Sites in Accordance with
Title 5 of Article 56 of the Environmental Conservation
Law and Section 97-b of the State Finance Law***

***NYS Grants Gateway Application ID No.:
DEC01-ERP-2018***

**Application Webinar
July 10, 2018 @ 10:00 AM ET**

Application Due Date: September 7, 2018 3:00 PM ET

1. Timetable of Key Events:

Event:	Date:
Application Period Begins	June 22, 2018
Application Webinar	July 10, 2018 @ 10 AM ET https://meetny.webex.com/meetny/j.php?MTID=m83e1b09bfe66f5cbbb46072c6fd672dc 2. If requested, enter your name and email address. 3. If a password is required, enter the meeting password: ER2018 4. Click "Join". 5. Follow the instructions that appear on your screen. 6. You will be prompted to join the Audio Conference after you join the webinar.
Question & Answer Period Ends	September 5, 2018
Applications Due	September 7, 2018
Award(s) Announced By (anticipated)	October 26, 2018

2. Eligible Applicants:

For the purposes of this grant program, the following entities are considered eligible applicants: Eligible applicants include municipalities as defined by Environmental Conservation Law (ECL) §56-0502(5) and municipalities acting in partnership with community-based organizations as defined by ECL §56-0101(15).

“Municipality” means a local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town or village, or Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York State, or any combination thereof. Except that such term shall not refer to a municipality that generated, transported, or disposed of, arranged for, or that caused the generation, transportation, or disposal of contamination located at real property proposed to be investigated or to be remediated under an environmental restoration project. For purposes of this subpart, the term municipality includes a municipality acting in partnership with a community based organization.

The municipality can apply only if they have a Federal Employer Identification Number (FEIN) and a NYS Vendor ID number in their own name, and are registered in the NYS Grants Gateway.

“Community based organization” means a not-for-profit corporation, exempt from taxation under §501(c)(3) of the internal revenue code whose stated mission is promoting reuse of brownfield sites within a specified geographic area in which the community based organization is located, which has twenty-five percent or more of its board of directors residing in the community in such area; and represents a community with a demonstrated financial need.

“Community based organization” shall not include any not-for-profit corporation that has caused or contributed to the release or threatened release of contamination from or onto the brownfield site, or any not-for-profit corporation that generated, transported, or disposed of, or that arranged for, or caused, the generation, transportation, or disposal of contamination from or onto the brownfield site. This definition shall not apply if more than twenty-five percent of the members, officers or directors of the not-for-profit corporation are or were employed by or receiving compensation from any person responsible for a site under ECL Article 27, Title 13 or Navigation Law Article 12 or under applicable principles of statutory or common law liability.

Applicants must possess the knowledge, skills, and/or track record to successfully implement the project.

If a proposed project involves a cooperative agreement or partners, only one eligible, designated lead applicant can submit the application for grant funding. The lead applicant must assume the responsibility for the project application, performance of work consistent with this Request for Application (RFA), and the State of New York Master Contract for Grants. Letters substantiating the collaboration from each partner are required. These letters are to be uploaded to the Grants Gateway in a single PDF under the appropriate Program Question for the application.

3. Grant Information:

a) Funding

Approximately \$10,000,000 is available for 2018 Environmental Restoration Program (ERP) Grants. The Department of Environmental Conservation (DEC) anticipates using primarily Hazardous Waste Cleanup Account Funding for these projects. DEC may potentially receive additional funding from other sources for qualifying projects. Should such funding become available, DEC reserves the right to award all available funding for scored and ranked projects, consistent with the method of award described in this grant opportunity.

b) Proposed Project Timeframes

All projects must have defined objectives, tasks, and deliverables accounted for in performance measures that can be completed and invoiced within a three-year contract period/term. Applicants should not begin their projects or incur costs until a Master Contract for Grants (MCG) has been fully approved by DEC, and if applicable, approved by the Attorney General and the State Comptroller. Time extensions beyond the contract term end date of a maximum three-year period will be considered by the DEC based upon written justification from the Grantee. Applicants should not submit an application if they do not anticipate their project can be completed within the contract term.

c) Minimum and Maximum Award Amounts

Minimum grant amount is \$20,000; Maximum grant amount is \$3,000,000. Applicants are encouraged to request the amount of funding they deem appropriate and reasonable for their project. Amendments of the award up to a 30 percent increase may be entertained if it is determined that costs necessary to complete the project exceed the award amount and funding is available. These amendments will be awarded based upon the date we receive the request and until funding is exhausted.

d) Application Limit/Award limit

Applicants may submit more than one application. Multiple applications may not be for the same project.

e) Eligible Projects

The property must have been the subject of an environmental investigation under the New York State Environmental Restoration Program, and have a DEC-issued Record of Decision (ROD) for the site. The project's purpose must be to implement the remedy described in the ROD or as subsequently modified based on

new information in accordance with NYSDEC Division of Environmental Remediation Policy DER-2, *Making Changes to Selected Remedies*.

f) Department of Environmental Conservation lead

Under ECL 56-0503.3, the Department may undertake an environmental project on behalf of a municipality upon request. If the Department undertakes the project on behalf of the municipality, the State shall enter into a written agreement with the municipality and the agreement shall require the municipality to periodically provide its share to the State for costs incurred during the progress of such project. **If applicant wants to choose this option it must be done at the time of application. A formal agreement arranging for the municipality to provide their share will be required and processed outside of the gateway.**

4. Inquiries & Designated Contact Information:

The designated contact for this grant opportunity is:

ERP 2018 Program Manager
derweb@dec.ny.gov
518-402-9764

Include "2018 Environmental Restoration Program" in the subject line of the email. Questions regarding this grant opportunity will be accepted by the DEC until September 7, 2018 @ 3:00 PM ET.

All questions, and answers, will be uploaded in the Grants Gateway application for all applicants to view on a bi-weekly basis. The last date for questions to be submitted is September 5, 2018, with final upload on September 6, 2018.

5. Application Submission:

Applications must be submitted through the NYS Grants Gateway (<https://grantsgateway.ny.gov>).

Paper applications will NOT be accepted. Applicants are strongly encouraged to submit their applications prior to the application deadline. Late applications will not be accepted.

Please note: those logged in as Grantees may work on the application, only those logged in as a **Grantee Contract Signatory or a Grantee System Administrator can submit the application to the State.** When the application is ready for submission, click the Status Changes tab, then click the "Apply Status" button under "Application Submitted".

All Applicants must be **Registered** with Grants Gateway to submit an application. In addition to registration, **not-for-profits** must also be **Prequalified** at the time and date that the application is due. If you are not Prequalified at that time and date, your application will not be considered. For more information about Grants Gateway and Prequalification, please visit the Grants Reform website (<http://www.grantsreform.ny.gov/Grantees>) or contact the Grants Reform Team at: grantsreform@its.ny.gov. The Grants Reform help desk/hotline can be reached at (518) 474-5595.

**PLEASE DO NOT DELAY IN BEGINNING AND COMPLETING THE
PREQUALIFICATION PROCESS.**

THE STATE RESERVES 5 DAYS TO REVIEW SUBMITTED

PREQUALIFICATION APPLICATIONS. PREQUALIFICATION APPLICATIONS SUBMITTED TO THE STATE FOR REVIEW LESS THAN 5 DAYS PRIOR TO THE 2018 ENVIRONMENTAL RESTORATION PROGRAM APPLICATION MAY NOT BE CONSIDERED.

APPLICANTS SHOULD NOT ASSUME THAT THEIR PREQUALIFICATION INFORMATION WILL BE REVIEWED IF THEY DO NOT ADHERE TO THIS TIMEFRAME.

