

Questions/Responses for the Higher Education Capital (HECap) Matching Grant Program Request for Grant Applications #5545 (RGA)

Novel Coronavirus (COVID-19) – DASNY, on behalf of the HECap Board, is aware of the impact COVID is having on schools and understand that some of the key dates may need to be adjusted. DASNY will post more information when details become available.

Applicants are encouraged to review all questions and answers. Please note that the information provided is intended to provide general guidance with respect to the application 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 as to eligibility is fact specific and is made on a case by case basis. Applicants are encouraged to provide a robust description of the project that will be funded by the HECap grant, as well as how the project is consistent with the HECap enabling legislation and the RGA.

Key Dates:

Eligible Project Dates	September 1, 2020 – September 1, 2023
Issuance of RGA	January 29, 2020
Deadline for RGA Questions	February 21, 2020
Post Responses to RGA Questions (not earlier than)	March 6, 2020
DASNY Webinar (application process/Q&A Summary)	March 26, 2020
Application Due By	May 8, 2020
Awards Expected (not earlier than)	July 22, 2020

Application Materials

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 College/University by the NYS Office of the State Comptroller or assigned to the College/University 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 Colleges/Universities 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)

While there were no specific questions relating to the Vendor Responsibility Questionnaire (VRQ) we wanted provide guidance as it relates to the College/University and the Contractor(s) once the grant award is made to a College/University

The requirement is such that any College/University awarded a HECap grant is required to maintain the VRQ throughout the review process as well as reimbursement.

In addition, any contractor receiving \$100,000 or more from the grant proceeds must submit a VRQ in addition to the College/University.

Eligible Projects

Generally, Eligible Projects must meet the following statutory requirement:

Grant funds awarded pursuant to this RGA shall be used for the 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 (the “HECap Project”).

Applicants are advised to consult with their legal counsel to determine whether the project is eligible for funding under this competitive round and to discuss what documentation must be provided with the Application. The Application should include a robust narrative outlining how the College/University considers the project to be eligible.

3. We have a 15-year seller finance contract with a balloon payment with a developer that will be building an athletic complex project to our specs. The developer must own the land/facility for a time to take advantage of brownfield tax credits. The monthly payments that we make over the years while we are using the facility will be deducted from the principal for our eventual purchase. The project will be built out in three phases. The first phase includes a multiuse playing field (soccer, lacrosse, field hockey) that is already completed and an athletic

administration building (locker rooms, fitness room, classrooms, storage) that will be completed by the end of February 2019. Phase two will be additional fields and phase three will be additional fields and an indoor playing complex. Can we apply for HECAP funding for any phase of the project as a prepayment on the purchase of the facility? (The developer was likely not in line with WMBE and prevailing wage requirements for phase one, so we would assume that we cannot apply for HECAP for that phase. Please confirm that, though.)

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 should also be 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, nor pay for costs that have already been paid with bond proceeds.

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 September 1, 2020 and will be completed before September 1, 2023. 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, Applicants 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, Applicants 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 college campus.

Applicants are advised to consult with their Counsel and construction professionals to determine the project is eligible to apply for this funding.

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 Section 2 of 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 legislation prevent us from engaging a firm prior to September 1, 2020? Or does it mean we cannot make payments prior to September 1, 2020 for work completed prior to September 1, 2020? Would any payment we make to a design firm prior to September 1, 2020 be able to be used as part of our match?
9. Does the HECap legislation prevent us from engaging a design firm prior to September 1, 2020? Or does it mean we cannot make payments prior to September 1st for work completed prior to September 1st?

RESPONSE FOR 8-9: Design, engineering, and other preliminary planning activities may commence prior to September 1, 2020 and costs paid can be used towards the match. Costs incurred prior to this date, however, may not be reimbursed from grant funds.

10. The RFA specifies that projects in leased space require a 10 year contract. 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 own the improved facility for at least 10 years.

11. In 2018 our college was approved for a Round 3 grant to support renovation of science labs. Subsequent to that submission, plans changed in favor of constructing a new science facility. With Round 4 now available, we are interested in applying because our revised capital project is larger, much more costly and fits within the specified timeframe. Can an institution be funded from both Rounds for the same project or do we have to withdraw from the first to be considered for this current opportunity?

RESPONSE: The project must meet the criteria outlined in the RGA for each competitive round. The applicant 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 Round may better accommodate the project as outlined in the application.

12. 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. Please see Section 9 of the RGA for the information required to be submitted with the application, including a robust narrative to clearly describe the benefits of the proposed HECap Project and how it satisfies the criteria outlined in Section 2 of the RGA.

