



**Northern NY
Power Proceeds
Allocation Board**

**BOARD PROCEDURES,
AND BOARD
POLICIES RELATING TO REVIEW OF
APPLICATIONS
FOR FUND BENEFITS**

NORTHERN NEW YORK POWER PROCEEDS ALLOCATION BOARD

Adopted January 25, 2017

1. Overview of Northern New York Power Proceeds Allocation Act

The Northern New York Economic Development Fund (“Fund”) was created by Chapter 545 of the Laws of 2014, known as the Northern New York Power Proceeds Allocation Act (“Act”) to support economic development in St. Lawrence County, NY (the “Region”). It is codified in Article 7-A of the Economic Development Law (“EDL”), and provisions of the Power Authority Act (Title 1 of Article 5 of the Public Authorities Law (“PAL”).

In summary, this program consists of a fund, known as the “Northern New York Economic Development Fund” (“Fund”), created and administered by the New York Power Authority (“NYPA”). It is funded with the aggregate excess of revenues received by NYPA from the sale of energy associated with “St. Lawrence County Economic Development Power” sold by NYPA in the wholesale energy market over what revenues would have been received had such energy been sold on a firm basis under the terms of a contract between NYPA and the Town of Massena Electric Department, entitled "Agreement Governing the Sale of St. Lawrence-FDR Project Power and Energy to the Town of Massena Electric Department for Economic Development Purposes," executed and dated by NYPA on October 18, 2012. Fund monies paid to a successful applicant are known as “Fund Benefits.”

The Act also created the Northern New York Power Proceeds Allocation Board (the “Allocation Board” or “Board”), whose role is to administer the application process for Fund Benefits, review and evaluate applications against prescribed criteria, and make recommendations to NYPA for the award of Fund Benefits. Awards of Fund Benefits are made by NYPA’s Board of Trustees.

Finally, the Act empowers NYPA to evaluate applications for Fund Benefits, consider the Board’s recommendations, and in appropriate cases make Fund Benefit awards to applicants.

In accordance with Economic Development Law (“EDL”) § 197-c, the Board has adopted these Board Procedures, and Board Policies Relating to Review of Applications for Fund Benefits (“Procedures and Policies”) which shall be generally applicable to the application process and the review of applications for Fund Benefits.

2. Eligibility for Fund Benefits

Only applications for Fund Benefits submitted by “eligible applicants” for “eligible projects” will be considered by the Board for a recommendation for an award of Fund Benefits.

An eligible applicant is a private business, including a not-for-profit corporation that is a business. Public entities, such as state agencies, public benefit corporations and municipalities, and entities acting on behalf of public entities, are not eligible to apply for or receive Fund Benefits.

Generally speaking, eligible projects are economic development projects that are or would be physically located within St. Lawrence County that will support the growth of business in St. Lawrence County and thereby lead to the creation or maintenance of jobs and tax revenues for the state and local governments. The following are examples of eligible projects:

- capital investments in buildings, equipment, and associated infrastructure owned or to be owned by an eligible applicant (collectively, “infrastructure”);
- transportation projects by eligible applicants under State or federally approved plans;
- the acquisition of land needed for infrastructure;

- research and development that will directly benefit New York State;
- support for tourism and marketing and advertising efforts for St. Lawrence county tourism and business; and
- energy-related projects, programs and services.

In accordance with EDL § 197-a(7), “energy-related projects, programs and services” means: (1) energy efficiency projects and services; (2) clean energy technology projects and services; (3) high performance and sustainable building programs and services; and (4) the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services. As provided for in the Act, a minimum of 15% of monies in the Fund are dedicate towards to “energy-related projects, programs and services.” PAL § 1005(24)(c).

The following are examples of projects that are not eligible projects:

- public interest advertising or advocacy;
- lobbying;
- the support or opposition of any candidate for public office;
- the support or opposition to any public issue;
- legal fees related to litigation of any kind;
- expenses related to administrative proceedings before state or local agencies; and
- retail businesses, including by way of example, sports venues, gaming and gambling or entertainment-related establishments;¹
- residential properties; and
- places of overnight accommodation.

3. Applications for Fund Benefits

i. Application Solicitation

At any time when Fund Benefits are available, the Board, in its discretion, may solicit applications for Fund Benefits by public notice. Such notice may be in the form of newspaper advertisements, press releases, website postings, and/or such other means as the Board finds appropriate, and is expected to describe such matters as the procedures that eligible applicants must be follow in order to file an application. Alternatively, the Board may provide for an open or rolling application process.

ii. Form of Application

The Board has approved a form of “Application for Fund Benefits under the Northern New York Power Proceeds Allocation Act”. Only the approved form of application may be used to apply for Fund Benefits.

¹ In accordance with EDL § 197-a(6), the Board defines “retail business” to mean a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.

Applicants must submit an original and one (1) copy of its completed application to: NYPA, Economic Development Manager, North Country, St. Lawrence-Franklin D. Roosevelt Power Project, PO Box 700, 830 Barnhart Island Rd., Massena, NY 13662. An additional copy of the application in PDF format must also be submitted to poweringbusiness@nypa.gov. Only complete applications will be considered by the Board. Applicants must comply with any deadlines established by the Board.

