

Office of Natural Resource Restoration

Notice of Grant Funding Availability for Passaic River Natural Resource Restoration Projects (Newark Bay Complex)

Announcement Date: June 10, 2016

Application Due Date: July 25, 2016

State of New Jersey

Department of Environmental Protection

Division of State Forestry

Office of Natural Resource Restoration

Mail Code 501-04, PO Box 420, Trenton, NJ 08625

Purpose

Natural resource restoration is administered by the New Jersey Department of Environmental Protection (DEP) through the Office of Natural Resource Restoration (ONRR), which was established in the early 1990s to oversee and coordinate restoration necessary as the result of environmental injury caused by discharges of hazardous substances, including oil spills. The authority for addressing injuries to the public's natural resources stems from the Public Trust Doctrine. This common law provides that public lands, waters and living resources are held in trust by the government for the benefit of its citizens. DEP has additional authority to address natural resource injuries under the New Jersey Spill Compensation Control Act, N.J.S.A. 58:23.11a-1 et seq. and the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. In New Jersey, the Commissioner of the Department of Environmental Protection (DEP) is the designated trustee charged with administering and protecting the state's natural resources.

ONRR coordinates with those responsible for injuries to natural resources to ensure that an appropriate restoration project is implemented to compensate the public for the loss of or injury to natural resources as well as their use and enjoyment.

ONRR also partners with other trustees and environmental organizations, and solicits input from environmental and local community groups with special resource expertise and knowledge of the restoration project. ONRR brings together the necessary scientific and legal expertise within the state to pursue natural resource restoration.

ONRR grants are awarded on a competitive basis to encourage projects that provide public access and enjoyment and/or substantial ecological restoration as well as achieve the stated criteria for grant proposal selection. The ONRR webpage can be accessed at <http://www.nj.gov/dep/nrr/index.html>.

In the Passaic River litigation (NJDEP, et al. v. Occidental Chemical Corporation, et al.; Docket No. ESX-L-9868-05), DEP, the DEP Commissioner and the Administrator of the Spill Compensation Fund sued to recover the costs and damages the state incurred and suffered as a result of discharges of hazardous substances at and from the Lister property into the Passaic River, as well as the larger Newark Bay Complex. The Newark Bay Complex includes the lower 17 miles of the Passaic River, Newark Bay, the Arthur Kill, the Kill Van Kull, and portions of the Hackensack River. The parties resolved the Passaic River litigation through three settlement agreements, which included a total payment of \$67 million for natural resource restoration. The NRD payments are to be applied to restoration projects primarily intended to address lost human use services in the Newark Bay Complex for natural resources.

Grant information can be found at http://www.nj.gov/dep/grantandloanprograms/nhr_passaicrivernrr.html.

Source of Funding

Passaic River natural resource damage recoveries provide the funding for this grant opportunity. (See, Consent Judgment entered on December 16, 2014 in the matter of NJDEP et al. v. Occidental Chemical Company et al., Docket No. L-9868-05, Superior Court, Law Division, Essex County; Court Approved Settlement Agreement entered December 12, 2013 in the matter of NJDEP et al. v. Occidental Chemical Company et al., Docket No. L-9868-05, Superior Court, Law Division, Essex County; and Consent Judgment entered on December 12, 2013 in the matter of NJDEP et al. v. Occidental Chemical Company et al., Docket No. L-9868-05, Superior Court, Law Division, Essex County.)

Eligibility (Applicants and Projects)

Eligible applicants are:

- Government agencies, including cities, municipalities, counties, regional entities or organizations, municipal utility authorities, economic development corporations, redevelopment authorities or government entities authorized by cities, municipalities or counties.

