



Higher Education Capital Match (HECap) Grant Program

Frequently Asked Questions

This list is designed to answer many of the questions that you, may have about the HECap Grant Program administered by DASNY.

Institutions are encouraged to review all questions and answers. Please note that the information provided is intended to provide general guidance with respect to the process and the HECap program, and should not be construed as final approval or disapproval of any particular project or project costs. Often, the determination is fact specific and is made on a case-by-case basis.

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Definitions:

Application– a form which is required when responding to a Request for Grant Application. This form will provide detailed information about the Institution and the project for which grant funds are being sought.

Articles of Incorporation (and DBA paperwork, if applicable) or Charter – are necessary to verify eligibility under the grant program and will also identify if the Institution is authorized to do business in the State of New York.

Authorized Officer – an individual who has the corporate authority to bind the Institution to a contract.

Capital Costs – as described in *State Finance Law Section 67-a*:

- (i) The acquisition, construction, demolition, or replacement of a fixed asset.
- (ii) The major repair or renovation of a fixed asset or assets which materially extends its useful life or materially improves or increases its capacity; or
- (iii) The planning or design of the acquisition, construction, demolition, replacement, major repair or renovation of a fixed asset or assets, including the preparation and review of plans

and specifications including engineering and other services, field surveys and sub-surface investigations incidental thereto.

Financial Documentation – copies of quotes, proposals, cost estimates or any other document that will identify projects costs necessary to complete the project. In addition, DASNY will need to see evidence of the other source(s) of funding for the project for the 3:1 match under the program.

Grant Disbursement Agreement (GDA) – the agreement between the HECap Board and the Grantee. The State Attorney General and the Office of the State Comptroller must approve the GDA.

Grant Funds – funds made available by the State or DASNY to pay for eligible project costs in furtherance of the approved Project.

Grantee – the Institution that has been awarded the grant. The Grantee must be the entity entering into contracts for Project Costs and is responsible for payment to the contractors and vendors. The Grantee must have control over the project location by ownership or lease.

Grantee Certification - Certain laws prohibit the use of public funds to finance religious programs or programs that may favor one religion over another. As the issuer of the bonds that will finance the project to be funded with Grant funds, DASNY must verify that it is in compliance with all applicable Federal and State laws and regulations. This certification should accurately state the purposes for which the Grant funds will be used and should be signed by two Authorized Officers.

Grants Reform Gateway Prequalification - Effective August 1, 2013, not-for-profit organizations are required to register and prequalify on the New York State Grants Gateway (<https://grantsmanagement.ny.gov/>) in order to receive Grant Funds. The Grants Gateway should be continuously monitored, amended when appropriate and should be in the prequalified status throughout the process including the payment phase.

HECap Project - purchase, acquisition, design, construction, reconstruction, rehabilitation, or equipping of a facility on or near a college campus within the State, including critical academic facilities, economic development and/or high technology projects, and urban renewal and/or historical preservation projects that would 1) enhance the programmatic offerings at the College; 2) provide economic development benefits to the area surrounding the college campus; and/or 3) enhance student life at the College

Institute, Institution or Eligible Entity - “independent institutions of higher learning, as described in Education Law § 6401(2)”, College or University.

Legal Name –The legal name is the name that matches what is on file with the State and should: a) match what the IRS has on file and corresponds to the grantee’s FEIN and b) includes or excludes, where applicable, ‘Inc.’, ‘LLC’, ‘The’, etc. and does not employ acronyms or shorthand.

Project Certification - As the issuer of the bonds that will finance the project to be funded with Grant funds, DASNY must verify compliance with all applicable Federal and State laws and regulations. The certification will need to be signed by Authorized Officer.

Request for Grant Application (RGA) – the announcement advising Institutions that funds are available under the Program upon application.

Short Term Debt – is generally no greater than one year in length.

Site Control - is required to evidence that the Institution has sufficient authorization and control to undertake the project at the project location(s). In order to verify the Institution owns, leases, or otherwise has control over the site where the project will be located, a copy of the deed, lease, or other document evidencing site control by the Grantee will be required.

Vendor Responsibility Questionnaire (VRQ) - As the administrator of the HECap Program, DASNY on behalf of the State, needs to be certain that bond proceeds are paid only to organizations that are deemed to be responsible entities. Full and accurate responses on the VRQ will help to achieve this goal. The VRQ is required in order to complete the review process. The submission of false information on the VRQ could be a violation of Federal and State Penal Laws.