Table of Contents

Contents

Table of Contents	5
Applicant Eligibility.....	7
Applicant Prequalification	7
Register for the Grants Gateway.....	8
Complete your Prequalification Application	8
Submit Your Prequalification Application	8
Grant Opportunity General Information and Conditions	9
Funding.....	9
Proposed Project Timeframes.....	9
Minimum and Maximum Award Amounts.....	10
Application Limit/Award Limit.....	10
Eligibility of Projects.....	10
Department of Environmental Conservation Oversight	11
Grant Application Requirements and Conditions	12
Expenditure Based Budget	12
Work Plan	12
Liability Limitation	13
Citizen Participation.....	14
Environmental Justice	14
Temporary Use of Property	14
Technical Requirements: Remediation Phase	15
Final Inspections.....	15
Quality Assurance.....	16
Cost Recovery	16
Alignment with Regional Economic Development Council Priorities	17
Pre-Submission Upload: Smart Growth Infrastructure Policy Act (Mandatory)	17
Pre-submission Upload: Applicant Cecklist (Mandatory)	17
Environmental Easement	18
DEC Access to Site and Records.....	18
Site Lease/Transfer Conditions.....	18

Communications	19
Completion or Termination of MCG	19
Application Evaluation, Scoring and Selection	20
Step 1: Application and Project Eligibility Determination	20
Step 2: Project Evaluation, Scoring and Selection	21
METHOD OF AWARD:.....	25
Tie Breaker	25
Grant Program Payment.....	25
Advance Payments	25
Eligible and Ineligible Expenditures	25
Eligible Project Expenditures.....	25
Force Account	26
Ineligible Project Expenditures	27
Site Management.....	27
Other Funding Sources	28
Grant Program Reporting.....	29
What to Expect If You Receive an Award.....	29
Notification of Award	29
State of New York Master Contract for Grants (MCG)	30
Applicants (referred to as “Contractor” following award of Grant Contract) Should Be Prepared to Comply with the Following MCG Requirements:.....	30
Procurement of Contractors/Subcontractors.....	32
Americans With Disabilities Act.....	32

Applicant Eligibility

In addition to the information provided on page 2 above, a municipality is eligible if it:

- Did not generate, transport or dispose of, nor arranged for nor caused the generation, transportation or disposal of, any contaminant or contamination on the site. For these purposes, a municipality is not considered a generator, transporter, or arranger:
 - for having rendered care, assistance, or advice in the course of an incident creating a danger to public health or welfare or to the environment as a result of any release of a contaminant or the threat of same; or
 - for having leased a site to another party that generated, transported or disposed of, or that arranged for or caused the generation, transportation or disposal of, any contaminant on such site unless such municipality knew that such other party generated, transported or disposed of, or arranged for or caused the generation, transportation or disposal of, such contaminant and failed to take any action to remediate, or cause the remediation of such contaminant.
- Did not take title to a site from a municipality not eligible to apply for State assistance under ECL Article 56, Title 5 by reason of its having generated, transported or disposed of, or having arranged for or caused the generation, transportation or disposal of, any contaminant on the site, and either municipality is a local public authority or public benefit corporation, or improvement district and title was acquired on or after June 6, 1996.

Applicant Prequalification

Pursuant to the New York State Division of Budget Bulletin H-1032, dated June 7, 2013, New York State has instituted key reform initiatives to the grant contract process which require not-for profit organizations to register in the Grants Gateway and complete the Vendor Prequalification process in order for applications to be evaluated. Information on these initiatives can be found on the Grants Reform Website.

All Applicants must be Prequalified in the Grants Gateway at the time and date that the application is due. Applications received from nonprofit Applicants that have not registered and are not Prequalified in the Grants Gateway by the application due date and time listed at the beginning of this document cannot be evaluated. If you are not Prequalified at that time and date, your application will not be considered. **Such applications will be disqualified from further consideration.**

Below is a summary of the steps that must be completed to meet registration and Prequalification requirements. The Vendor Prequalification Manual on the Grants Reform Website details the requirements and an online tutorial is available to further explain the process.

PLEASE NOTE: The information included here regarding Prequalification is not intended to be exhaustive, and Applicants should visit the Grants Reform website (<http://www.grantsreform.ny.gov/Grantees>) or contact the Grants Reform Team (grantsreform@its.ny.gov) for more information about Grants Gateway and Prequalification. The Grants Reform help desk/hotline can be reached at (518) 474-5595.

Register for the Grants Gateway

- On the Grants Reform Website, download a copy of the [Registration Form for Administrator](#). A signed, notarized original form must be sent to the NYS Grants Reform Team at the address provided in the instructions. You will be provided with a Username and Password allowing you to access the Grants Gateway.
- If you have previously registered and do not know your Username please email grantsreform@its.ny.gov. If you do not know your Password please click the Forgot Password link from the main log in page and follow the prompts.

Complete your Prequalification Application

- Log in to the Grants Gateway. **If this is your first time logging in**, you will be prompted to change your password at the bottom of your Profile page. Enter a new password and click SAVE.
- Click the *Organization(s)* link at the top of the page and complete the required fields including selecting the State agency you have the most grants with. This page should be completed in its entirety before you SAVE. A *Document Vault* link will become available near the top of the page. Click this link to access the main Document Vault page.
- Answer the questions in the *Required Forms* and upload *Required Documents*. This constitutes your Prequalification application. Optional Documents are not required unless specified in this document.
- Specific questions about the Prequalification process should be referred to your agency representative or to the Grants Reform Team at grantsreform@its.ny.gov. The Grants Reform help desk/hotline can be reached at (518) 474-5595.

Submit Your Prequalification Application

- After completing your Prequalification application, click the **Submit Document Vault** link located below the Required Documents Section to submit your Prequalification application for State agency review. Once submitted the status of the Document Vault will change to *In Review*.
- If your Prequalification reviewer has questions or requests changes you will receive email notification from the Gateway system.
- Once your Prequalification application has been approved, you will receive a Gateway notification that you are now Prequalified to do business with New York State.

Once you are Prequalified, please check the status of your document vault on a regular basis to ensure that none of your documents expire prior to the application due date. Refer to Grants Reform Guide entitled [Monitoring and Updating Your Organization's Prequalification Status](#). **Expired documents will lead to the loss of Prequalification status.**

Applicants are strongly encouraged to begin the prequalification process as soon as possible in order to participate in this grant opportunity. Please do not delay in beginning and completing the prequalification process. The State reserves 5 days to review submitted Prequalification applications. Prequalification applications submitted to the State for review less than 5 days prior to the application deadline may not be considered. Applicants should not assume that their Prequalification information will be reviewed if they do not adhere to this timeframe.

If you are not yet registered with Grants Gateway, there are many resources available to help you understand how to register and become Prequalified:

- [The NYS Grants Reform Website](#)
- [Video: Grants Gateway Registration](#)
- [New York State Prequalification System for Grants Contract Vendors: A Resource Manual and Users Guide for Not-for-Profit Vendors](#)
- [Biweekly Document Vault webinars. All information can be found on the Grants Reform website - \[Training Calendar\]\(#\)](#)

The Grants Reform Team offers regular live webinars for anyone who is interested in additional information about Grants Gateway, the Prequalification process, or submitting online applications. Learn more including times and dates for these webinars: <http://grantsreform.ny.gov/training-calendar>. Any additional technical training related to this application will also be posted to the training calendar.

You can also contact the Grants Reform Team for additional assistance:

Phone: (518) 474-5595
Email: GrantsReform@its.ny.gov

Grant Opportunity General Information and Conditions

The New York State Department of Environmental Conservation (DEC) is pleased to announce funding for projects that will implement the 2018 Environmental Restoration Program

Funding

Environmental Conservation Law (ECL) Article 56, Title 5 authorizes an Environmental Restoration Program (ERP). The purpose of this program is to provide grants to municipalities for the investigation and remediation of municipally-owned properties known or suspected to be contaminated with hazardous substances or petroleum. The remediated properties may then be redeveloped for a variety of uses including industrial, commercial, residential, and recreational. The DEC is soliciting ERP Grant applications from municipalities and municipalities in partnership with community-based organizations for the remediation of previously-investigated ERP sites. State Finance Law Article 6, Chapter 97-b allows the use of up to \$10,000,000 of the Hazardous Waste Cleanup Account (HWCA) for ERP. Approximately \$10,000,000 is available for 2018 ERP Grants.

Proposed Project Timeframes

All projects must have defined objectives, tasks, and deliverables accounted for in performance measures that can be completed and invoiced within a *three-year* contract period/term. Applicants should not begin their projects or incur costs until a Master Contract for Grants (MCG) has been fully approved by DEC and, if applicable, approved by the Attorney General and the State

Comptroller. Time extensions of two years beyond the contract term end date will be considered by the DEC based upon written justification from the Grantee. Applicants should not submit an application if they do not anticipate their project can be completed within the specified contract term.

The Grantee will be required to initiate field work within 12 months of the award. If the field work for a project is not initiated within 12 months of the award, the award will become null and void and the DEC may reapply the project funding to the next highest scoring application. A municipality may begin work once it has received written approval of the Remedial Action Work Plan.

The activity period for the request must fall within the start and end date of the contract term. Project expenditures prior to the MCG start date and after the MCG end date are not eligible for reimbursement.

