



Department of
Environmental
Conservation

REQUEST FOR APPLICATION GUIDELINES AND APPLICATION INSTRUCTIONS

New York State
Department of Environmental Conservation
Dam Safety

High Hazard Dam Rehabilitation Grant

Amendment # 1 Dated February 9, 2023

The purpose of Amendment 1 is to extend the deadline for applications

NYS Grants Gateway Application ID No.: DEC01-HHD-2021

Application Due Date:

February 24, 2023, 3:00 PM EST

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Introduction

The New York State Department of Environmental Conservation (DEC) is dedicated to protecting lives, property, and the environment from the risks associated with dams. DEC is pleased to announce the High Hazard Dam Rehabilitation (HHDR) Grant program. Starting November 30, 2022, DEC will accept applications to provide assistance for technical, planning, design, and other pre-construction activities related to the repair, replacement, reconstruction, or removal activities associated with rehabilitation of an eligible high hazard potential dam.

Applications must be submitted through the New York State Grants Gateway (<https://grantsgateway.ny.gov>). Paper applications will NOT be accepted. Applicants are strongly encouraged to submit applications prior to the application deadline. Late applications will not be accepted. For more information about Grants Gateway, please visit the Grants Management website (<https://grantsmanagement.ny.gov/>) or contact the Grants Gateway Team at: grantsgateway@its.ny.gov. The [Grants Gateway help desk](#) can be reached at (518) 474-5595.

Grant application information is also available on the Department's website at www.dec.ny.gov/lands/4991.html.

Timetable of Key Events

Event:	Date:
Application Period Begins	November 30, 2022
Question & Answer Period Ends	February 6, 2023, 3:00 PM, E.D.T.
Applications Due	February 24, 2023, 3:00 PM, E.S.T.
Award(s) Announced By (anticipated)	April 2023

Eligibility

See "[Grant Application Requirements and Conditions](#)" for further detail on eligibility.

Grant Opportunity General Information and Conditions

1. Funding

Approximately \$564,925 is available for High Hazard Dam Rehabilitation Grants. Funding for this grant opportunity is provided by the DEC Dam Safety Program through funding under the Federal Emergency Management Agency (FEMA) High Hazard Potential Dam (HHPD) grant program. Funding is for pre-construction activities such as planning and design related to repair, removal, or rehabilitation of eligible high hazard dams.

2. Proposed Project Timeframes

All projects must have defined objectives, tasks, and deliverables accounted for in performance measures that can be completed and invoiced from 9/1/2020 to 8/31/2023. Costs outside of the contract period/term are ineligible. The Master Contract for Grants

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(MCG) must be fully approved by DEC, and, if applicable, approved by the Attorney General and the State Comptroller. Time extension requests beyond the contract term end date will be determined by DEC and FEMA based upon written request and justification from the Grantee. Due to the limited timeframe provided for this project, the DEC anticipates requesting an extension.

3. Minimum and Maximum Award Amounts

Minimum grant amount \$25,000; Maximum grant amount \$100,000. If additional funds become available or if the total requested amount for all eligible projects is less than the funding available, DEC reserves the right to award additional funding above \$100,000 to funded projects that did not receive the full eligible amount. Any additional funds will be prorated among all eligible projects that did not receive the full eligible amount.

4. Application Limit/Award limit

Applicants may submit multiple applications. Multiple applications may not be for the same project location (dam). Each application will be scored separately in accordance with the scoring criteria.

5. Eligible Project Locations

Eligible projects for grant funding must be located in a county with an approved Hazard Mitigation Plan. A map of qualified counties is available at <https://mitigateny.availabs.org/local>.

6. Match Requirement and Expenditures

Grant funds are available for up to 65% of the requested budget. Applicants must provide the remaining 35% in non-federal match funds.

Match is the portion of project expenditures not paid for with grant funds. Match can be from local and/or in-kind contributions. Local sources can include funding from other non-state and/or non-federal grant sources or from project partners. In-kind contributions are non-cash donations provided by non-state and/or non-federal third parties which can include equipment, supplies, services, and other expendable property. Matching share contributions must support the objectives outlined in the work plan.

Eligible sources of match funds cannot come from other New York State or federal funding sources. Applicants will be required to show the sources of all matching funds using the Match Worksheet in the Grants Gateway.

7. Inquiries & Designated Contact Information

For general information on completing this application and for clarification of application requirements, contractual terms and procedures, contact:

Donna Bekkering or Donald Canestrari; regulations.dam@dec.ny.gov

For technical information regarding the Grants Gateway application, direct questions to NYS Grants Management at grantsgateway@its.ny.gov or (518) 474-5595.

Include **High Hazard Dam Rehabilitation Grant 2021** in the subject line of the email.

Questions regarding this grant opportunity will be accepted by the DEC until five (5) days before deadline for applications. All questions, and answers will be uploaded in the Grants Gateway application for all applicants to view.

8. 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.
- Partially fund an application if the partially funded portion can be demonstrated to meet the criteria for this RFA.
- Reject any or all applications in response to the RFA at the agency's sole discretion.
- Reduce an award from the amount requested in the application, as 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, if the project budget contains costs considered ineligible under this grant program.
- Award an agreement for any or all parts of the RFA in accordance with the method of award, or withdraw the RFA at any time, at DEC's sole discretion.
- Award to the next highest scoring application in the event a grantee fails to negotiate a grant contract with DEC within 90 days of a grant award.
- Award only one application for funding in the event there are multiple application submissions for a single project or for multiple projects at a single dam or for pieces of a single project.
- 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.
- Decline to fund projects that are determined not to be consistent with NYS's Smart Growth Public Infrastructure Policy Act.
- Decline to fund projects that are determined not to be consistent with the Climate Leadership and Community Protection Act or its implementing regulations.
- Reduce the maximum award amount in order to fund a greater number of projects.
- Award additional funding to eligible projects that did not receive the full eligible amount if additional funds become available, or above the maximum amount if the total requested amount for all eligible projects is less than the funding available.

9. Local Mitigation Plan Extraordinary Circumstances

FEMA may grant an extension to the FEMA-approved mitigation plan requirement in extraordinary circumstances when justification is provided and approved. If this extension is granted, a local mitigation plan that includes all dam risks must be approved by FEMA within twelve (12) months of the award of funding of construction. If the mitigation plan is not approved by FEMA within twelve (12) months, the grant contract will be withdrawn, and funding will be reallocated.