Eligible Projects must:

- Be located in New Jersey;
- Be located within municipalities that are adjacent to one or more of the waterways identified as the Newark Bay Complex in the Passaic River litigation (the lower 17 miles of the Passaic River, Newark Bay, the Arthur Kill, the Kill Van Kull, and portions of the Hackensack River);
- Provide or enhance public access and enjoyment to waterfront resources in the Newark Bay Complex;
- Not be a project where remediation costs exceed 20% of the construction budget; and
- Not be a project, project component or activity associated with wetland mitigation required under the Freshwater Wetland Protection Act, N.J.S.A. 13:9B-1 et seq., the Coastal Wetlands Act, N.J.S.A. 13:9A-1 et seq., the Waterfront Development Act, N.J.S.A. 12:3-5 or by the United States Army Corps of Engineers. Wetland restoration may be an ancillary benefit of the project but should not be the main purpose of the proposal.

Grant Funding Allocation

This current notice of funding availability is for the purposes of providing construction funding and/or future land acquisition for projects currently at or beyond completion of the conceptual design phase. Conceptual design includes complete vision demonstrated in a project rendering, estimated costs, project location with tax map/property ownership overlay and a plan to address site access and acquisition of any properties within the project area that are not

already owned by the applicant. Selected projects will be required to meet all eligibility and grant selection criteria and all pre-disbursement requirements and will be required to adhere to all requirements contained in a grant agreement. This grant is a reimbursement grant for construction costs only. Reimbursement will only be made available upon the grantee's compliance with the post-award grant agreement and verification that all necessary funding is available to completely construct the project.

DEP is making \$50,000,000 available under this grant for construction work and/or future land acquisition within the project area. The maximum available for any one project is \$25,000,000. No grant requests for less than \$500,000 will be considered. A minimum of 50% matching funds is required from the applicant prior to award.

Publication of this announcement does not obligate DEP to award a grant or to fund any specific project. DEP reserves its right to decline to award a grant if DEP determines that the proposed project does not meet the grant criteria or it is in the public interest to do so. In the event that all available grant funds are not awarded under this solicitation, DEP will advertise additional grant solicitations.

Grant Requirements

All ONRR grant recipients must comply with the general terms and conditions as defined in the post-award grant agreement, including but not limited to:

- Grantees agree to comply with all applicable federal, state and municipal laws, rules, regulations and written policies.
- Projects must have designs completed within the defined work period, unless an extension is granted by the ONRR consistent with procedures defined in the grant agreement. The work period for design completion is two years from the effective date of the grant agreement or according to the schedule proposed by the applicant, whichever is less. No more than one one-year extension will be granted.
- The work period for construction completion is two years from date of design completion and permitting or according to the schedule proposed by the applicant, whichever is less. No more than one one-year extension will be granted.
- Grantees will be reimbursed for eligible expenses incurred. Costs associated with design are not eligible. Costs associated with land acquisition and construction are eligible. Only the actual purchase price will be considered an eligible land acquisition cost. Expenses associated with acquisition, such as survey and title work and attorney fees are not reimbursable expenses under this grant. Payment will be made upon submission of a properly executed State invoice form and all invoices, bills and other documents necessary to justify payment.
- Funding cannot be used to reimburse expenses incurred outside of the work period defined in the grant agreement.
- All invoices must be paid in full to be considered for reimbursement; advanced payments will not be made.

- Grantees will use their own procurement procedures that reflect applicable State and local laws and regulations, and applicable State requirements shall be incorporated into any subcontracts under the agreement.
- The salaries or wages of an employee of the grantee are not eligible for reimbursement from grant funding, even though the employee may be engaged in work that is necessary for grant preparation or for the oversight or implementation of the grant. Only the cost of project construction-related services provided by the vendor or contractor that the grantee hires to carry out the work plan may be reimbursed.
- All grantees must maintain records that adequately identify the source and application of funds provided for the project. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and sub-grant award documents, etc.
- All grantees are required to comply with all financial and performance reporting requirements in the grant agreement including interim and final financial and performance reports.
- All grantees are required to post a sign during construction indicating that the source of project funding is natural resource damage recovery funds from the NJDEP ONRR.
- Upon completion of the project, all grantees are required to post and maintain signs at the project site indicating that the project was funded using natural resource damage recovery funds from the NJDEP ONRR. This may be included on interpretive signs.