Minimum and Maximum Award Amounts

Minimum grant amount is \$20,000; Maximum grant amount is \$3,000,000.

Application Limit/Award Limit

Applicants may submit multiple applications. Multiple applications *may not* be for the same project.

Eligibility of Projects

Eligible projects are those which have been the subject of an environmental investigation under the New York State Environmental Restoration Program, and have a DEC-issued Record of Decision (ROD) for the site. The project's purpose must be to implement the ROD, or the ROD as subsequently modified based on new information in accordance with DER-2, *Making Changes to Selected Remedies*.

The Municipality must agree for itself and for its lessees and successors in title that any proposed change to the Contemplated Use at a site shall be governed by the provisions of ECL §56-0511 and any implementing regulations.

The following criteria must be satisfied in order for a project to be eligible:

- a) The Municipality must own the property. Proof of ownership must be submitted with the application.
- b) Other than activities related to a previous ERP State Assistance Contract (SAC) for this site, the Municipality has not generated, transported or disposed of, nor arranged for or caused the generation, transportation or disposal of, hazardous substances on the property; and has not undertaken, and will not undertake, any indemnification obligation respecting a party responsible under law for the remediation of the property;

NOTE: For eligibility purposes, a Municipality is not considered to be an arranger if the Municipality has leased the property to another party that generated, transported or disposed of, or that arranged for or caused the generation, transportation or disposal of, hazardous substances on that property, and the Municipality either did not know that such other party generated, transported or disposed of, or arranged for or caused the generation, transportation or disposal of, such contamination, or so

knew and took action to remediate, or cause the remediation of such hazardous substances. In addition, a Municipality is not considered to be a generator, transporter, or arranger merely for having rendered care, assistance, or advice in the course of an incident creating a danger to public health or welfare or to the environment as a result of any release of a hazardous substance or the threat of same.

- c) The project satisfies the criteria of ECL §56-0505. At a minimum, the applicant must demonstrate that the project is intended to result in a benefit to the environment and is either an economic benefit to the State or a public recreational use of the property.
- d) The site is not listed in New York State's Registry of Inactive Hazardous Waste Disposal Sites as a class "1" or class "2" at the time of application.
- e) The Municipality previously complied with the requirements of a previous ERP SAC, and responded to the Department's requests in a timely manner.

Department of Environmental Conservation Oversight

The Department of Environmental Conservation (DEC) reserves the right to:

- Award additional and available funding for scored and ranked projects consistent with this grant opportunity.
- Award an agreement for any or all parts of the RFA in accordance with the method of award, or withdrawal of the RFA at any time at the DEC's sole discretion.
- Award only one application for funding in the event there are multiple application submissions for a single project or for pieces of a single project.
- Award to the next highest scoring application in the event a grantee fails to execute a grant contract with the DEC within 60 days of a grant award.
- Monitor the progress of all grant awards and withdraw grant funding if the grantee fails to make significant and timely progress on the project, or fails to receive the necessary permissions and permits for the project.
- Not fund projects that are determined not to be consistent with NYS's Smart Growth Public Infrastructure Policy Act.
- Periodically inspect the site to ensure that the use of the site complies with the terms and conditions of the MCG; such right of inspection shall survive termination of the MCG.
- Reject any or all applications in response to the RFA at the agency's sole discretion.
- Reduce the award from the amount requested in the application, so long as the reduced funding does not jeopardize the viability of the project to proceed at the reduced funding level.
- Reduce an award from the amount requested in the application, should the project budget contain costs considered ineligible under this grant program.

Grant Application Requirements and Conditions

Please be sure to include with your application, information on the following requirements if applicable to your project:

Applications must identify that the following will be performed, in order to meet the following minimum requirements to be eligible:

The Remedial Action will involve all tasks necessary to implement the remedy in accordance with the DEC's Record of Decision (ROD). Specific tasks include, as necessary: pre-design activities to address any uncertainties from the Remedial Investigation/Alternatives Analysis (RI/AAR); preparation of a remedial design report; development of the Remedial Action Work Plan in accordance with Division of Environmental Remediation Guidance DER-10

(http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf), preparation of plans and specifications; contractor procurement; project scheduling; acquisition of appropriate bonding and insurance; acquisition of required permits; implementation of the remedial program; granting of an Environmental Easement; preparation of a Site Management Plan, as required; submittal of a construction completion report and as-built drawings; and public participation.

In addition to items below, please respond to all questions in the Gateway. Please use n/a for items that do not pertain to your project. Review the Step 1 and Step 2 criteria and ensure your application is complete and provides sufficient descriptive information to allow for your project to be scored.

Expenditure Based Budget

Applicants must complete an itemized budget in the NYS Grants Gateway that provides details of the proposed project-related expenses. Budget detail must clearly distinguish between expenses to be claimed under the State grant share and non-eligible expenses. The detail should provide a task breakdown by maximum reimbursement rate (please refer to 6 NYCRR Part 375-4.3d), such as on-site remediation tasks eligible for up to 90% reimbursement, demolition or asbestos removals for up to 50% reimbursement and off-site remediation directed by the Department for up to 100% reimbursement.

The cost listed in the ROD may be adjusted by a rate equal to the change in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) for All Urban Consumers, New York All Items, for the previous year, provided, however, that no annual adjustment may exceed five percent (5%).

The initial budget for remediation projects should be based on the estimate for the Remedial Design/Remedial Action (RD/RA) in the ROD issued by the Department. However, upon completion of the Remedial Design, the applicant may apply for an amendment to the MCG, subject to the limitations of available funding for Amendments as discussed on page 2, to adjust the project budget based on a construction estimate certified by a licensed Professional Engineer with current New York State registration.

Work Plan

Applicants must complete a work plan (considered a Scope of Work) in the NYS Grants Gateway that provides a clear overview of the project. Applications must include proposed project objectives, tasks associated with meeting each objective, and the performance measures associated with each task (performance measures can include desired project outcomes or deliverables). The work plan may include anticipated time frames in meeting project objectives, tasks and deliverables. Time frames must be consistent with the timeline applicants are required

to upload (if applicable) in the Grant Gateway.

Note: A Work Plan 'worksheet' is available for applicants in the Grants Gateway (under Pre-submission Uploads). The 'worksheet' can be downloaded and used as a tool to help applicants organize their proposed project objectives, tasks and performance measures. A completed 'worksheet' should NOT be uploaded back into the Grants Gateway. The intent of the 'worksheet' is to assist applicants in developing their application work plan in the Grants Gateway.

SEQRA and Permits

The implementation of remedial actions under DEC-approved work plans may be exempt from obtaining State permits provided that it is conducted in a manner which satisfies all substantive technical requirements applicable to the activity. Pursuant to ECL Article 56, Title 5, such actions are also not subject to the SEQRA process set forth in ECL Article 8 and its implementing regulation (6 NYCRR Part 617), provided that design and implementation of the remedy do not:

- commit the department or any other agency to specific future uses or actions; and
- prevent evaluation of a reasonable range of alternative future uses of or actions on the remediation site.

In the event that the use of the site, as set forth in the ROD for the site, changes during the implementation of the remedial program, the department may make a new determination whether such remedial action remains protective of public health and the environment and, if the department makes such a finding, it will require that the remedial action be modified to be protective of public health and the environment.

For activities not related to the implementation of the site remedy, the applicant is responsible for assuring that any SEQR determinations, permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities of the project are obtained. Please upload approved permit cover letters (in a single PDF file) into the Grants Gateway. Any required SEQR determinations (positive or negative declaration or findings statement) must be submitted as part application. (Please see upload in the Grants Gateway.)

Liability Limitation

The municipality will have the liability limitation benefits identified in ECL §56-0509 beginning on the date the municipality receives state assistance, provided that the municipality fully complies with the terms of the award, including completion of the project. The municipality should refer to ECL §56-0509 to determine the extent of the liability limitation. If the Municipality or its successor or assigns fails to comply with the Environmental Easement and/or the Site Management Plan for the Site after the issuance of the COC, the Department reserves its right to revoke the Certificate of Completion, and rescind any release of liability granted to the Municipality pursuant to ECL Article 56.

If the Municipality, or a Municipality successor in title to the property, wishes to subdivide the property into separate parcels before the property's remediation is complete, a contaminated parcel of the subdivided property cannot be used until DEC-determined remedial objectives for that parcel are met to DEC's satisfaction within such time period as DEC may require; and the municipality must complete remediation under this program.