W-9 Form - The Grantee's Federal Employer Identification Number (FEIN) or Taxpay Identification Number (TIN) is required to make payment. The Legal Organization name and FEIN should match the legal name and FEIN that the Internal Revenue Service has on file for the Grantee which should match what is on file with the Department of State (DOS) as well as the NYS Comptroller.

Grants Gateway Information

1. Is the Standard Financial System (SFS) number the same as the SFS Vendor ID number? If not, how do I obtain the SFS number?

RESPONSE: Yes, the Statewide Financial System (SFS) number is the same as the SFS Vendor ID Number. This number would have been provided to the Institution by the NYS Office of the State Comptroller or assigned to the Institution during the registration process with NYS Grants Reform Gateway. This number can be found on the Organization Information page of the NYS Grants Reform Gateway document vault.

2. Where can I find the Grants Reform Document #?

RESPONSE: All private Institutions need to be registered and prequalified in the NYS Grants Reform Gateway (<https://grantsmanagement.ny.gov/>). The Document Vault number can be located within each section of the document vault and will be identified as GDV-AGENCY-XXXXX (i.e., GDV-SED-00000). You may contact NYS Grants Reform Gateway with any questions regarding the document vault. They can be reached at (518) 474-5595 or by email at grantsreform@its.ny.gov.

Vendor Responsibility Questionnaire (VRQ)

A Vendor Responsibility Questionnaire (VRQ) will be required for both the Institution receiving the grant funds and the Contractor(s) receiving over \$100,000 of the HECap funds. The VRQ should be completed under the legal name of the Institution and the Contractor (when applicable). Both the Institution and the Contractor(s) are required to maintain the VRQ throughout the review and reimbursement process.

Eligible Projects

Institutions are advised to consult with their legal counsel and construction professionals to determine whether the project they have in mind for HECap funding is eligible under this Program and to discuss what documentation must be provided to DASNY.

3. Will a project that will be utilizing tax credits be eligible to receive a HECap award?

RESPONSE: Tax credit transactions are typically complex structures that must be reviewed in detail to determine whether the structure is compatible with the HECap grant. Applicants are advised that it might not be possible to simultaneously comply with the requirements of the tax credit transaction and the HECap grant and therefore a project not including a tax credit structure would be preferable. Applicants are hereby advised that this may require additional reviews and delay processing.

The HECap grant may be used to fund a fully functional phase of a larger project, so long as it is clearly demonstrated that the fully functional phase will, upon completion of that phase, provide the benefits required by the HECap program and comply in all respects with the enabling legislation and the provisions of the RGA.

Please keep in mind that when contemplating such a scenario that grant funds may not be used to pay debt service on previously issued bonds, pay for costs that have already been paid with bond proceeds, be paid into a corpus to generate tax credits, or be used by parties other than the Grantee to pay for project-related costs.

4. We are currently in the midst of a multi-phase construction/renovation project of one of our campus buildings. May we apply to fund one specific optional phase of a bigger construction/renovation project (i.e., we would only be able to do that phase if we secured HECap funding)?
5. Can we apply for HECap to fund one specific phase of a bigger construction/renovation project (i.e., the 3:1 match would only apply to that specific phase)? In this scenario, earlier phases have already been completed. The phase we'd like to apply for HECap funding began after the eligible start date and will be completed before the eligible end date. There will be later phases of the project as well, not included in our HECap application.

RESPONSE FOR 4-5 ABOVE: Yes. The HECap grant may be used to fund a fully functional phase of a larger project, so long as it is clearly demonstrated that the fully functional phase will, upon completion of that phase, provide the benefits required by the HECap program and comply in all respects with the enabling legislation and the provisions of the RGA.

In addition, Institutions should be aware that the project will be evaluated based upon the criteria set forth in the RGA, including the benefit to be provided at the completion of the project phase to be funded with the HECap grant. Therefore, Institutions should

carefully consider the extent to which the project will satisfy the statutory criteria and provide enhancements to student life or programmatic offerings; or provide economic development benefits to the area surrounding the campus.

6. If purchasing a variety of equipment (windows, boilers, etc.), but purchased for the same project (energy efficiency upgrades to multiple buildings), does it qualify for HECap?