Proposal Requirements

- The ONRR Grant Proposal Application must be filled out in its entirety.
- Proposals must include conceptual design plans and be accompanied by a narrative description of the project that is proposed to be designed, and an estimated schedule for design. A complete proposal must include a preliminary but detailed budget that identifies project components and associated costs.
- The grant request cannot exceed the funding allocations described in this solicitation.
- All proposals from a governmental agency must be accompanied by a Governing Body Resolution or other official authorization that authorizes the submission and commitment to the proposed project.
- All proposals must identify a project manager who will have primary responsibility for coordinating project work, communicating with ONRR, and reporting on implementation and performance.
- Matching funds are required at a minimum of 50% and cannot include in-house staff costs or in-kind services.

Reporting and Accountability

Funded projects must comply with accounting, progress, and accomplishment reporting requirements defined in the grant agreement. At a minimum, all grants will require:

- Semi-annual interim reports beginning six months after the effective date of the agreement until the end of the work period.
- A final report at the end of the work period.

Criteria for ONRR Grant Proposal Selection

The primary criteria for evaluation of proposals are:

1. **Project Applicability (20 points)**
 - Project vision as it relates to the degree of public access and enjoyment of Newark Bay Complex waterfront resources. Projects located on the lower Passaic River and upper Newark Bay (Newark, Kearney, Harrison and East Newark) will be given greater priority;
 - Whether the proposed project would potentially enhance the restoration of injured natural resources and avoid the recontamination of those resources;
 - Integration of project with federal, state and local programs, plans and policies; and
 - Size of municipality (population served).
2. **Project Readiness (20 points)**
 - Project feasibility;
 - Proposed design completion date;
 - Proposed construction completion date; and
 - Current level of public engagement and support for the proposed concept.
3. **Likelihood of Success (25 points)**
 - Likelihood of success, if the project involves natural resource restoration (for example, erosion control and plant stock survivability);
 - Likelihood and availability of construction funding once the project is designed;
 - Ability of the grantee to contract with a design and construction firm;
 - Qualifications of the proposed personnel (in-house and contracted) to ensure grant agreement compliance as well as completing project design and construction; and
 - Resiliency to sea level rise and coastal hazards.
4. **Application Contents (25 points)**
 - Individual elements of Application Contents as defined below.
5. **Cost Share/Matching Funds (10 points)**
 - Level of matching funds; and
 - Cost detail (funding source allocation per project component).

Application Contents

The following are required as part of a complete grant proposal application.

1. Project Overview (1 page maximum)

Provide a narrative describing the project. In addition to describing the project, explain how it directly supports the goals of the grant. There should be a direct link between the project objectives and the Purpose and Eligibility described above.

2. Work Plan (8 pages maximum)

The project should be presented with a clear and articulate plan for the proposed work and how it will be carried out, as described below.

- Describe the project location and existing site conditions.
- Describe the need to carry out the work.
- Provide conceptual site plans that detail to the greatest extent possible the proposed project concept.
- Describe the public access to be provided to the site, including proposed education, recreation and other public amenities.
- If wetland creation or enhancement is proposed as an ancillary component of the project, describe the proposed conditions, including but not limited to a detailed description of the amount of wetlands to be created and/or enhanced, type and size of wetland, plant list, and source of hydrology if applicable to the project.
- Identify permits already acquired and additional permits that are necessary as well as the plan to obtain those permits.
- Clearly identify the roles and responsibilities of any project partners.
- Provide a project timeline/schedule via a diagram (i.e., Gantt chart) that clearly illustrates when project tasks and milestones will be carried out within the defined work period for this grant. Significant project milestones must be indicated. Milestones for design can include but are not limited to issuing an RFP for work, awarding a contract, obtaining permits, interim design, final design and construction specifications. Milestones for construction can include land acquisition, starting and ending work, and submitting required grant reports. This schedule shall be updated on an as needed basis and will be used to ensure compliance with the work period defined above.

3. Monitoring, Evaluation and Long-Term Maintenance (2 pages maximum)

- Identify specific, significant, and measurable on-the-ground outcomes.
- Describe the project's monitoring and evaluation plan.
- Describe the financial capacity, plans and timeframe for long-term maintenance of the created or enhanced wetland or public access project and the capacity of the applicant to implement the maintenance plan, including the applicant's ability to implement corrective action if monitoring indicates it is needed.