Extraordinary circumstances exist when a determination is made by FEMA that the jurisdiction has a current FEMA-approved mitigation plan that does not address all dam risks and meets at least one (1) of the criteria below:

- a. The jurisdiction meets the definition of small, impoverished community (See Appendix III, Definitions). Applicants must certify and provide documentation of the community or jurisdictional status with the appropriate sub-application.
- b. The jurisdiction has been determined to have had insufficient capacity due to a lack of available funding, staffing, or other necessary expertise to satisfy the mitigation planning requirement prior to the application deadline.
- c. The jurisdiction has a FEMA-approved mitigation plan, but it does not include all dam risks, for reasons beyond the control of the jurisdiction.

The applicant must provide written justification that identifies the circumstances for not meeting the mitigation plan requirement and explains what resources the recipient will use to create or amend a mitigation plan that includes all dam risks and is approved by FEMA within twelve (12) months. The recipient will acknowledge in writing that a plan will be approved by FEMA within twelve (12) months of the award or subaward. The recipient must provide a work plan for creating or updating the mitigation plan in the required time. The requirement shall be incorporated into the award agreement. A sample of a mitigation plan extraordinary circumstances letter, and a sample work plan for updating the mitigation plan, are in Appendix V.

10. 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 Management website (<https://grantsmanagement.ny.gov/>) or contact the Grants Gateway Team at: grantsgateway@its.ny.gov. The Grants Gateway help desk 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 FOR
REVIEW LESS THAN 5 DAYS PRIOR TO THE DEADLINE FOR THIS
APPLICATION MAY NOT BE CONSIDERED.**

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

Applicant Prequalification

Pursuant to the New York State Division of Budget Bulletin H-1032 Revised, effective July 16, 2014, New York State has instituted key reform initiatives to the grant contract process which require nonprofits 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 Management 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 **will be disqualified from further consideration**.

Below is a summary of the steps that must be completed to meet registration and prequalification requirements. [Vendor Prequalification](#) on the Grants Management Website provides 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 Management website (<http://www.grantsmanagement.ny.gov/Grantees>) or contact the Grants Gateway Team (grantsgateway@its.ny.gov) for more information about Grants Gateway and Prequalification. The Grants Gateway help desk/hotline can be reached at (518) 474-5595.

1. Register for the Grants Gateway

- On the Grants Management Website, download a copy of the [Registration Form for Administrator](#). A signed, notarized original form must be sent to the NYS Grants Gateway Team following the instructions on their website (<https://grantsmanagement.ny.gov/register-your-organization>). 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 grantsgateway@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.

2. 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 Gateway Team at grantsgateway@its.ny.gov. The [Grants Gateway help desk](#) can be reached at (518) 474-5595.

3. 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 [Section 4.7 of the Grants Gateway Vendor User Guide](#) for more information about maintaining 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 Management Website](#)
- [Video: Grants Gateway Registration](#)
- [Grants Gateway FAQ](#) and [Prequalification FAQ](#)
- [Twice-weekly Document Vault webinars. All information can be found on the Grants Management website - <https://grantsmanagement.ny.gov/live-webinars>](#)

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

You can also contact the Grants Gateway Team for additional assistance: Phone: (518) 474-5595; Email: grantsgateway@its.ny.gov

Grant Application Requirements and Conditions

1. Eligibility

The applicant and project must meet ALL of the following eligibility requirements. Your application must demonstrate how the applicant and project meet each of the applicable requirements:

A. Applicant is an eligible entity.

Eligible entities are:

Local governmental entities and municipalities, including but not limited to counties, cities, towns, villages, local public benefit corporations, local public authorities, municipal corporations, soil and water conservation districts, and not-for-profit corporations whose projects are located within New York State or any combination thereof.

For this grant opportunity, a “Not-For-Profit Corporation” (NFP) is defined as an entity that is subject to New York State’s Not-For-Profit Corporation Law, is qualified for tax-exempt status under Section 501(c)(3) of the Federal Internal Revenue Code, has filed a Certificate of Incorporation to be incorporated in New York State, and is current in its charities reporting requirements with the Office of the Attorney General. Refer to links below for additional information regarding nonprofit corporations:

- <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501-c-3-organizations>
- <https://www.irs.gov/publications/p557/ch03.html>
- <https://www.irs.gov/charities-non-profits>

B. Project meets Eligibility Criteria as provided in 33 U.S.C. § 467f-2: National Dam Safety Program Act

- The hazard class of the dam must be “Class C – High Hazard” as assigned by the New York State DEC’s Dam Safety program in accordance with Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Part 673.5 at the time of application and throughout the period of performance.
- The dam must have an emergency action plan (EAP) approved by the New York State Dam Safety Program. If the EAP has been submitted, but not approved, contact NYSDEC the Dam Safety Program to request a review and approval letter. A copy of the approval letter and EAP must be included with the application materials. If a review and approval letter was requested for a prior HHDR grant and EAP updates have been submitted since the approval letter was written, a new review and approval letter must be uploaded with the application materials. An acknowledgement letter stating that the EAP was received is NOT an EAP approval.
- The New York State Dam Safety Program has determined that the dam both fails to meet minimum dam safety standards of the State; and poses an unacceptable risk to the public. (See Appendix III, Definitions, for the definition of “eligible high hazard dam” and “unacceptable risk” to the public). See definition of “eligible high hazard dam” in 33 U.S.C. § 467(4)(A)(iv). The dam must have a Condition Rating of Unsafe or Unsound. A copy of the State’s notification that the dam has been rated “Unsafe,” “Unsound-Deficiency Recognized,” or “Unsound-More Analysis Needed” must be included with the application materials. Dams rated “Unsound-Fair” are only eligible if the dam owner has been notified by DEC that this is a violation AND the dam has a

Population at Risk greater than 10. The State's most recent letter must be included with the application materials. Population at Risk calculations and supporting information must be included in the application.