A non-municipal successor in title to the property who wishes to subdivide the property into separate parcels before the property's remediation is complete must first enter into a legally-

binding agreement with DEC prior to subdivision, to remediate all such parcels and remediate each parcel in need of remediation before that parcel may be used.

Prior to transfer of title of any portion of the property, the municipality shall create and file any Environmental Easements (as discussed below).

Citizen Participation

To facilitate the remedial process and enable citizens to participate more fully in decisions that affect their health, DEC **will require opportunities for citizen involvement** and will encourage consultation with the public early in the process.

A **Citizen Participation Plan which provides details on the citizen participation activities** that will occur at several milestones during a project must be submitted within 20 days of the executed award and must be approved by DEC before any other Remedial Action Work Plan or reports can be approved. See DER-23 / Citizen Participation Handbook for Remedial Programs (PDF). A link to this document may be found at:

http://www.dec.ny.gov/docs/remediation_hudson_pdf/der32.pdf The handbook provides details of the requirements of the Environmental Restoration Program citizen participation program. Section 3 of DER-23 addresses the minimum requirements for public notice and comment at the various stages of a project.

Environmental Justice

DEC demonstrates a commitment to Environmental Justice (EJ) and remedies for communities that may be burdened by negative environmental consequences. Environmental justice is defined by DEC as the fair treatment and meaningful involvement of all people, regardless of race, color or income, with respect to the development, implementation and enforcement of environmental laws, regulations and policies. A proposed project that is located in an EJ community or will directly benefit an EJ community, or a project that gives appropriate consideration to under-served urban neighborhoods (all potential neighborhoods whose demographic, geographic, or economic characteristics impede or prevent their access to adequate canopy cover and other benefits of trees) will receive points in the evaluation of an application. Maps of EJ areas in New York State are available at: <http://www.dec.ny.gov/public/911.html>.

To qualify for EJ points, your application must include one of the following details:

- a. To demonstrate location in an EJ area – the exact street location(s) where the project is to be implemented (no. P.O. Box) or where the benefit will be provided; or
- b. To demonstrate location in an underserved neighborhood – a brief description of how the project will benefit underserved populations that experience disproportionate adverse environmental impacts such as pollution from multiple industrial facilities, sub-standard water quality, concentrated diesel emissions from bus depots, or other heavy vehicle traffic, adverse health effects related to environmental impacts (high asthma), lack of access to green benefits such as open space, environmental education or parks, or other such impacts.

Temporary Use of Property

The municipality may have an opportunity to use or lease the property, or a portion of the property, before the remediation is complete. Because of the State indemnification, any temporary use of the property requires careful DEC review and prior written approval. The municipality should submit a written request that outlines the nature and duration of the use, the

area of the site to be used, and any restrictions to be placed on such use to protect public health and the environment.

Technical Requirements: Remediation Phase

The remediation phase of an ERP project includes the detailed design and construction of the remedy conceptualized in the Record of Decision (ROD). Additional sampling may be necessary in the design phase to resolve any uncertainties remaining from the investigation phase, and to establish design parameters for the detailed design. Examples include additional soil sampling to determine the precise limits of excavation areas and pilot testing of treatment technologies to determine full-scale design parameters.

If the municipality's initial consultant contract does not provide for design and construction oversight services, a competitive selection process must be performed. Because the remedial design document and construction oversight/final engineering report require certification by a New York State licensed Professional Engineer, it is essential to select a remediation phase consultant that can provide professional engineering services.

A Predesign or Pilot Work Plan, if one is required, or a Remedial Action Work Plan, (in the event a Predesign or Pilot Work Plan is not required), must be submitted within 40 days of this MCG. The need for a predesign or pilot work plan must be outlined in the general work plan submitted with the application (found under presubmission uploads), and must include a project schedule. The Remedial Action Work Plan will then be required 30 days after Department approval of the Predesign or Pilot Work Plan Report. If the Department requests modification of a Remedial Action Work Plan, within fifteen (15) days after receiving written notice of such request, the contractor shall elect in writing to modify the work plan within thirty (30) days of the request, or complete any other Department-approved Work Plan(s), or terminate the MCG.

The following must be addressed in the plans and specifications for the project:

Construction Schedules: Project schedules are required for all projects. The type of schedule should fit the project (i.e., bar schedule or a critical path schedule), and must be used to ensure that the construction proceeds in an orderly manner without costly delays. The schedule is a tool for effective construction management if it is maintained and updated on a regular basis. Many construction claims arise due to scheduling failures. Failure to adhere to the schedule could cause the Municipality to jeopardize payment.

Safety Precautions: Occupational Safety and Health Act (OSHA) and applicable State and local requirements must be followed. A health and safety plan describing the minimum acceptable goals for protection must be included in the Remedial Action Work Plan. A Community Air Monitoring Plan must also be included. The contractor is required to provide a detailed plan that is certified by a Certified Industrial Hygienist or equivalent.

Mitigative Measures: Mitigative Measures required by the environmental assessment must be implemented. Examples include: soil erosion control, hours of operation, backfilling and seeding, structural design for buildings in a floodplain, etc.

Final Inspections

In addition to the items noted above, the following must be certified by the Municipality's engineer and DEC reserves the right to inspect for the following:

1. The project is complete, operating, and, for projects with a point source discharge, are meeting

the required effluent limitations;

2. The construction conforms to approved plans, specifications, and change orders;
3. All equipment is operational and performing satisfactorily;
4. The operation and maintenance staff has been hired, trained in the start-up and operational procedures, and are capable of properly operating the facility;
5. The Site Management Plan is accessible at the property and its procedures are being followed; and
6. The accounting records are up-to-date and available for audit in conformance with record keeping requirements and supported by appropriate documentation.

Quality Assurance

For projects that involve the assessment or monitoring of water quality all monitoring and measurement activities conducted in the field or laboratory shall be:

- a. Performed in accordance with an effective Quality System for planning and assessing environmental measurements and tests, and for conducting required quality assurance and quality control procedures to promote and maintain the accuracy and reliability of environmental measurements and test results. Quality System Documentation includes a Quality Assurance Project Plan (QAPP) based on guidance provided by the USEPA *Guidance for Quality Assurance Project Plans (QA/G-5 May 2006)* or a similarly structured and purposed protocol;
- b. Performed by a laboratory certified by the New York State Department of Health (NYSDOH) under the Environmental Laboratory Approval Program (ELAP) pursuant to Section 502 of the Public Health Law. This requirement shall not apply to specific parameters when ELAP has not issued a certificate for the specific parameter; and
- c. Performed in a manner that ensures all requisite quality control and calibration requirements of the method are met including field testing, sample collection, preservation, and record keeping. When the method does not detail requirements for any or all of these items, the basic quality assurance and quality control requirements defined in 40 CFR Part 136.7 shall be followed.

Cost Recovery

- The State reserves the right to seek to recover the full amount of any State Assistance provided under the MCG through litigation brought under Article 56 of the ECL, CERCLA, or other statute or under the common law, or through cooperative agreements, with responsible parties, other than the following:
 - Municipality, and
 - Any successor in title to the site, any lessee of the Site, and any person that provides financial assistance to the Municipality, such successor in title, or such lessee relative to the remediation, restoration, or redevelopment of the Site, that did not generate, arrange for, transport, or dispose, and did not cause the generation, arrangement for, transportation, or disposal of any contaminants located at the Site and did not own the Site before the Municipality acquired title to the Site.
- The Municipality shall assist DEC and/or the State in compelling responsible parties to bear the

cost of the Project by providing, upon request by DEC, all information that exists as of the start of the term of the MCG that identifies the Site's responsible parties and all other information acquired during the course of the Project's implementation.

- The Municipality may make efforts to recover response costs from responsible parties. The Municipality agrees to provide DEC with timely advance written notice of any negotiations, proposed agreements, proposed settlements or legal action by which recovery is sought. The Municipality further agrees not to commence such legal action nor enter into any such proposed agreement or settlement without the approval of DEC.
- If any responsible party payments and/or other responsible party consideration become available to the Municipality which were not included in the calculation of State Assistance pursuant to the calculation of Eligible Costs under the MCG, the Municipality shall immediately notify DEC of such availability, DEC shall recalculate the amount of State Assistance. DEC has the option of either reducing the MCG amount if the project is ongoing, or requesting reimbursement of the amount owed to the State, for deposit in appropriate account. The State will calculate the amount owed by the Municipality based on the recalculated State assistance amount and the amount the State has reimbursed the Municipality as of the date the recalculation is made. If the Municipality shall fail to make such repayment within sixty (60) days of notification, DEC may take measures provided for by the law of the State of New York relating to the recovery of unrepaid State Assistance. The Municipality agrees that it will immediately notify DEC in writing of its receipt of reimbursement from other sources for any expenditure for which State Assistance may be provided under the MCG.