RESPONSE: The purchase and installation of building system components would be considered a construction project, not the purchase of equipment. Building system components include boilers, HVAC systems, windows, elevators, and other such integral features of a building that are critical to the facility. If the project to be undertaken is critical to the functioning of the facility, then the requirements of the HECap grant Program must be abided by as outlined in the RGA.

There is no requirement that the HECap Project be located at a single site, as long as the nature of the project necessitates improvements to be made at multiple locations. Please note, however, that the HECap program is intended to support a single capital project and not a series of unrelated campus-wide facility renovations and must meet the criteria as noted above.

7. The building that we are considering is a research lab that does not have classroom space. I was reading the state law to see how “project” was defined. Before assuming I wanted to ask is non-classroom space (research buildings, research labs, office space) a qualifying project? I assume if it was non-classroom it would have to “enhance programmatic offerings or provide economic development benefits”?

RESPONSE: Based upon the limited information provided, it would appear that the project is eligible for a HECap Grant.

8. Does the HECap legislation prevent us from engaging a design firm prior to the eligible start date? Or does it mean we cannot make payments prior to the eligible start date for work completed prior to the eligible start date? Would any payment we make to a design firm prior to the eligible start date be able to be used as part of our match?

RESPONSE: Design, engineering, and other preliminary planning activities may commence prior to the eligible start date and costs paid can be used towards the match. Costs incurred prior to this date, however, may not be reimbursed from grant funds.

9. The RGA specifies that projects in leased space requires a 10-year agreement. Are there requirements for a time period for ownership of the building (i.e. you cannot sell the property within a specific amount of time)?

RESPONSE: It is expected that the Grantee will have control over the project location for at least 10 years.

10. Our Institution was approved for a prior HECap grant. We are interested in applying for additional funds for the project because our revised capital project is larger and

much more costly. Can an Institution be funded from multiple funding rounds for the same project or do we have to withdraw from one to be considered for another opportunity?

RESPONSE: The project must meet the criteria outlined in the RGA for each competitive round. The Institution is advised to carefully consider whether the project complies with the specified project start and end dates. The Grantee will need to analyze the criteria set forth in each RGA and determine which may better accommodate the project.

11. Would the replacement of an outdated enterprise and CRM system qualify as a high technology project?

RESPONSE: HECap Grants funds may only be used to pay for a capital work or purpose as defined in Section 67-a of the State Finance Law. Please note that cloud-based software would not be considered capital and therefore not reimbursable with the grant funds.

In addition, a Project would be eligible for funding if it meets the requirements set forth in the HECap legislation and the RGA. It is helpful to include a robust narrative to clearly describe the benefits of the proposed HECap Project and how it satisfies the criteria outlined in the RGA.

12. Our proposed project involves installing air-conditioning and electrical upgrades in three separate residence hall complexes. Would this be considered as one project?

RESPONSE: There is no requirement that the HECap Project be located at a single site, as long as the nature of the project necessitates improvements to be made at multiple locations. Please note, however, that the HECap program is intended to support a single capital project and not a series of unrelated campus-wide facility renovations.

13. Are HECap funds permissible for the construction of an on-campus Interfaith Center open to people of all religions and faith?

RESPONSE: HECap funds may not be used for projects that will be used for religious purposes. The Institution, if awarded a HECap grant, will be entering into a Grant Disbursement Agreement. The Terms and Conditions of such includes a clause that the Institution will not be using the grant funds for purposes of religious worship, instruction or proselytizing.

Matching Funds/Grant Funding Levels/Financial Review/Amount of Grant

14. Can the Institution accept donated services for the project from a self-employed individual (for example, an interior designer)?
15. What are acceptable methods of valuing in-kind donated services, for the purpose of meeting the matching funds requirement?
16. Can an Institution accept donated services for the project from an individual or a firm? If so, can donated services be valued for the purpose of meeting the matching funds requirement?

RESPONSE to 14-16 ABOVE: In-kind contributions consist of goods and services donated to the Institute specifically related to an eligible HECap Project. Goods shall be deemed received at the time the Institution has use and possession of them for the eligible HECap Project purpose. Services shall be received at the time they are performed, or when it can be documented that they will be contractually performed for an eligible HECap Project purpose. All in-kind contributions must be valued at their fair market value at the time they are received or expected to be received and the Institution must provide DASNY with documentation on the determination of fair market value.

All contractors and vendors to be paid with HECap grant funds must be authorized to do business in the State of New York.