- C. Applicant must provide cost-share of not less than 35 percent of the total project cost.
- D. The dam is located in a community that participates in, and complies with, all applicable federal flood insurance programs. In the case of municipal entity applicants, the applicant must also be a community that participates and complies with the federal flood insurance program. For a list of participating communities, refer to the following site:
<http://www.fema.gov/cis/NY.html>.
- E. The dam is in a location with a FEMA-approved hazard mitigation plan that includes all dam risks and complies with the Disaster Mitigation Act of 2000 (Public Law 106–390; 114 Stat. 1552). If the subrecipient is a local government whose dam is in a different jurisdiction, both the dam's location and the local government owner must have a FEMA-approved local hazard mitigation plan that includes all dam risks and complies with the Disaster Mitigation Act of 2000. If the county hazard mitigation plan does not include all dam risks, the applicant may request an extension to meet this requirement. (See Mitigation Plan Extraordinary Circumstances).
- F. Community in which the dam is located has a floodplain management plan in place to reduce the impacts of future flood events in the area protected by the project or demonstrates that it will be implemented no later than one (1) year after the date of completion of the project. The floodplain management plan must address: a.) potential measures, practices, and policies to reduce loss of life, injuries, damage to property and facilities, public expenditures, and other adverse impacts of flooding in the area protected by the project. b.) plans for flood fighting and evacuation and c.) public education and awareness of flood risks. FEMA may provide technical support for the development and implementation of the floodplain management plans prepared under this grant.
- G. The dam is not a part of a Federal Energy Regulatory Commission (FERC) licensed hydroelectric dam with a capacity over 1.5 MW, or a dam built under the authority of the Secretary of Agriculture (USDA/NRCS). See definition of "eligible high hazard dam" in 33 U.S.C. § 467(4)(B).
- H. The dam must be regulated by the New York State Dam Safety Program.
- I. For projects involving work on property owned by an entity that is not the applicant, the applicant must provide, as a part of the application, a letter from all necessary landowners and/or dam owners indicating willingness for the project to take place on their property. For example, a "Friends of the Park" group must have a letter from the park owner.
- J. The required certification for sexual harassment prevention, as required by State Finance Law §139-l must be uploaded into the Grants Gateway.
- K. The required Executive Order No. 16 Certification form must be uploaded into the Grants Gateway.
- L. The applicant must submit the project schedule into the Grants Gateway.
- M. The applicant must submit the cost estimate (budget narrative and budget worksheet)

into the Grants Gateway.

- N. The project will have either no impact or include consideration of alternatives that avoid or minimize harm to the environment or historic resources as required by FEMA Environmental Planning and Historic Preservation (EHP) Review Requirements.

2. Project Timeline

Applicants **MUST** provide a timeline for meeting project objectives and identified tasks between the contract term of **9/1/2020 to 8/31/2023**.

Project expenditures prior to Master Contract for Grants (MCG) start date and after the MCG end date are not eligible for reimbursement or match.

3. Project Cost Effectiveness

The cost-effectiveness of the proposed project will be evaluated as provided in the Application Evaluation & Scoring Criteria in Appendix I. The answer to this question, as well as the information provided in the Expenditure Budget will be used to determine scoring for cost effectiveness. Applicants that provide 65% of eligible match or more may be eligible for additional points for cost effectiveness (see Appendix I). Applicants are encouraged to provide quotes from vendors/contractors for the work to be completed to help justify cost effectiveness.

4. Statewide Priority

- **Alignment with Regional Economic Development (REDC) Strategies**

Regional Economic Development Councils (REDCs) were established 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.

Provide a brief narrative describing the economic benefits of the proposed project and how the project aligns with the REDC plan for the project's region (cite specific sections of the relevant REDC plan and provide copies of those sections). The narrative must be included with the Application to receive points in the application review. If not applicable to your project, answer "N/A" in the appropriate area in the Grants Gateway for this question.

Submit the REDC plan pages with the application materials.

Each region has a unique plan. Visit <http://regionalcouncils.ny.gov/> for information on your REDC.

- **Priority for Environmental Justice (EJ) Projects**

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 the DEC as the fair treatment and meaningful

involvement of all people, with respect to the development, implementation and enforcement of environmental laws, regulations, and policies. A proposed project that will directly benefit an EJ community, or a project that gives appropriate consideration to underserved urban neighborhoods will receive bonus points in the evaluation of an application. Maps of EJ areas in New York State are available at:
<http://www.dec.ny.gov/pubs/103459.html>.

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

- a. To demonstrate location in an EJ area - The exact street address or latitude/longitude location(s) where the project is to be implemented 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; AND
- c. A narrative description of how the project will directly benefit the subject area.

5. 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 expenses comprising the match. The match may not consist of any federal or state funding. The itemized budget should also include appropriate level of information for the breakdown of costs for each budget item (depending on the budget category this information is provided in the budget detail and/or budget narrative). Eligible and ineligible costs are identified in this RFA. A project's reasonableness of costs is at least 20% of the evaluation factor in the scoring of the application; therefore, attention to budget accuracy will increase your project score.

6. Work Plan

Applicants must complete a work plan 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 should include project outcomes and deliverables). The work plan should include anticipated time frames in meeting project objectives, tasks, and deliverables. Time frames must be consistent with the project timeline and grant period. Applicants are required to upload in the Grants Gateway for this program question.

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.

The deliverables must include, at minimum, a planning or engineering report submitted to DEC's Dam Safety Section.

7. Pre-Submission Upload: Sexual Harassment Prevention Certification

State Finance Law §139-I requires all applicants of grant funding to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training (that meets the Department of Labor's model policy and training standards) to all its employees.

Where applying for grant funding is required pursuant to statute, rule or regulation, every application submitted to the State or any public department or agency of the State must contain the following statement: "By submission of this application, each applicant and each person signing on behalf of the applicant certifies, and in the case of a partnering application each party thereto certifies as to its own organization, under penalty of perjury, that the applicant has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law."

Applications that do not contain the certification will not be considered for award; provided however, that if the applicant cannot make the certification, the applicant may provide a signed statement with their application detailing the reasons why the certification cannot be made. After review and consideration of such statement, the Department may reject the application or may decide there are sufficient reasons to accept the application without such certification.

Applicants are required to sign and upload the Sexual Harassment Prevention Certification form or upload a signed statement with their application detailing the reasons why the certification cannot be made into the pre-submission uploads folder.

8. Pre-Submission Upload: Smart Growth Infrastructure Policy Act (if applicable to your project)

New York State's Smart Growth Public Infrastructure Policy Act, Environmental Conservation Law Article 6, requires the Department 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.

9. Pre-Submission Upload: Executive Order No. 16

Executive Order No. 16 provides that "all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia." The complete text of Executive Order No. 16 can be found at <https://www.governor.ny.gov/executive-order/no-16-prohibiting-state-agencies-and-authorities-contracting-businesses-conducting>. The Executive Order remains in effect while sanctions against Russia imposed by the federal government are in effect. Accordingly, vendors who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a

solicitation or even after award in the case of some solicitations. As defined in Executive Order No. 16, an “entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership. Vendors responding to this solicitation are required to complete and submit the form entitled “Certification Under Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia”.

In the Grants Gateway pre-submission upload section of the application, ALL applicants must download, complete and save the Executive Order No. 16 Certification form, prior to uploading the completed form back into the Grants Gateway.