Alignment with Regional Economic Development Council Priorities

Governor Andrew Cuomo directed the establishment of Regional Economic Development Councils (REDCs) to analyze the most significant business clusters in their respective areas. Any grants awarded by the State of New York shall take into consideration the recommendation of the relevant REDC or the Commissioner's determination that the proposed project aligns within the regional strategic priorities of the region where the proposed project is located.

The Applicant can provide a brief narrative describing the economic benefits of the proposed project and how the project aligns with the strategies of the REDC plan for the project's region. The narrative must be included with the Application to receive points in the application review.

Each region has a unique plan. Visit <http://regionalcouncils.ny.gov/> for information on your region's Economic Development Council.

Pre-Submission Upload: Smart Growth Infrastructure Policy Act (Mandatory)

New York State's Smart Growth Public Infrastructure Policy Act (ACT), Environmental Conservation Law Article 6, requires DEC and all State infrastructure agencies to assess whether each public infrastructure project that receives state funding is consistent with the State Smart Growth Public Infrastructure criteria specified in the Act, or that compliance is considered to be impracticable, before making any commitment to fund such project(s).

In the Grants Gateway pre-submission upload section of the application, ALL applicants must download, complete and save the Smart Growth Assessment form, prior to uploading the completed form back into the Grants Gateway. Important note: Be sure to check the form after uploading to ensure the correct file is uploaded, and is completed as required.

Pre-submission Upload: Applicant Checklist (Mandatory)

The Applicant Checklist must be completed and uploaded as a pre-submission upload. The Checklist is provided as a document template and is available in the Pre-Submission Upload area in the Grants Gateway. The Checklist is intended to assist applicants in ensuring all RFA requirements are met and uploaded to the Grants Gateway.

Environmental Easement

If the Department's issuance of a ROD relies upon one or more institutional and/or engineering controls, the Department will request certain information from the Municipality in order to develop an Environmental Easement for the site. The Municipality must provide the required information to the Department to prepare the environmental easement, which will often include a real property survey. The authorized representative for the Municipality shall, within sixty (60) days of receipt of the Environmental Easement, sign and submit it to the Department for execution. The Municipality's submittal shall satisfy the statutory and regulatory requirements of law as set forth in ECL Article 71, Title 36 and 6 NYCRR Part 375. Within 30 days of final signature, the executed Environmental Easement shall be recorded by the municipality with the recording officer for the county in which the Site is located.

The Municipality or the owner of the Site may petition the Department to modify or extinguish the Environmental Easement filed pursuant to the MCG at such time as it can certify that the Site is protective of human health and the environment with the modified restrictions, or without reliance upon the restrictions, set forth in such instrument. Such certification shall be made by a Professional Engineer. The Department will not unreasonably withhold its consent.

DEC Access to Site and Records

The Municipality, owner and their lessees and successors in title must provide DEC with access to the site and to all relevant information regarding activities in accordance with the provisions of ECL §56-0515. Such access shall be for purposes of ensuring that the site is remediated in accordance with DEC-approved plans, that any site management plan for the conditions on the site is being implemented satisfactorily, that the engineering and/or institutional controls are continually maintained in the manner DEC may require, that no person has engaged or is engaging in any activity that is not consistent with restrictions placed upon the use of the site or that will or that reasonably is anticipated to: prevent or interfere significantly with a proposed, ongoing, or completed project, or expose the public health or the environment to a significantly increased risk of harm or damage from such site. DEC may carry out any measures necessary to return the site to a condition sufficiently protective of human health, in accordance with ECL §56-0509; and neither the Municipality nor any of successors in title, lessees, or lenders shall interfere with such access.

Site Lease/Transfer Conditions

The Municipality shall not enter into any lease or transfer title to, the Site or any portion of it until the Municipality binds itself and its lessees and its successors in title, to the following conditions:

- a. The Site will not be used for the purpose stated in the ROD, or any less restrictive use, until it is remediated. The Site may continue to be used for the purpose for which it is being used as of the start of the term of the MCG, providing DEC or DOH has not found that the existing state of contamination is such as to prohibit such use from continuing, giving due regard for public health and environmental protection; and

- b. If, before an Environmental Easement for the Site is executed and recorded, the Municipality wishes to subdivide the Site into separate parcels, it may do so after submitting a change of use notice pursuant to 6NYCRR 375-1.11(d).
- c. If a Municipality wishes to sell all or part of a Site before it is remediated, the Municipality's successor in title must first agree to remediate all such parcels under Department oversight in accordance with the Department's ROD and any such parcel cannot be used for the purpose stated in the Record of Decision, or any less restrictive use until it is remediated. The Site may continue to be used for the purpose for which it is being used as of the start of the term of the MCG providing DEC or DOH has not found that the existing state of contamination is such as to prohibit such use from continuing, giving due regard for public health and environmental protection.
- d. Prior to transfer of title of any portion of the property, the municipality shall execute and file any Environmental Easements (as discussed above).
- e. In the event that any monies received from the disposition of the site exceed the municipality's cost of such site, including taxes owed to the municipality upon acquisition, and the municipality's cost of the environmental restoration project, the municipality must pay to the State the amount of such excess necessary to reimburse the State's share of project costs.

Communications

All post-award written communications shall be transmitted by electronic mail unless otherwise specified by the DER project manager.

Completion or Termination of MCG

If the Municipality complies with the requirements of applicable State and federal laws and regulations and with the terms of the MCG, the Department shall issue a Certificate of Completion (COC). The MCG shall end when the Department issues the COC, or when the contract term ends, whichever occurs first.

The Department may terminate an MCG made under the application without prejudice or waiver of any other rights the State has if the Municipality fails to comply with any of the requirements of applicable State or federal laws and regulations or with any of the requirements of this RFA. The Department shall provide written notification to the Municipality of its breach of contract, setting forth in writing the basis for termination of the MCG and allowing the Municipality a reasonable and specific amount of time within which to cure its breach. If the Municipality does not cure its breach of contract within the period of time allowed by the Department, the MCG shall terminate on the date set forth in the letter ("Termination Letter").

The Municipality, a successor in title, lessee and lender are not entitled to claim any liability limitation benefits provided under ECL §56-0509 when the Municipality has failed to satisfy the requirement of ECL §56-0509 (1)(a)(i) to comply with all of the terms and conditions of the MCG.

If the MCG is completed or terminated, the following requirements shall survive such completion or termination: Disposition of Site Cost Recovery and Site Lease/Transfer Conditions.

If the MCG is terminated, the following requirements shall survive such termination: Allowable Use,

Entry upon Site, Payment of State Costs, Change of Use, Environmental Easement, and Communications.

Application Evaluation, Scoring and Selection

All applications will be reviewed and scored by a review team in accordance with the evaluation and scoring criteria contained in this RFA. Applicants are strongly encouraged to read and address the Application Review and Scoring Standards in the process of developing an application. Knowledge of the scoring criteria is valuable for designing and proposing a relevant and quality project. Scoring consists of:

All eligible applications will be individually evaluated and scored by at least three (3) technical review team members. (example: technical reviewer scores will be averaged and statewide priority points will be added to the averaged score to determine a final composite score.)

Step 1: Application and Project Eligibility Determination

Pass/Fail criteria

The following checklist will be used to assist applicants in ensuring their application meets program eligibility requirements and all applicable application information and required uploads have been completed in the Grants Gateway. Incomplete applications will not be evaluated for funding. An application that receives a 'fail' in any of these criteria will be deemed incomplete and will not be further evaluated for funding.

- E1. Applicant is a Municipality, as defined by ECL §56-0502 (5) and §56-0101 (15) (includes a municipality acting "in partnership" with a community based organization.
- E2. The municipality **IS NOT** responsible for contamination at the site.
- E3. The municipality has not indemnified a responsible party or previous owner when they obtained the property.
- E4. Applicant currently owns the property, and proof of ownership is attached. Proof of ownership includes: deed for the site; attorney letter of certification; lease agreements; municipal cooperation agreements; partnership agreements; tax foreclosure certifications; are included (uploaded to gateway).
- E5. Application includes each of the following: county tax map with identifier numbers; site map(s); USGS 7.5 minute quad map in which the site is located; and, if available, metes and bounds description of the site.
- E6. A Record of Decision (ROD) has been issued for the site.
- E7. The site is not listed as a Class 1 or Class 2 site on the New York State Registry of Inactive Hazardous Waste Disposal Sites.
- E8. Applicant has identified whether the Applicant or the NYS Department of Environmental Conservation will undertake the work of the project.