17. If the HECap grant is supporting a building project, which includes both construction (e.g. \$250K) and furniture, equipment, and fixtures (e.g. \$100K), does the 3:1 match need to be reflected in each budget category (i.e., match 3:1 in the construction line item and match 3:1 in the FF&E line item), or can the match be applied to the project as a whole (\$350K total grant with a \$1.05 M match).

RESPONSE: The Grant may be paid out for costs on one or more-line items of a budget. There is no requirement that the 3:1 match needs to be across multiple budget lines. Please note, however, that all statutory requirements must be complied with for the entire project to be funded by the HECap grant, and not just certain items.

Please note that the total project cost must be at least four (4) times the amount of the HECap Grant award requested in order to comply with the 3:1 Match Requirement.

18. Does an Institution have to have funds in hand or is an award letter without contingency good enough?

RESPONSE: Award letters without contingency may be provided as support of the Institution's matching funds. Pledges or award letters with unsatisfied contingencies,

pending loan applications, and other non-final commitments will not be considered as secured Matching or Completion Funds in the evaluation process, although they are indicative of some level of potential Matching or Completion Funds.

As described in the RGA, Institutions must demonstrate the ability to provide the remainder of the funds necessary to complete the Project in order to receive a Grant Disbursement Agreement (GDA). The degree to which matching funds have been secured will be a factor in scoring.

19. Can we use reserves as evidence of the availability of matching funds?

RESPONSE: Yes. Please refer to the RGA.

Documentation to support the committed financial resources must be included with the Application and may include, but is not limited to, any or all of the following:

- Bank account and investment account statements
- Donor pledges, agreements and receipts
- Grant award letters, agreements and contracts
- Loan agreements, commitment letters, terms and conditions
- Bond documents
- Personal service contracts
- Bills of sale and paid invoices evidencing payment by the Institution for an eligible cost
- If the Institution will be using institution funds for any part of the Non-State match, the most recent audited financials should be provided with the Application.

In order to qualify as a matching cost, the payment must have been in furtherance of a component of the HECap Project that complied in all respects with the requirements of the statute (prevailing wage, MWBE, etc.).

20. What is meant by Personal Service Contracts?

RESPONSE: Contracts for work to be undertaken in furtherance of the HECap project may be provided as evidence of the cost of the project and commitment to pay those costs.

21. Do we need to commit to a grant funding level, or could an Institution be awarded at a lower level?

22. Could grants be awarded at a lower amount within the range of a given funding level, or only at the level requested by the Institution?

RESPONSE FOR 21-22 ABOVE: Each Institution may apply for one HECap Grant at one of the Grant Funding Levels set forth in the RGA. The Institution must select the

grant funding level when applying to the RGA. It is expected that Grants will be made in the amount applied for by the Institution, as long as the amount requested is for eligible project costs as described in the RGA. The amount of a Grant award to an Institution shall be based upon the total cost of the HECap Project to be funded with the HECap Grant. Please note that the total project cost must be at least four (4) times the amount of the HECap Grant award requested in order to comply with the 3:1 Match Requirement.

23. May an Institution apply for multiple HECap grants of various amounts, assuming that each project independently meets the 3:1 match?

RESPONSE: Each Institute may apply for **one** HECap Grant at **one** of the Grant Funding Levels set forth in the RGA. If an Institute submits more than one application, only the first received will be considered.

Procurement/Prevailing Wage/MWBE

REMINDER - Appendix B: Standard Clauses of the Higher Education Capital Match Program Grant must be included in any contract being entered into by the Institution.

The certified MWBE Vendor list can be found at <https://ny.newnycontracts.com/>

24. Are there requirements on number of bids, etc.?

RESPONSE: The Terms and Conditions of the GDA include the provisions of Article XI-B of the State Finance Law and Appendix A – Standard Clauses for all New York State Contracts is incorporated within the GDA for which the Institution will be entering into with the HECap Board. Institutions are advised to consult with their legal counsel to determine the number of bids that are acceptable as it relates to the provisions of Article 9 of the State Finance Law, so far as such provisions of Article 9 would be applicable to the contracts of a public higher education institution.

25. Please clarify if and how the prevailing wage requirement would relate to a project consisting only of equipment and furnishings. What documentation would be needed?