10. Coastal Consistency Requirements, (if applicable to your project)

SEQR Type I and Unlisted actions located within the NYS Department of State’s coastal zone boundaries must meet the consistency requirements of the Secretary of State’s Coastal Management Program. This consistency determination will be performed by the Department as part of the grant review process. If the proposed project is located within a municipality that has an approved Local Waterfront Revitalization Plan (LWRP), the policies of that LWRP apply. Projects in other areas will need to be consistent with the State’s 44 coastal policies. The coastal policies can be found at

<https://www.dos.ny.gov/opd/programs/consistency/index.html>. Applicants are encouraged to determine if their project is located within the coastal zone, and to include in their site plan or sketch map their project’s location within the coastal zone boundaries if applicable. Maps of the coastal zone boundaries can be found at <https://www.dos.ny.gov/opd/programs/consistency/index.html>.

11. Environmental Planning and Historic Preservation (EHP) Review Requirements (if applicable to your project)

The HHDR grant is funded through a grant from FEMA. As a federal agency, FEMA is required to consider the effects of its actions on the environment and/or historic properties to ensure that all activities and programs funded by the agency, including grants-funded projects, comply with federal EHP regulations, laws, and Executive Orders as applicable. Recipients proposing projects that have the potential to impact the environment, including but not limited to planning activities, engineering studies and other pre-construction activities that require analyses that physically affect the environment (for example, geotechnical investigations, collecting soil samples, shear wave velocity tests, cone penetrometer tests, test pits, site surveys, in situ soil and rock testing, or installation of monitoring instrumentation) must participate in the FEMA EHP review process pursuant to FEMA’s Instructions on Implementation of the Environmental Planning and Historic Preservation Responsibilities and Program requirements, FEMA Instruction 108-1-1 (see <https://www.fema.gov/media-library/assets/documents/118323>).

The EHP review process involves the submission of a detailed project description along with supporting documentation so that FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, FEMA is also required to consult with other regulatory agencies and the public in order to

complete the review process. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, FEMA may not be able to fund the project due to non-compliance with EHP laws, executive order, regulations, and policies.

Recipients applying for High Hazard Potential Dam projects that have the potential for physical impacts to the environment or cultural resources are encouraged to determine the information needed to comply with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4370h) as part of their initial and ongoing planning in order to lessen potential impacts to the environment or cultural resources and to identify the best possible solution for their dam safety initiative. An Environmental Assessment pursuant the requirements of NEPA may be necessary for dam rehabilitation or construction projects funded by FEMA and should therefore be accounted for as initial and ongoing project planning takes place. Recipients should also be aware that approval or funding of a dam rehabilitation plan or study under the High Hazard Potential Dam program does not guarantee that additional EHP review will not be required if FEMA or another federal agency funds construction or rehabilitation activities that result from these grant activities.

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 Evaluation and Scoring Criteria in Appendix I when developing an application.** Knowledge of the scoring criteria is valuable for designing and proposing a relevant and quality project. Scoring consists of:

Step 1: Application and Project Eligibility Determination

Pass/Fail criteria – please refer to the Application Evaluation and Scoring Criteria in Appendix I.

Step 2: Project Evaluation, Scoring and Selection

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

- Cost effectiveness
- Risk-based project effectiveness
- Project type, methods, budget, and applicant qualifications
- Other evaluation factors as described in the Scoring Rubric

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

Award limit – Applicants are eligible to receive more than one grant award as long as it is for different projects at different dams. For the purpose of this grant program, planning or design efforts that encompass multiple interrelated dams are considered a single project. Projects that include construction at multiple impoundments are a separate project at each impoundment.

Tie breaker – If there is a numerical tie among applications, the application that scores the

highest in “Project Priority Points” in the evaluation criteria will determine placement on the ranked list. If a tie remains, the application that scores the highest in “Bonus Points (Dam Removal/ Habitat Restoration and Orphan Dam)” in the evaluation criteria will determine placement on the ranked list. If a tie remains, the order applications were received will determine placement on the ranked list, with the earliest application placing highest.

Grant Program Payment

Project costs eligible for reimbursement and project match 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 or match. Copies of supporting cost documentation (paid invoices, receipts, cancelled checks, etc.) must be approved and may be audited by DEC for costs eligible for grant reimbursement.

Eligible and Ineligible Expenditures

Eligible Project Expenditures

Assistance is available for technical, planning, design, and other pre-construction activities related to the repair, removal, or rehabilitation of eligible high hazard dams.

- Personal Services: Staff salaries including fringe benefits, directly devoted to the project. Itemize salaries according to job title and roles/responsibilities on the project. Grantees will be required to document time worked, tasks, pay ratio, and payment.
- 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, report writing, etc.).
- Travel: Travel costs directly required to implement the project (Ex: to and from dam site or meeting site).
- Supplies and materials: Directly needed to implement the project.
- Use of Equipment: Equipment that is directly necessary to implement the project (Ex: drilling equipment for geotechnical investigation).
- Pre-acquisition real property transactional costs: Surveys, map and GIS/remote sensing data, appraisals, certified appraisal review, title reports, title insurance, phase I environmental assessment, baseline documentation reports, applicant’s legal fees to negotiate/close the real property transaction and to review title reports and, as necessary, prepare title curatives, estimate filing fees and other closing costs.
- Real Property transactional costs: provided they result in final acquisition of land or perpetual easement for real property rights required to operate and maintain the dam in a safe condition.

Ineligible Project Expenditures

- Maintenance and purchase of equipment and supplies not directly related to dam safety improvements (ie: construction of recreational facilities).

- Stewardship or management plans, project specific defense liability insurance fees, property taxes.
- Indirect costs: Overhead or operating expenses (space, real property, rent, utilities, etc.) beyond those associated with eligible personal services.
- Administrative salaries: Administrative salaries are NOT eligible for grant reimbursement but may be used as match funds. For the purposes of this RFA, administrative salaries paid for the completion of certain tasks 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; and
 - Preparation of Final Report upon project completion.
- Other federal funding: project costs funded by other federal funding sources are not eligible for grant reimbursement but may be used to reduce the budget of the HHDR Grant project.

Match Requirement and Expenditures

Applicants must provide **at least 35% in match funds based on the amount of grant funds.**

Formula: Requested Budget x 35% = Required Match

Eligible Forms of Match

- Cash: Includes other grants from non-state and non-federal funding sources.
- Personal Services: Staff salaries devoted to the project, including fringe benefits expenses. Itemize salaries according to job title or job assignment on the project. Grantees will be required to document time worked, tasks, pay ratio and payment.
- 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, report writing, etc.).
- Volunteer Labor: Skilled and professional labor can be computed at the job rate. Unskilled labor and work performed by professionals or skilled laborers in an area outside of their area of expertise must be computed at the minimum wage (For example, a lawyer donating legal services may compute the value based on the standard billing rate, but the same lawyer donating time painting walls must calculate the value using minimum wage).
- Travel: Travel costs directly required to implement the project (within New York State only).