Step 2: Project Evaluation, Scoring and Selection

If your application meets all eligibility pass/fail criteria it will be further evaluated and scored by a review team in accordance with the Evaluation and Scoring Standards contained in this RFA. These include:

Section 1: Benefit to the Public Health and the Environment – total of 50 points available

Section 2: Economic Benefit to the State – total of points 50 points available

Section 3: Location in a designated Brownfield Opportunity Area - total of 25 points available

Section 4: Public Recreational Use and Restoration – total of 50 points available

Section 5: Other Available Funding – total of 15 points available

A successful proposal is not necessarily expected to meet all the grant evaluation criteria. All eligible applications will be scored on all criteria categories.

All eligible applications will be individually evaluated and scored by at least three (3) technical review team members. The individual reviewer scores will then be averaged to produce the average technical score. Opportunity for other funding sources to be available for the remediation of the property, including, but not limited to: enforcement actions against responsible parties (other than the municipality to which State assistance was provided; or a successor in title, lender, or lessee who was not otherwise a responsible party prior to such municipality taking title to the property), state assistance payments set forth in ECL Article 27, Title 13; and the existence of private parties willing to remediate the property using private funding sources. Highest priority shall be granted to projects for which other such funding sources are not available.

Section 1: Benefit to Public Health and the Environment	Maximum 50 Points
<p>PE1. Select ONE type of contamination attributable to the site from the options below by copying and pasting selection in the narrative box. Points are assigned as indicated.</p> <p>INS1: Note Only ONE option can be selected. If more than one is selected, the lowest score will be assigned:</p> <ul style="list-style-type: none"> A. Off-site public or private water supply has been contaminated, or is threatened, by contamination attributable to the site. (20 points) B. Off-site groundwater has been contaminated above standards or an off-site surface water body has been impacted by contamination attributable to the site. (10 points) C. On-site groundwater has been contaminated above standards or an on-site surface water body has been impacted by contamination attributable to the site. (5 points) 	20
<p>PE2. Endangered, threatened or rare species, State protected streams or State regulated wetlands have been impacted by releases from the site.</p>	3
<p>PE3. Select ONE of the options below that best describes the current condition of the site by copying and pasting selection in the narrative box. Points are assigned as indicated.</p> <p>INS3: Note only ONE option can be selected. If more than one is selected, the lowest score will be assigned:</p> <ul style="list-style-type: none"> D. Public use is occurring within areas on-site where surficial soil contamination exists exceeding 6 NYCRR Part 375 restricted residential soil cleanup objectives (10 Points) E. Contaminants are present in on-site soils at levels that exceeds NYS 6NYCRR Part 375-6 Soil Cleanup Objectives (SCOs) for the intended use of the property. (5 Points) F. On-site surface soils are impacted with site contamination above restricted residential soil cleanup objectives, although public use is not occurring (3 Points) G. On-site soils are above unrestricted SCOs (2 points). 	10
<p>PE4. An on-site "source area" or "source" has been documented, as defined by 6NYCRR Part 375-1.2 (au).</p>	5
<p>PE5. The New York State Department of Health has determined that significant levels of vapor contamination emanating from the site exist that exceed NYSDOH guidance values and require mitigation.</p>	10
<p>PE6. Will the proposed project mitigate future physical climate risk due to sea-level rise, and/or storm surges and/or flooding, based on available data predicting the likelihood of future extreme weather events, including hazard risk analysis data, if applicable.</p>	2

Section 2: Economic Benefit to the State	Maximum 50 Points
PE7. The proposed use of the property aligns with Regional Economic Development Strategies.	5
PE8. The property is in an environmental zone (En-Zone) pursuant to Tax Law 21(b)(6). Please see DEC's website for more information: http://www.dec.ny.gov/chemical/102075.html	5
PE9. The lead applicant or partner municipality is a "Potential Environmental Justice Area" (see http://www.dec.ny.gov/public/899.html for more information).	5
PE10. The lead applicant or partner municipality is a "Climate-Smart Community" (see http://www.dec.ny.gov/energy/50845.html for more information)?	2
PE11. Select ONE of the options below to determine the time site has been idle/abandoned by copying and pasting selection in the narrative box. Upload documentation validating period of time property idle/abandoned. Points are assigned as indicated. INS11: Note only ONE option can be selected. If more than one is selected, the lowest score will be assigned: H. Property has been idle/ abandoned for at least 10 years. (5 Points) I. Property has been idle/ abandoned for at least 5 but less than 10 years. (3 Points) J. Property has been idle/ abandoned for at least 2 but less than 5 years. (1 Point).	5
PE12. The unemployment rate of the municipality where the project is located exceeds state averages.	3
PE13. The pre-remedial property value for the site is lower than the remedial cost estimated in the ROD.	10
PE14. The population in the municipality where the project is located is 20,000 or less based on 2010 census.	5
PE15. The applicant has signed an agreement with a private party to reuse the site once it is remediated.	10

Section 3: Brownfield Opportunity Area (BOA)	Maximum 25 Points
PE16. The Property is in a designated Brownfield Opportunity Area.	25

Section 4: Public Recreational Use and Restoration	Maximum 50 Points
PE17. The future development of the site will include rehabilitation of historical property or mills.	15
<p>PE18. Describe if the applicant has legally committed to either (ONLY ONE MAY BE SELECTED):</p> <p>K. a new public recreational use of all or part of the property; or</p> <p>L. continuing the public recreational use of the property.</p> <p>INS18: Also include in the narrative the percent (%) of total property area that will be allocated. Upload approved plans or other references to substantiate percentage claimed.</p> <p>IN18A: Points will be assessed as follows:</p> <p>M. Percent of total property area that will be allocated for new public or recreational use ____%. (% as decimal X 35=____Points); or</p> <p>N. Percent of total property area that will continue the public or recreational use ____%(% as decimal X 15 = ____Points</p>	35

Section 5: Other Available Funding	Maximum 15 Points
<p>PE19. Calculate the percentage of the total estimated project cost for which other funding is available.</p> <p>INS19: Multiply that percentage by15. Subtract that amount from 15. The maximum number of points is 15. See examples below:</p> <p><u>EXA-1:</u> Total project cost is \$3,000,000 and “other available funding is \$1,000,000 Percentage of total project that is funded by “other available funding” is 33% (.33*15) = 5 15 – 5 = 10 points would be added</p> <p><u>EXA-2:</u> Total project cost is \$5,000,000 and “other available funding” is \$2,000,000 Percentage of total project that is funded by “other available funding” is 40% (.40 * 15) = 6 15 – 6 = 9 points would be added</p> <p><u>EXA-3:</u> Total project cost is \$10,000,000 and “other available funding” is \$0 Percentage of total project that is funded by “other available funding” is 0 (0 * 15) = 0 15 – 0 = 15 points would be added</p>	

METHOD OF AWARD:

Scored applications will be ranked in order beginning with the highest down to the lowest scored applications. Applications having the highest final composite scores will be selected for funding, beginning with the highest down to the lowest ranked proposal, until available funding is exhausted. The total number of possible points an application can receive is 190. DEC reserves the right to withhold funding from projects that do not receive a minimum composite score of 50.

Tie Breaker

If there is a numerical tie in applications final scores, and there are insufficient funds to award grants to all of the tied applications, DEC will select the application(s) having the earliest application electronic submission date and time.

Grant Program Payment

Advance Payments

Advance Payments are not available for these MCGs.

Project costs eligible for reimbursement must be incurred between the MCG term start and end dates. Costs incurred prior to the MCG term start date or after the MCG term end date will not be considered eligible for grant reimbursement. Copies of supporting cost documentation (paid invoices, receipts, cancelled checks, etc.) must be audited and approved by DEC for costs to be eligible for reimbursement.

Eligible and Ineligible Expenditures

Eligible Project Expenditures

- Contractual Services: The value of services provided by responsible professional and technical personnel and consultants (i.e. engineering and architectural services, surveys, plans and specifications, research, design and development of a project, consultant and legal services directly related to a project, feasibility study for a facility, archaeological field work, report writing, curation of artifacts and interpretation, etc.)
- Supplies and materials: directly needed to implement the project.
- Equipment: (purchase/rental) directly required to implement the project. Note that any equipment purchased with funding provided by this grant program cannot be sold, transferred, or used for other purposes without prior written approval from the Department.
- Travel costs directly required to implement the project.