4. Budget (5 page maximum)

Applicants must complete the Grant Project Budget Form for estimated construction and land acquisition costs in its entirety. In addition, applicants must provide a detailed narrative

describing each budget item and clearly demonstrating how the grant funds will be spent, any other funds that will be used to implement the project, and how those funds will be used.

5. Grant Proposal Application Form

Applicants must complete the grant proposal application form in its entirety.

6. Governing Body Resolution

The applicant must submit with the proposal three signed and sealed originals of the governing body resolution or other authorizing document.

7. Project Partner Letters

If there are project partners, letters of support from all partners clearly identifying their role in the project.

8. Capacity Demonstration

Demonstration of the applicant's capacity to conduct the scope and scale of the project, as indicated by the qualifications and past experience of the project leaders and/or partners in designing, implementing, and effectively managing and overseeing similar projects.

Pre-disbursement Conditions

Selected projects shall meet the following requirements prior to DEP determination to disburse construction funds. All DEP grant funding shall fund only construction and land acquisition components of the selected project. If the acreage of proposed land acquisition, public access, enjoyment of waterfront resources, wetland creation or enhancement is substantially reduced or altered, or the likelihood of success of the project is determined to be substantially less than expected between the conceptual site drawings submitted with the grant application and the final, permitted design, ONRR reserves the right to revoke or modify the award. In addition, ONRR reserves the right to revoke or modify the award if design specifications are not provided or construction is not begun in a timely manner.

- Proposals must include formal documentation of approval for project construction from the property owners where the proposed project will be constructed.
- Selected projects must include an updated and current detailed construction budget prior to authorization to expend grant funds.
- A detailed construction schedule is required. Construction must be complete within two years of award. One one-year extension may be granted at DEP's discretion. Semi-annual progress reports to document project advancement consistent with the proposed schedule will be required.
- All projects are required to have all necessary permits prior to DEP grant award.
- All projects are required to have and submit 100% design plans and specifications.
- Demonstration of matching funds at a minimum of 50% of projected construction and land acquisition costs.

- Provide a project timeline/schedule via a diagram (i.e., Gantt chart) that clearly illustrates when project tasks and milestones will be carried out within the defined work period for this grant. Significant project milestones must be indicated. Milestones for design can include but are not limited to issuing an RFP for work, awarding a contract, obtaining permits, interim design, final design and construction specifications. Milestones for construction can include land acquisition, starting and ending work, and submitting required grant reports. This schedule shall be updated on an as-needed basis and will be used to ensure compliance with the work period defined above.

Grant Application Question and Answer Period

Any questions regarding this grant announcement may be submitted by email to onrrgrants@dep.nj.gov or in writing to John King at the mailing address below. Please include the phrase "Newark Bay Complex" in the subject line. Questions may be submitted until July 5, 2016. Questions and ONRR responses will be posted at http://www.nj.gov/dep/grantandloanprograms/nhr_passaicriveronrr.html. ONRR will not respond to questions by phone.

Project Submission

Grant proposal applications shall be submitted via traditional post or hand delivery to:

John King
NJDEP
Office of Natural Resource Restoration
Mail Code 501-01
PO Box 420
501 East State Street
Trenton, NJ 08625-0420

The complete grant proposal application must be received by 5:00 P.M. on Monday, July 25, 2016. Grant applications received after 5:00 P.M. shall be rejected. The applications shall include all information required as identified in the Application Contents section of this Request for Proposals. Four complete copies of each application shall be submitted, including three signed and sealed original resolutions. Unless otherwise notified by DEP, grant awards will be announced within six months of the close of the grant application period.

An evaluation team comprised of DEP staff from ONRR, Land Use Regulation, and Natural and Historic Resources will review project proposals. A preliminary review will reject any ineligible or incomplete applications. Eligible and complete applications will be ranked according to criteria defined in this solicitation. Grant funds will be awarded by DEP to projects that are deemed most beneficial to the state according to the criteria contained herein. DEP reserves the right to make no award if, at its sole discretion, no acceptable proposal is received.