- Administrative Salaries: Administrative salaries must be documented and identified by task and must fall within the grant contract term to be eligible as match. 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; and
 - Preparation of Final Report upon project completion.

Applicants must clearly identify administrative salaries to be used towards match in the personal services detail section of the expenditure budget.

Ineligible Forms of Match

- Indirect costs: Overhead or operating expenses (space, real property, rent, utilities, etc.).
- Travel costs: Any travel not directly required to implement the project.
- Other Federal funding: Project costs paid from other federal funding sources.

Grant Program Reporting

Quarterly narrative reports must be submitted no later than 30 days from the end of each calendar quarter. The reports must summarize progress towards meeting project objectives and deliverables during the respective quarter. Any unexpected conditions, delays, or modifications to the project schedule should be noted and explained. Any expected deviations from the project budget should be noted and explained. Quarterly reports shall be submitted in the NYS Grants Gateway and by email.

MCG payment reimbursement requests will be accepted prior to submission of a final closeout reimbursement request. There will be no advances, and the final closeout payment request will be subject to a holdback if all deliverables have not been completed by the time of the request.

A Final Report must be submitted and approved by the DEC prior to the release of the final contract payment to the Grantee. The Grantee 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 project and detail how grant funds were utilized in achieving the goals set forth in the approved MCG Attachment C Work Plan. Copies of appropriate deliverables (feasibility study, design report, or permit application) must be submitted to DEC.

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

Projects receiving funds from 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

1. 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 an award status.

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

2. State of New York Master Contract for Grants (MCG)

Applicants selected to receive a grant award will be required to execute an MCG **within 90 days** from the date of award notification. Failure to submit timely required MCG documents could cause a grantee to lose the 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 High Hazard Dam Rehabilitation application under the screen named 'Contract Document Properties.' The MCG and attachments include:

- MCG Face Page
- Standard Terms and Conditions (NYS standard terms and conditions)
- Attachment A-1 Program Specific Terms and Conditions (DEC and Dam Safety program terms and conditions)
- Attachment A-2 Federally Funded Grant Terms and Conditions
- Attachment B-1 Expenditure Based Budget (*project expense categories and detail*)
- Attachment C 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 or match. Contract payments will not be approved or processed by the DEC until a MCG is fully approved by the DEC, and, as applicable, the Attorney General and the State Comptroller.

3. MCG Requirements

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, 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 (if applicable)

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 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 the DEC. The Contractor has notified, and shall continue to notify, the DEC of all actions proposed for complying with the environmental review requirements imposed by SEQRA.

4. 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>

a. Requirement Related to Contractor and Subcontractor Wages

Recipients are required to comply with the requirements of 42 U.S.C. § 5196(j)(9). All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds, shall be paid, by the Administrator under this subsection, wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146 and 3147 of U.S.C. Title 40, and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Administrator shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of U.S.C. Title 40. Requirements Related to Contract and Subcontract Services. A contract awarded shall not be considered to confer a proprietary interest upon the United States. As a condition on the receipt of a grant under this section of an amount greater than \$1,000,000, recipients shall require that each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services entered into using funds from the grant be awarded in the same manner as a contract for architectural and engineering services is awarded under 40 U.S.C. Chapter 11 or an equivalent qualifications-based requirement prescribed by the recipient state.

Supplemental Financial Integrity Review

If the anticipated federal share of a federal award will be greater than the simplified acquisition threshold, currently \$250,000 (see section 805 of the National Defense Authorization Act for Fiscal year 2008, :Pub. L. No. 115-91, OMB Memorandum M-18-18 at <https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf>) then:

Prior to making a federal award with a total amount of federal share greater than the simplified acquisition threshold, DHS is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS).

An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

DHS will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 2 C.F.R. § 200.205, federal awarding agency review of risk posed by applicants.

5. 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/Offerors 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/reg/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.

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

The Department 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 an MCG 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. These requirements include equal employment opportunities for minority group members and women ("EEO") and 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 these requirements. These provisions 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.

MWBE Responsibilities & Requirements

(1) Contractors must read, sign, and submit the NYSDEC MWBE Responsibilities & Requirements document. This document describes the MWBE requirements and provides directions for completing the required MWBE Utilization Plan form and subsequent Quarterly Reports.

(2) By signing and submitting this document, the Contractor acknowledges they understand the assigned MWBE goals, the MWBE Utilization Plan form requirements, the MWBE Quarterly Report requirements, and understand what Good Faith Efforts they must put forth to meet their assigned MWBE goals.

Failure to comply with M/WBE and EEO requirements may result in a Department 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 as may be determined appropriate by DEC.

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 and EEO requirements. Required M/WBE and EEO related forms 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 <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=9885>
- Contracts which meet the established M/WBE-EEO 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.
- The following M/WBE-EEO "Fair Share" goals are established as follows:

Minority and Women Owned Business Enterprise (MWBE) Overall Participation Goals: 30%

Equal Employment Opportunity (EEO) Participation Goals – 0%

DEC M/WBE Compliance
NYS Department of Environmental Conservation
Bureau of Contract and Grant Development/MWBE Program
625 Broadway, 10th Floor
Albany, New York 12233-5028
Phone: (518) 402-9240
Fax: (518) 402-9023

7. Service-Disabled Veteran-Owned Business Participation Requirements

HHDR Grants Application Due Date: February 24, 2023, 3:00 PM EST

The contractor must make good faith efforts to subcontract a goal of 6% of the contract amount to New York State Certified Service-Disabled Veteran-Owned Businesses (SDVOBs), for purposes of providing meaningful participation by SDVOBs. APPENDIX VI further defines the SDVOB provisions required by Executive Law, Article 17B.

8. 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.

9. 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>.

10. Acknowledgement of Funding Source

The Contractor agrees to acknowledge in any communication or publication to the public, that funding for this project was provided by FEMA and administered by the New York State Department of Environmental Conservation.