The following are eligible costs and their reimbursement rates:

- Costs eligible at a reimbursement rate of up to 90 percent are those:
 - authorized by the municipality and DEC that are directly related to the project's implementation;
 - to implement DEC-approved design-phase investigation work plans;
 - to implement DEC-approved on-site remediation work plans;
 - incurred to implement activities identified by the Record of Decision with DEC's approval that would, in a cost-effective manner, address an off-site source of contamination to the site in order to prevent further contamination of the site, rather than mitigate the effect of that off-site contamination on the use of the site;
 - or incurred for the implementation of an active treatment remedy for up to five years after commencement of the active element of the remedy.

- The eligible costs identified to investigate or remediate off-site contamination attributable to the environmental restoration project may be reimbursed at a rate of up to 100 percent.
- The costs to demolish structures and dispose of the resulting demolition debris are eligible, at a reimbursement rate of up to 50 percent. In no event, however, will DEC reimburse the cost of a project consisting exclusively, or almost exclusively, of demolition of a structure.
- Costs associated with the disposal of any demolition debris which must be disposed in a disposal facility subject to Part 373 of the Environmental Conservation Law may be reimbursed at a rate of up to 90 percent.
- The cost for asbestos abatement projects that consist of any measure designed to reduce exposure to, remove, or eliminate asbestos or asbestos-containing material from inside a structure are eligible, at a reimbursement rate of up to 50 percent. In no event, however, will DEC reimburse:
 - the cost of a project consisting exclusively, or almost exclusively, of asbestos abatement inside a structure; or
 - greater than 50 percent of the cost of the asbestos abatement activities inside a structure.
- Costs associated with the disposal of any asbestos may be reimbursed at a rate of up to 90 percent provided that the asbestos:
 - must be disposed in a disposal facility subject to 6NYCRR Part 373 or
 - is present in an environmental media outside of a structure.
- The eligibility and reimbursement rate of any cost a municipality may incur that is not identified in this RFA, may be considered on a case-specific basis. In making such determinations, DEC will consider whether:
 - incurring the cost is necessary for implementation of the approved project;
 - it is a reasonable cost that was incurred under contract or municipal force account pre-approved by DEC, provided, however, that costs incurred for legal services are eligible only to the extent that they are necessary for actual project implementation; and
 - it is properly documented.

Force Account

The Grantee shall seek prior DEC approval of any proposal to use the Municipality's employees to perform Project-related activities. Municipal administrative costs associated with the project are not eligible for reimbursement. The DEC will not approve such proposals unless the Municipality can demonstrate that the Municipality's employees possess the necessary competence to perform the work in question, and that the work can be more economically performed and done on a timely basis by the use of the Municipality's employees. The cost of any work performed by the Municipality's employees which has not yet received prior written DEC approval shall be excluded from the Project's Eligible Cost used to calculate the MCG, until such time, if ever, that the DEC approves the use of such Municipality's employees. If written DEC approval is given to use the Municipality's employees for a specified task or activity, the Municipality shall maintain such records as the DEC may require the grantee to document the costs of such use.

For those MCG recipients utilizing force account services, the qualified value of the force account work will reduce the State Assistance Amount used to calculate affirmative action program goals. In effect, the dollar value of the affirmative action goals will be reduced due to a reduction in the amount of State assistance used in the calculation.

Ineligible Project Expenditures

Indirect costs: overhead or operating expenses (space, rent, utilities).

Administrative salaries: administrative salaries are NOT eligible for grant reimbursement. For the purposes of this RFA, administrative salaries are defined as follows:

- Preparation of equal employment opportunity and women and minority business enterprises documentation.
- Preparation of quarterly narrative and expenditure reports.
- Preparation of payment reimbursement request forms and backup cost documentation.
- Preparation of Final Cost Report upon project completion.

State and/or federal funding: project costs funded from other state and/or federal funding sources are not eligible for grant reimbursement.

The following costs, which are ineligible for being considered in the calculation of State assistance, are those incurred:

- Before the start date identified in the MCG, including those to prepare and submit the State assistance application and those to procure and retain legal, engineering, and other services to undertake the project;
- To undertake site management at the site after construction of DEC-approved remedy and COC issuance, with the exception of costs to operate active treatment systems for the first five years of operation;
- To redevelop the site that are not necessary to remediate the site;
- That are reimbursed by, or recovered from, any other responsible party or insurance carrier or the federal government;
- Outside the scope of, or in violation of, the MCG;
- In violation of applicable statutes or regulations;
- For which appropriations are not available;
- For lead abatement projects consisting of measures designed to reduce exposure to lead-contaminated dust or paint, including any treatment, disposal, or testing associated with such measures, **unless** costs associated with lead abatement projects consisting of measures designed to reduce lead in or on environmental media are eligible; or
- If the site is already subject to an existing enforceable federal, State, or local requirement reflected in an order, agreement or State assistance contract directing a remedial party other than the municipality to investigate or remediate the site, DEC will consider eligible for State assistance, in the form of a MCG, only that portion of the remedial tasks which such order, agreement or State assistance contract does not cover.

Site Management

Site Management (SM) costs are generally not eligible under the ERP. However, for remediation projects that will require SM, a draft SM Plan (SMP), inclusive of an Operations and Maintenance Manual as may be necessary, that specifies the operation, maintenance and monitoring procedures, reports, laboratory testing, institutional controls, etc., should be part of the project design. A Transition Plan should be

included that lists the actions needed and a schedule to ready the property and personnel for SM when construction is complete, including staffing and training requirements. The SMP should provide personnel with detailed instructions for assuring efficient operation and proper maintenance of all components as well as monitoring requirements. It should discuss how to maintain the property to meet State requirements. A final SM Plan which incorporates any discoveries and modifications made during construction is required just prior to the completion of construction.

In selecting equipment and components, the contractor should give careful consideration to those which can be operated and maintained with the least effort and greatest reliability.

During all field activities, the contractor shall have on-site a representative who is qualified to supervise the activities undertaken. Such representative may be an employee or a consultant retained to perform such supervision.

The contractor, or its successors and assigns will provide the required Periodic Review Reports (PRR) as set forth in the SMP.

In the event that the remedy for the Site, or any Work Plan for the Site, requires a SMP as a consequence of operation, maintenance, and monitoring requirements, including reliance upon institutional or engineering controls, the Municipality shall file the initial PRR in the 16th month following the anniversary of the start of the SMP and continuing at the DEC designated period until the DEC notifies the Municipality in writing that such PRR may be discontinued.

Such PRR shall be signed by a Professional Engineer or by a qualified environmental professional as defined in 6 NYCRR 375-1.2(ak) approved by the DEC to perform that function and certified under penalty of perjury that the institutional and/or engineering controls are unchanged from the previous certification and that nothing has occurred that would impair the ability of such controls to protect public health and the environment or constitute a violation or failure to comply with the approved SMP.

The Municipality shall notify the DEC within twenty-four (24) hours of discovery of any breach, upset, interruption, or termination of one or more controls without the prior approval of the DEC. Further, the Municipality shall take all actions required by the DEC to maintain conditions at the Site that achieve the objectives of the remedy and/or the Work Plan and are protective of public health and the environment. An explanation of such upset, interruption, or termination of one or more controls and the steps taken in response shall be included in the foregoing notice and in the PRR required by this.

The Municipality can petition the DEC for a determination that the institutional and/or engineering controls may be terminated. Such petition must be supported by a Professional Engineer stating that such controls are no longer necessary. The DEC shall not unreasonably withhold its approval of such petition.

Other Funding Sources

The municipality may use any federal funding, and other State funds, such as legislative member items, to fund the project. These funds may reduce the amount of State assistance provided under the ERP.

Responsible Party Funds: Any funding from Responsible Parties, including insurance payments, is divided between the municipality and the State in proportion to the percentage of State assistance applied to the project as a whole. This proportion may be a mixture of 90% funding for on-site remediation, 100% funding for off-site remediation, and 50% funding for building demolition.

Proceeds from Property Sale or Lease: Proceeds from the sale or lease of a property are distributed in

the following sequence:

The municipality retains the amount it has spent for back taxes owed and its share of the Environmental Restoration Project. The State is reimbursed for funds it has provided under the State Assistance Contract. The municipality keeps the remainder.