26. Let's say it costs \$80m to construct a building and bring it online, and we receive a \$5m HECAP grant. We spend \$75m on hard construction costs (e.g., bricks, glass, floors, etc.) and pay prevailing wages for those hard construction costs. If the remaining \$5m will be spent on furniture and equipment (including installation), must we also pay prevailing wages for this \$5m portion of the project?

RESPONSE FOR 25-26 ABOVE: There is no prevailing wage requirement for the purchase of equipment and furniture. Please note that integral building components such as HVAC systems, boilers, elevators, etc. are construction projects and not the purchase of equipment and therefore must comply with the MWBE and prevailing wage requirements outlined in the RGA.

27. Is there an exemption from the MWBE rule if we need to use a sole source or single-source vendor for a highly specialized project (i.e., a vendor that installs a rubberized floor for an athletic center)?
28. Our project, an ice rink renovation, is "heavy" industry, an industry with zero WMBE contractors. Would showing a Good Faith Effort suffice or is this prohibitive to submitting an application?

RESPONSE for 27-28 ABOVE: If you are unable to locate MWBE vendors and must request a waiver of the MWBE participation goals you must demonstrate your good faith efforts in trying to locate these vendors. Please see Exhibit F-2 Request for Waiver posted with the RGA on the DASNY website.

29. Does the MWBE requirement related to a new HVAC system apply only to the installation of the equipment or to both the installation and purchase of the HVAC equipment?

RESPONSE: The applicable requirements relate to the entire project.

30. "Equipping a facility does not include building system components that are considered an integral component to the construction, reconstruction, or rehabilitation of a facility (i.e., HVAC, elevator, etc.). Such systems are considered construction and will therefore need to comply with MWBE and Prevailing Wage Requirements", does this mean that equipment purchases do not need to comply with MWBE or prevailing wage requirements?
31. We are currently in the midst of a multi-phase construction/renovation project of one of our campus buildings. If we were to apply to fund one specific optional phase of a bigger construction/renovation project (meaning we wouldn't do that specific optional phase unless we secured HECap funding), would prevailing wage and MWBE requirements apply just to the specific phase we are asking funding for, or the entire/bigger construction/renovation project?
32. The RGA references specific state legislative requirements (State Finance Law Article 9, Executive Law Article 15-A and Labor Law Article 8, Article 9, and Article 10), do these requirements apply only to the state funded portion of the project or do they apply to entire project?

RESPONSE FOR 30-32 ABOVE: The Grantee must comply with the prevailing wage and MWBE requirements for the entire project and will certify as to compliance with these provisions as an appendix to the GDA. However, DASNY will be tracking MWBE compliance for the HECap grant amount apportionment only by utilizing the Utilization and Waiver forms posted on the DASNY website as Exhibits F-1 and F-2. Projects for the purchase of furniture, fixtures and equipment do not require the use of prevailing wage.

33. Can you provide the exact requirements for prevailing wage, WMBE, etc. and what we would have to provide to demonstrate that?

RESPONSE: The goals for this program are 18% MBE participation and 12% WBE participation. Please see Exhibits F-1 and F-2 on the DASNY website. DASNY recommends that the Institution consult with their counsel regarding the applicable prevailing wage requirements for your Institution.

34. Does the MWBE requirement apply to purchases of equipment and materials?

RESPONSE: Yes. When selecting a vendor or service provider, the Institution must attempt to utilize MWBE vendors. If the Institution is unable to locate MWBE vendors and must request a waiver of the MWBE participation goals, the Institution must demonstrate good faith efforts in trying to locate these vendors.

35. Must any or all selected MWBE firms be NYS certified, or would they qualify if they were NJ or CT MWBE firms?

RESPONSE: All selected MWBE firms must be certified in New York State.

Miscellaneous

36. Is it possible to review our scoring cards, reviewer's notes, and comments on previous submissions to help us in applying for the next RGA?

RESPONSE: The reviewer's materials would only be available after all GDAs for each scoring round have been entered into.

37. In the event of a project not moving forward after the award has been announced, what, if any are the next steps for the Grantee?

RESPONSE: If the Grantee determines that they are unable to move forward with the project after receiving an award, DASNY will require the submittal of formal withdrawal letter on the Grantee's letterhead.

38. What is the expected turnaround time from Grant Award to an executed GDA?

RESPONSE: Once an Institution has been notified that they have been awarded a HECap grant, certain items must be provided and reviewed before a GDA is sent to the Institute. DASNY will work with the Institution to enter into a GDA in a timely fashion.