11. FEMA Hazard Mitigation Plan, Extraordinary Circumstances

If the dam is located in a county with a FEMA-approved hazard mitigation plan that does not include all dam risks, the applicant must submit a request for mitigation plan extraordinary circumstances, including written justification that identifies the circumstance for not meeting the mitigation plan requirement and explaining how a mitigation plan will include all dam risks and be approved by FEMA within twelve (12) months. (See Appendix V - Mitigation Plan Extraordinary Circumstances)

Appendix I: Application Evaluation and Scoring Criteria

PROJECT PASS/FAIL CRITERIA: a “No” answer to any statement will disqualify the application

Eligibility

- A. Is the applicant an eligible entity as defined in this RFA? A not-for-profit organization must also be prequalified in the Grants Gateway before the application due date to be eligible under this grant opportunity.
- B. Is the project for a dam classified as “Class C – High Hazard” by the New York State DEC’s Dam Safety Program?
- C. Does the owner have an Emergency Action Plan for the project’s dam? A copy of the latest approved EAP must be included with the application materials.
- D. Does the owner have an EAP approval letter from the DEC Dam Safety Program? A copy of the approval letter must be included with the application materials. If the EAP has been submitted, but not approved, contact the NYSDEC Dam Safety Program to request a review and approval letter. If a review and approval letter was requested for a prior HHDR grant and EAP updates have been submitted since the approval letter was written, a new review and approval letter must be uploaded with the application materials. An acknowledgement letter stating that the EAP was received is NOT an approval letter.
- E. Has the New York State Dam Safety Program determined that the dam both fails to meet minimum dam safety standards of the State; and poses an unacceptable risk to the public? The dam must have a Condition Rating of Unsafe or Unsound. A copy of the State’s notification that the dam has been rated “Unsafe,” “Unsound-Deficiency Recognized,” or “Unsound-More Analysis Needed” must be included with the application materials. Dams rated “Unsound-Fair” are only eligible if the dam owner has been notified by DEC that this is a violation AND the dam has a Population at Risk greater than 10. The State’s most recent letter must be included with the application materials. Population at Risk calculations and supporting information must be included in the application.
- F. Is the dam not part of a licensed hydroelectric dam project that generates over 1.5 MW and not built under the authority of the Secretary of Agriculture (USDA)?
- G. Is the dam located in a community that participates in, and complies with, all applicable federal flood insurance programs? In the case of municipal entity applicants, the applicant must also be in a community that participates and complies with the federal flood insurance program.
- H. Does the community in which the dam is located have a floodplain management plan in place to reduce the impacts of future flood events in the area protected by the project? If not, can the applicant demonstrate that a floodplain management plan will be implemented no later than one (1) year after the date of completion of the project?
- I. Is the dam regulated by the New York State Dam Safety Program?
- J. Has the applicant submitted a link to or a copy of a FEMA-approved hazard mitigation plan that complies with the Disaster Mitigation Act of 2000 (Public Law 106-390; 114 Stat. 1552) specifically referencing section(s) that includes all dam risk? If the applicant is a local government whose dam is in a different jurisdiction municipality, both the dam’s location and the local government owner must have a FEMA-approved local hazard

mitigation plan that includes all dam risks and complies with the Disaster Mitigation Act of 2000. If the applicant and/ or dam location does not have a FEMA-approved hazard mitigation plan, answer NO.

- K. Are all project funding sources eligible, and are at least 35% in eligible matching funds identified?
 - L. For projects involving work on property owned by an entity that is not the applicant, the applicant must provide, as a part of the application, a letter from all necessary landowners and/or dam owners indicating willingness for the project to take place on their property. For example, a “Friends of the Park” group must have a letter from the park owner. If applicable, has the applicant uploaded a letter from authorized representatives of the appropriate entities indicating willingness for the project to take place on their property?
 - M. Has the applicant provided the required certification for sexual harassment prevention, as required by State Finance Law §139-I in the pre-submission uploads?
 - N. Has the applicant uploaded the required Executive Order No. 16 Certification form in the pre-submission uploads?
 - O. Has the applicant submitted the project schedule into the Gateway?
 - P. Has the applicant submitted the cost estimate (budget narrative and budget worksheet) into the Gateway?
 - Q. Will the project have either no impact or include consideration of alternatives that avoid or minimize harm to the environment or historic resources as required by FEMA Environmental Planning and Historic Preservation (EHP) Review Requirements?
-

APPENDIX II: High Hazard Dam Rehabilitation Grant – Scoring Rubric

Maximum Points: 175

PROJECT PRIORITY POINTS: Up to 70 Project Priority points are available as defined below. Applications must receive a minimum of 30 Project Priority points to be eligible for funding.

How well does the project reduce risk from High Hazard dams? Applicants must provide risk reduction assessment using Risk Reduction Matrix as shown in Appendix IV.

Available Points: 60 points

- 60 Points: Project as scoped (location, statement of need, methods deliverables) clearly addresses the primary objective of this RFA. In addition, project results in high-risk reduction.
- 40 Points: Project as scoped (location, statement of need, methods deliverables) clearly addresses the primary objective of this RFA. Project results in moderate risk reduction.
- 20 Points: Project as scoped (location, statement of need, methods deliverables) clearly contributes to the primary objective of this RFA. Project results in low-risk reduction.
- 0 Points: Project as scoped (location, statement of need, methods deliverables) does not meet the primary objective of this RFA or results in no risk reduction.

- **10 Additional Points for dam failure inundation maps that include one or more of the following critical facilities:**
 - Hospital or nursing home
 - Principal Arterial Interstate
 - K-12 school
 - Critical railroad (Intercity passenger, Commuter, Transit, Inter-regional and Inter-city freight lines (typically Class 1 or Class 2 freight lines))

PROJECT SUCCESS FACTORS: Up to 15 Project Success Factor points are available as defined below.

PROJECT READINESS: Points are awarded for dam owners who have moved forward with regulatory compliance or remedial work prior to funding award.

Available Points: 15 points

- 15 Points: Project is funded, permitted, and contracted, and work is under way or completed.
- 10 Points: Project is funded, and scoped or contracted, and has received permits. Work has not yet begun.
- 5 Points: Project is in scoping or earlier, or full funding has not yet been identified.
- 0 Points: Project scoping and funding have not yet begun.

BREACH OR REMOVAL AND HABITAT RESTORATION: Up to 20 points are available for projects that involve design of a breach or removal of a dam such that the hazard classification of the dam is reduced to intermediate or low hazard, so that risk from the dam is permanently reduced. 5 of those points are available for projects that incorporate habitat improvement.

Available Points: 15 points

- 15 Points: Hazard class will be reduced to Class D – breached/ removed such that structure no longer meets the definition of a dam.
- 10 Points: Hazard class will be reduced to Class A – low hazard
- 5 Points: Hazard class will be reduced to Class B
- 0 Points: No hazard class reduction

HABITAT IMPROVEMENT: Additional points are awarded if the project includes breach/ removal AND involves habitat improvement. Note that habitat improvement unrelated to dam safety is not eligible for funding under this grant but will be awarded bonus points.

Available Points: 5 points

- 5 Points: Breach or removal of dam and habitat improvement.
- 0 Points: No habitat improvement.