Grant Program Reporting

Quarterly Narrative Reports must be submitted in narrative form, no later than 30 days from the end of the calendar quarter. The reports will summarize how the project progressed toward meeting project objectives and deliverables during the respective quarter. Quarterly reports shall be submitted in the NYS Grants Gateway.

Quarterly Expenditure Reports, detailed by object of expense as defined in the MCG Attachment B-1 Expenditure Based Budget, must accompany the quarterly Narrative Reports, no later than 30 days from the end of the calendar quarter. These reports must correlate to subsequent vouchers submitted for payment.

Quarterly MCG payment reimbursement requests will be accepted prior to submission of a final closeout reimbursement request. Approved project design, required permits and landowner permissions must be in place to submit a reimbursement request.

Final Report must be submitted and approved by DEC prior to the release of the final contract payment to the Grantee. The Contractor must submit the Final Report no later than 60 days after the end of the contract period. The Final Report should report on all aspects of the program and detail how the use of grant funds were utilized in achieving the goals set forth in the approved MCG Attachment C Work Plan. Copies of appropriate documents (i.e. Site Management Plan, Environmental Easement, Certificate of Completion) must be submitted and approved or executed by DEC. In addition, the Environmental Easement and Certificate of Completion need to be recorded and proof of recording provided to DEC. A DEC on-site inspection may be required to confirm all work was completed in accordance to the approved project work plan (including the installation of interpretive signage, if applicable, at the project site).

Any project involving volunteer time will be required to report the number of volunteers and the number of volunteer hours in their project quarterly status reports. The total number of volunteers and volunteer hours for the entire project must be reported in the Final Report.

Projects already receiving funds from another NYS or Federal assistance grant program are not eligible to receive funding for the same project activities identified in this RFA.

What to Expect If You Receive an Award

Notification of Award

Applicants selected to receive a grant award will be notified by email and in an official DEC award letter. The NYS Grants Gateway will also provide you with an award status.

IMPORTANT NOTE: By accepting an award, applicant agrees to abide by all Master Contract for Grants (MCG) terms and conditions. Any changes by applicant to the terms and conditions will not be accepted and may affect applicant's award.

State of New York Master Contract for Grants (MCG)

Applicants selected to receive a grant award will be required to execute a MCG within 60 - 90 days from the time of their award notification. Failure to submit timely required MCG documents could cause a grantee to lose their grant award. Applicants should review and be prepared to comply with all MCG terms and conditions should grant funding be awarded. The MCG and attachments can be reviewed and/or downloaded in the Grants Gateway HRE application under the screen named 'Contract Document Properties'. The MCG and attachments include:

- MCG Grants Face Page
- Standard Terms and Conditions (NYS standard terms and conditions)
- Attachment A-1 Program Specific Terms and Conditions (*Agency and Program specific terms and conditions*) Attachment B-1 Expenditure Based Budget (*project expense categories and detail*)
- Attachment C Remedial Work Plan (project objectives, tasks and performance measures)
- Attachment D Payment and Reporting Schedule (claims for reimbursement and grant reporting provisions)
- **IMPORTANT NOTE:** Project related costs must be incurred within the term of the MCG to be considered eligible for reimbursement. Contract payments will not be approved or processed by DEC until a MCG is fully approved by DEC, and as applicable the Attorney General and the State Comptroller. All contracts must be approved by the contract start date of which will be determined at the time of an official award.

Applicants (referred to as “Contractor” following award of Grant Contract) Should Be Prepared to Comply with the Following MCG Requirements:

a. Insurance Requirements

Contractor will be required to carry appropriate insurance as specified in the MCG or LOA, Attachment A-1 Program Specific Terms and Conditions, and agree that each project consultant, project contractor and project subcontractor secures and delivers to the contractor appropriate policies of insurance issued by an insurance company licensed to do business in the State of New York. Policies must name the contractor as an additional insured, with appropriate limits, covering contractor's public liability and property damage insurance, contractor's contingency liability insurance, "all-risk" insurance and workers compensation/disability benefits coverage for the project.

b. Permit Requirements

Contractors agree to obtain all required permits, including but not limited to, local, state and federal permits prior to the commencement of any project related work. The Contractor agrees that all work performed in relation to the project by the Contractor or its agents, representatives, or contractors will comply with all relevant federal, state and local laws, rules, regulations and standards, zoning and building codes, ordinances, operating certificates for facilities, or licenses for an activity.

c. State Environmental Quality Review (SEQR) Documentation

With respect to the project, the Contractor certifies that it has complied, and shall continue to comply with all requirements of the State Environmental Quality Review Act (SEQRA). The Contractor agrees to provide all environmental documents as may be required by DEC. The Contractor has notified, and shall continue to notify, DEC of all actions proposed for complying with the environmental review requirements imposed by SEQRA.

Remedy selection and implementation of remedial actions under DEC approved work plans set forth in ECL article 56, title 5 are not subject to review set forth in ECL article 8 and its implementing regulation (6 NYCRR Part 617), provided that design and implementation of the remedy do not:

- commit the DEC or any other agency to specific future uses or actions; and
- prevent evaluation of a reasonable range of alternative future uses of or actions on the remediation site.

In the event that, the use of the site, as set forth in the record of decision for the site, changes during the implementation of the remedial program, the DEC may make a new determination whether such remedial action remains protective of public health and the environment and, if the DEC makes such a finding, it will require that the remedial action be modified to be protective of public health and the environment.

d. Vendor Responsibility Questionnaire

Not-For-Profit contractors and/or subcontractors are subject to a vendor responsibility review by the State to ensure public dollars are being spent appropriately with responsible contractors. A vendor responsibility review may include a contractor and/or subcontractor to present evidence of its continuing legal authority to do business in NYS, integrity, experience, ability, prior performance, and organizational and financial capacity. To enroll in and use the NYS VendRep System, see the VendRep System instructions available at <http://www.osc.state.ny.us/vendrep/enroll.htm>, or go directly to the VendRep System at <https://portal.osc.state.ny.us>

e. Iran Divestment Act

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. By entering into a Contract, the Contractor certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additional detail on the Iran Divestment Act can be found in the MCG, Attachment A-1 Program Specific Terms and Conditions.

f. Minority/women Business Enterprises (M/WBE) and Equal Employment Opportunities (EEO) Requirements

DEC is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

Applicants subject to executing a future NYS Master Contract for Grants agree, in addition to any other nondiscrimination provision of the MCG and at no additional cost to the Department, to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A. This requires contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR 142.8 shall be a part of this requirement. This provision shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state, or local laws.

Failure to comply with M/WBE requirement may result in a DEC finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages or enforcement proceedings.

Please refer to the NYS Master Contract for Grants - Article IV (J) and Attachment A-1 Program Specific Terms and Conditions - Article X, to review M/WBE requirement. Required M/WBE form can be found at <http://www.dec.ny.gov/about/48854.html>

- The local government is responsible for designating someone to serve as their Affirmative Action representative. The governing body should make this designation through official means.
- A list of certified M/WBE enterprises can be obtained via the internet from the NYS Department of Economic Development at <http://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=9885>
- Contracts which meet the established M/WBE thresholds require the Contractor to submit Quarterly Reports, http://www.dec.ny.gov/docs/administration_pdf/quarterlyversion7.pdf, detailing payments made by the Prime Contractor to NYS Certified M/WBEs.

Procurement of Contractors/Subcontractors

Municipalities must comply with General Municipal Law Sections 103 (competitive bidding) and 104-b (procurement policies and procedures). Not-for-profit corporations must follow procurement policies that ensure prudent and economical use of public money. Failure to comply with these requirements could jeopardize full reimbursement of your approved eligible project costs.

Note: Prior to receiving reimbursement for work done under the MCG, the description of the procurement, a statement that it complies with the provisions of General Municipal Law, and municipal/consultant contract and executive subcontracts, and any necessary information to justify the reasonableness of costs must be submitted to DEC. At the time of execution of the MCG, DEC will provide the municipality with payment procedures.

Americans With Disabilities Act

In the event the monies defined herein are to be used for the development of facilities, outdoor recreation areas, transportation or written or spoken communication with the public, the Contractor shall comply with all requirements for providing access for individuals with disabilities as established by Article 4A of the New York State Public Buildings Law, Americans with Disabilities Act, and relevant sections of the New York State Uniform Fire Prevention and Building Code. Standards for certain Recreation Facilities are found in the 2010 ADA Standards for Accessible Design while others are found in the Architectural Barriers Act Accessibility Guidelines for Outdoor Recreation Areas <https://www.access-board.gov/guidelines-and-standards>.