13. Our proposed project involves installing air-conditioning and electrical upgrades in three separate College 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.

14. 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 to construct facilities that will be used for religious services. The Institution, if awarded a HECap grant, will be entering into a Grant Disbursement Agreement with the HECap Board. 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

15. Can the college accept donated services for the project from a self-employed individual (for example, an interior designer)?
16. What are acceptable methods of valuing in-kind donated services, for the purpose of meeting the matching funds requirement?
17. 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 15-17 ABOVE: As outlined in the RGA, in-kind contributions consist of goods and services donated to the College/University specifically related to an eligible HECap Project. Goods shall be deemed received at the time the College/University 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 College/University must document the determination of fair market value at the time of Application.

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

18. 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 3:10 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.

19. Do we have to have funds in hand at time of application or is an award letter without contingency good enough?

RESPONSE: Award letters without contingency may be provided as support of the College/University'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, Applicants 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.

20. Can we use the college's reserves as evidence of the availability of matching funds?

RESPONSE: Yes. Please refer to Section 4, page 6 of 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 College for an eligible cost
- If the College 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.)

21. In Section 4/Matching Requirement, can you define 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.

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

23. Could grants be awarded at a lower amount within the range of a given funding level, or only at the level requested by the applicant? (E.g. applicant requests \$3,000,000 but is awarded \$1,500,001.)

24. For projects that fall within the HECap project Cost of \$12M - \$20M with associated Grant Funding Level of \$3M - \$5M, if the project is over \$20M, would the Grant Funding level if awarded be less than \$5M?

RESPONSE FOR 22-24 ABOVE: The Applicant must select the grant funding level at the time of application. It is expected that Grants will be made in the amount applied for by the College or University, as long as the amount requested is for eligible project costs as described in the RGA. Grants shall be awarded based on the criteria set forth in Sections 7 and 9 of this RGA. Each College may apply for one HECap Grant at one of the Grant Funding Levels set forth in Section 3 of the RGA. The amount of a Grant award to a College 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.

25. Can a University apply for multiple HECap grants of various amounts, assuming that each project independently meets the 3:1 match?

RESPONSE: Each College may apply for **one** HECap Grant at **one** of the Grant Funding Levels set forth in Section 3 of this RGA. If multiple Applications are submitted by a College, 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 College/Institution.

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

26. 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 College/University will be entering into with the HECap Board. Applicants 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 college.

27. 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?
28. 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 27-28 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.

29. 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? (e.g. a vendor that installs a rubberized floor for an athletic center?)

30. 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 29-30 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.

31. 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.

32. On page 3 of the RFA it says that “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?

33. 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?

34. The HECap 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) for programs funded through the DASNY. Do these requirements apply only to the state funded portion of the program or do they apply to entire program (state funds and matching funds)?

35. Please confirm that the prevailing wage requirements pertain to the ENTIRE project, not just the portion funded by DASNY.

36. Please confirm that the MWBE requirements pertain to the ENTIRE project, not just the portion funded by DASNY.

RESPONSE 32-36 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 with the RGA. Projects for the purchase of furniture, fixtures and equipment do not require the use of prevailing wage.

37. 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 with the RGA on the DASNY website. DASNY recommends that the College/University consult with their counsel regarding the applicable prevailing wage requirements for your Institution.

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

RESPONSE: Yes. When selecting a vendor or service provider, you must attempt to utilize MWBE vendors. 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 also see the response to question 6, 19 and 22 above as well as Exhibits F-1 and F-2 to the RGA on the DASNY website.

39. 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

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

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

41. If we are in the middle of the RFG 2524 may we also submit a grant for the RFG 5545 round?

RESPONSE: Yes. The awarding of previous HECap grants has no bearing on eligibility or competitiveness for the current competitive round.

42. 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 Institution 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.

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

RESPONSE: Awards are expected to be made no earlier than July 22, 2020. Once applicants have been notified that they have been awarded a HECap grant, certain items must be provided and reviewed before a GDA is sent to the College/University. DASNY will work with the College/University to enter into a GDA in a timely fashion.

44. Is the definition of HECap Project Cost in error? The \$1.5M to \$3M level total project cost indicated a total HECap Project Cost of \$6,000,004 to \$2,000,000. I assume that should be \$6,000,004 to \$12,000,000?

RESPONSE: Yes, this was an error in the RGA and has now been corrected. The correct project cost for this scoring band is \$6,000,004 to \$12,000,000.