ORPHAN DAM ACQUISITION (MAXIMUM 15 POINTS): Up to 15 points are available if Applicant proposes to acquire and either remove or rehabilitate a deficient dam. Note: Applicant must make commitment to operate and maintain dam in a safe condition for 50 years after project completion unless the dam is removed.

Available Points: 15 points

- 15 Points: Applicant proposes to acquire a deficient and “orphan” dam. An orphan dam is a dam whose owner is unknown or cannot be found. Provide details on why the dam is an “orphan.”
- 0 Points: Dam is already owned by applicant.

REASONABLENESS OF COST/ COST EFFECTIVENESS (MAXIMUM 35 POINTS): Note: Applications that receive 0 points for Reasonableness of Cost will not be funded.

Available Points: 35 points

- 35 Points: Budget is well-balanced and does not contain any extraneous expenses. Cost is appropriate for the complexity and size of the project. Project provides 65% match or more.
- 15 Points: Budget is well-balanced and does not contain any extraneous expenses. Costs are high for the expected benefit. Project provides 35% match.
- 5 Points: Budget appears well-balanced, but cost-to-benefit ratio is unclear or not well-defined for the complexity and size of the project. Project provides 35% match.
- 0 Points: Budget does not clearly detail costs associated with project or does not appear to be cost effective or well-aligned with the project as proposed.

PRIORITY POINTS (MAXIMUM 10 POINTS):

Regional Economic Development Plan – Upload the applicable parts of the REDC Plan with your application materials

Available Points: 5 points

- 5 Points: The proposed project implements a goal or objective of a Regional Economic Development Council (REDC) Plan.
- 0 Points: The proposed project is not a goal or objective of a Regional Economic Development Council (REDC) Plan.

Environmental Justice

Available Points: 5 points

- 5 Points: The proposed project benefits a designated Environmental Justice Community, and the necessary Environmental Justice application information has been provided.
- 0 Points: The proposed project does not benefit a designated Environmental Justice Community.

ADDITIONAL POINTS (MAXIMUM 10 POINTS):

Project is for a water supply dam

Available Points: 5 points

- 5 Points: Dam is used to impound a primary water supply reservoir that is included in a water supply/ withdrawal permit.
- 3 Points: Dam is used to impound a secondary water supply reservoir that is included in a water supply/ withdrawal permit.
- 0 Points: Dam is not used to impound a water supply reservoir that is included in a water supply/ withdrawal permit.

Public access

Available Points: 5 points

- 5 Points: Access to the reservoir impounded by the dam (or former reservoir lands if dam is to be removed) is open to the general public.
- 3 Points: Access to the reservoir impounded by the dam (or former reservoir lands if dam is to be removed) is not open to the general public but is open to people beyond landowners or members (ex: town-owned dam with park open to all county residents).
- 0 Points: There is no public access to the reservoir impounded by the dam.

Appendix III: Definitions

Eligible High Hazard Potential Dam (Source: 33 USC § 467(4)(A))

- (A) A non-federal dam that –
1. Is located in a state with a state dam safety program;
 2. Is classified as “high hazard potential” by the state dam safety agency of the state in which the dam is located;
 3. Has an emergency action plan approved by the relevant state dam safety agency; and
 4. The state in which the dam is located has determined that it:
 - a. Fails to meet minimum dam safety standards of the state; and
 - b. Poses an unacceptable risk to the public.
- (B) Exclusion: The term “eligible high hazard potential dam” does not include:
1. A licensed hydroelectric dam; or
 2. A dam built under the authority of the Secretary of Agriculture.

Expected life of the dam

Estimated number of years the rehabilitation will be effective. For example, major infrastructure typically has a 50-100 year expected life.

Population at Risk (PAR) (Source: USACE ER 1110-2-1156)

The population downstream of a dam that would be subject to risk from flooding in the instance of a potential dam failure; usually documented in numbers of persons at risk.

Small Impoverished Community

A small impoverished community must:

- a. Be a community of 3,000 or fewer individuals identified by the applicant as a rural community that is not a remote area within the corporate boundaries of a larger city or jurisdictional area or boundary
- b. Be economically disadvantaged, with residents having an average per capita annual income not exceeding 80 percent of the national per capita income, based on best available data. For the most current information on the national income, see <http://www.bea.gov>
- c. Have a local unemployment rate that exceeds by 1 percentage point or more than the most recently reported, average yearly national unemployment rate. For the most current unemployment information see <http://www.bls.gov/eag/us.htm>

Unacceptable Risk to the Public

A dam poses unacceptable risk to the public when the dam requires remedial or risk reduction measures due to deficiencies caused by inadequate dam design, construction methods, or improper operation and maintenance.

For a dam to be considered to be an unacceptable risk to the public for funding under the HHDR, it must meet all the following conditions:

- a. Does not meet the minimum dam safety standards of the state (not including routine operation and maintenance).
- b. State dam safety program has documented the deficiencies at the dam that must be reduced, eliminated, or mitigated, as indicated by the dam having a Condition Rating of Unsafe or Unsound.

- c. Official notice of the designation of the dam as Unsafe or Unsound has been communicated to the dam owner in a letter from the NYS DEC Dam Safety Section.

Appendix IV: RISK REDUCTION SCORE

HHDR RISK SCORE

Condition Rating/ Population at risk	0-10	11-100	101-1000	> 1000
UNSAFE	60	60	60	60
UN SOUND – DEFICIENCY RECOGNIZED	40	60	60	60
UN SOUND – FAIR	0	20	40	60
UN SOUND – MORE ANALYSIS NEEDED	0	20	20	40
DEFICIENTLY MAINTAINED	0	0	0	0
NOT RATED	0	0	0	0

RISK REDUCTION = pre-project risk score – post-project risk score (assuming dam meets dam safety criteria)

Condition rating must be based on most recent designation from NYSDEC Dam Safety Program. A copy of the letter informing the owner of the dam's Condition Rating must be included with the application.

Population at Risk (PAR) may be estimated based on the inundation mapping in the dam's Emergency Action Plan. The application must include, at minimum, a narrative explanation of how the PAR was determined. Include supporting data, figures, models, etc. The number of persons per household can be found at the US Census web site for every zip code:

<https://www.census.gov/quickfacts/NY>.

All PAR and Risk Score calculations must be provided and clearly explained in the application. Facilities identified for Critical Facilities points must be specifically identified in application.

APPENDIX V: Mitigation Plan Extraordinary Circumstances Letter Sample

April 1, 2022

Don Canestrari
Dam Safety Section
New York State DEC
625 Broadway
Albany, NY 12233

Re: Empire Village request to approve "Local Mitigation Plan Extraordinary Circumstances" under the DEC High Hazard Dam Rehabilitation Grant Program

Dear Mr. Canestrari:

Empire Village in consultation and coordination with York County Department of Emergency Management requests approval for the Mitigation Plan Extraordinary Circumstances extension as described in the High Hazard Dam Rehabilitation Grant Program announcement.

York County has a hazard mitigation plan that was approved on April 30, 2019, however the plan does not address all dam risks. We understand that if the extension to having a FEMA-approved mitigation plan that includes all dam risks is approved, the requirement to update our county plan will be incorporated into the HHDR award agreement. York County will be required to update its hazard mitigation plan to include all dam risks, and to receive FEMA approval for the plan update within 12 months of the grant award or the award will be recouped. Enclosed is a workplan for completing the update process.

If you have any questions, please contact me at the phone number or email shown above.

Sincerely,

John Smith, Mayor
Village of Empire

Sally Jones, Director
York County Emergency Management

encl:

- Workplan for updating local mitigation plan including FEMA approval
- Assurance from York County for updating local mitigation plan (can be email)

York County Workplan NYS High Hazard Dam Rehabilitation Program

Purpose:

York County has applied for the High Hazard Dam Rehabilitation (HHDR) Grant provided by FEMA and administered by NYS DEC. The grant requires that the county's hazard mitigation plan ("CMP") include all dam risks and complies with the Disaster Mitigation Act of 2000. Completion of this workplan will meet that condition within twelve months of the award.

Overview:

York County has a hazard mitigation plan that has been approved by FEMA, however the plan does not meet FEMA and NYS DEC requirements for the High Hazard Dam Rehabilitation grant program ("Grant"). The CMP does not include all dam risks as required by the Grant.

The completion of this workplan will:

- Ensure the CMP describes how NYSDEC and DHSES participated in the planning process and contributed expertise, data, studies, information, etc. relative to High Hazard dams in York County.
- Ensure the CMP documents the assessment of High Hazard Dam risk in York County, including a list of High Hazard dams and a description of the risk-based priority system used for identifying dam risks in the county.
- Ensure the county's hazard mitigation goals documented in the CMP include a goal(s) to reduce long-term vulnerabilities from dams that pose an unacceptable risk to the public.
- Ensure the CMP documents how the county prioritizes mitigation actions to reduce vulnerabilities from dams that pose an unacceptable risk to the public.
- Ensure the CMP identifies current and potential sources of funding to implement mitigation actions and activities for dams that pose an unacceptable risk to the public.
- Ensure the CMP generally describes and analyzes the effectiveness of local mitigation policies, programs, and capabilities that address dams that pose an unacceptable risk to the public.
- Ensure the CMP describes the criteria for prioritizing funding for local mitigation policies and programs to mitigate risks from dams that pose an unacceptable risk to the public,

Project Team:

- Frank Jones – County Emergency Manager [CEM]
- Sarah Suarez – County Sheriff [CS]

Project Management:

The Project Team will monitor progress and otherwise manage the implementation of this workplan. The Team will hold either status meetings or conference calls in the middle of each month for this purpose. These meetings will continue until the plan amendment of the CMP is approved by FEMA.

TASK	TARGET COMPLETION
Brief County Executives & Stakeholder Agencies	9/13/19
Gather information from Local Hazard Mitigation Plan. Identify if the plan covers dams and how they are covered. Gather information on local policies, programs, and capabilities for subsequent analysis	5/1/2019
Review other CMP goals, with a focus on goals that involve dams	10/14/19
Review current CMP goals; recommend one or more goals that cover dams	11/14/19
Gather information on high hazard dams in York County	12/01/19
Prepare a list of HHPD – include the name and location (local jurisdiction and GIS coordinates) of dams.	7/8/19
Prepare a general narrative describing the vulnerabilities / risks for all HHPDs, incorporating Tasks 5A & 5B.	12/01/19
Prepare a narrative describing the criteria and prioritization process for identifying and rating the vulnerabilities posed by HHPDs.	2/15/20
Analyze Local Policies, Programs and Capabilities for HHPD	2/01/20
Identify High Hazard Dam Mitigation Actions	1/10/20
Identify Potential Funding Sources to implement mitigation actions	2/15/20
Incorporate narrative and data into CMP revisions	5/31/20
Secure FEMA Approval of dams' amendment to CMP	7/17/20

Appendix VI: PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. The Department recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Department contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

The following link includes additional information regarding the responsibilities associated with the Department’s SDVOB program: <http://www.dec.ny.gov/about/108183.html>

I. Contract Goals

- A. The Department hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should contact the Department’s SDVOB lead with questions regarding compliance with SDVOB participation goals at:

Mark Krisanda

Contract Management Specialist/SDVOB Program Lead
Bureau of Contract and Grant Development

New York State Department of Environmental Conservation

625 Broadway, Albany, NY 12233-1080

Phone #: (518) 402-9240

mark.krisanda@dec.ny.gov

One may reference the directory of New York State Certified SDVOBs found at: https://ogs.ny.gov/veterans/Docs/CertifiedNYS_SDVOB.pdf. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

II. SDVOB Utilization Plan

- A. Pursuant to 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use in the performance of the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to the Department.
- C. The Department will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of the Department's acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven (7) business days of receipt, by submitting to the Department, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by the Department, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. The Department may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - 1. If a Bidder fails to submit an SDVOB Utilization Plan;
 - 2. If a Bidder fails to submit a written remedy to a notice of deficiency;
 - 3. If a Bidder fails to submit a request for waiver; or
 - 4. If the Department determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Department's Designated Contacts for guidance.**
- B. Pursuant to 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Department at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to the Department, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If the Department, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to:

Mark Krisanda
Contract Management Specialist/SDVOB Program Lead
Bureau of Contract and Grant Development
New York State Department of Environmental Conservation
625 Broadway, Albany, NY 12233-1080
Phone #: (518) 402-9240
mark.krisanda@dec.ny.gov

IV. Required Good Faith Efforts

Pursuant to 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto;

- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected;
- (3) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs; and
- (4) Other information deemed relevant to the waiver request.

V. Monthly SDVOB Contractor Compliance Report

Pursuant to 9 NYCRR § 252.2(q), the Contractor is required to report Monthly SDVOB Contractor Compliance to the Department during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 distributed by the Department's SDVOB program and should be completed by the Contractor and submitted to the Department, by the 10th day of each month during the term of the Contract, for the preceding month's activity to:

Mark Krisanda
Contract Management Specialist/SDVOB Program Lead
Bureau of Contract and Grant Development
New York State Department of Environmental Conservation
625 Broadway, Albany, NY 12233-1080
Phone #: (518) 402-9240
mark.krisanda@dec.ny.gov

VI. Breach of Contract and Damages

Pursuant to 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.