The Board or the Board staff may utilize a “pre-application” processes to preview a proposed project for the purpose of (i) enabling staff to alert applicants about potential problems with applicant status or projects, (ii) providing recommendations to applicants, and (iii) otherwise supporting the formal application process.

Changes to a timely-filed application may only be made with the consent of the Board or the Board’s designee for good cause shown. The Board or the Board’s designee may require any applicant to file an amended application or new application based on the nature of any proposed changes to a previously-filed application.

The Board or the Board staff may require any applicant to provide additional information in support of an application. The Board reserves the right to reject the application of any applicant who fails to timely provide additional information so requested or who provides unresponsive information.

The Board reserves the right to reject or to defer any application that has or will have unresolved contingencies preventing an eligible project from being completed, or that is dependent upon legal or regulatory approvals. In addition, in circumstances where an award may not be made until preliminary legal requirements are satisfied, any recommendation for an award of Fund Benefits will not be advanced to the NYPA Board of Trustees for consideration.

4. Application Review and Decision Process

The Board will review complete and timely applications based on the following criteria:

1. the extent to which an award of Fund Benefits would be consistent with the strategies and priorities of the North Country Regional Economic Development Council (“NCREDC”);
2. whether the eligible project would occur in the absence of an award of Fund Benefits;
3. the extent to which an award of Fund Benefits will result in new capital investment in the State by the eligible applicant and the extent of such investment;
4. other assistance the eligible applicant may receive to support the eligible project;
5. the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed if the eligible applicant were to receive an award of Fund Benefits;
6. the eligible applicant's payroll, salaries, benefits and number of jobs at the eligible project for which an award of Fund Benefits is requested;
7. where applicable, the number of jobs that will be created or retained within St. Lawrence County and any other parts of the State in relation to the requested award of Fund Benefits, and the extent to which the eligible applicant will agree to commit to creating or retaining such jobs as a condition to receiving an award of Fund Benefits;

8. whether the eligible applicant is at risk of closing or curtailing facilities or operations in St. Lawrence County and other parts of the State, relocating facilities or operations out of St. Lawrence County and other parts of the State, or losing a significant number of jobs in St. Lawrence County and other parts of the State, in the absence of an award of Fund Benefits;
9. the significance of the eligible project that would receive an award of Fund Benefits to the economy of the area in which such eligible project is located; and
10. for new, expanded and/or rehabilitated facilities, the extent to which the eligible applicant will commit to implement or otherwise make tangible investments in energy efficiency measures as a condition to receiving an award of Fund Benefits.

The Board reserves the right to solicit and consider the views of the NCREDC, or the NCREDC's designee, in order to help inform the Board's consideration of the extent to which an award of Fund Benefits would be consistent with the NCREDC strategies and priorities.

For more information on the NCREDC please go to <http://regionalcouncils.ny.gov/content/north-country>.

Subject to an applicant's compliance with these Procedures and Policies, the Board will render a decision on each application that is submitted. The Allocation Board's decision will be reflected in written findings and conclusions. Only applications for which the Board has made a recommendation concerning an award of Fund Benefits will be forwarded to NYPA's Board of Trustees for further action. A decision by the Board that an applicant is not an eligible applicant or that a project is not an eligible Project will not be forwarded to NYPA's Board of Trustees for further action.

All Board recommendations for Fund Benefits awards are subject to the review by NYPA's Board of Trustees. The NYPA Board of Trustees has discretion as to whether to adopt the Allocation Board's recommendation, or to award Fund Benefits in a different amount or on different terms and conditions than those contained in the Board's recommendation. Fund Benefit contracts will also contain terms and conditions required by NYPA.

Applicants will be informed in writing of any formal decision made on their application by the Board.

5. Overview of Funding Tracks

Fund Benefits may be used to fund various economic development projects/activities. The "Funding Tracks" described below have been created to simplify the application process by having an applicant answer only questions that are relevant to the applicant's project. The application provides an explanation of each Funding Track, as well as instructions on which sections of the application must be completed for each track relevant to the applicant's project. Applicants should not fill out any track information that does not apply to the proposed project unless instructed to do so by Board or Board staff. The Board or its designee reserves the right to reassign the application to a different Track and request additional information if it is determined that the proposed project is more appropriately considered under a different Track.

The following are currently the Funding Tracks for the application process:

Business Investment

- Business Investments are expenditures that, among other things, facilitate an employer's ability to create new jobs in New York State or retain jobs that are otherwise in jeopardy. Within the Business Investment Track, firm, long term job commitments will be required of awardees; it is by underwriting these job commitments that the Allocation Board is best able to forecast the economic benefits of providing assistance to any particular project. Applicants will therefore be required to commit to the number of jobs at risk that will be retained by the proposed project, and/or the number of new jobs that will be created by the project, and the average salaries of each. It is also likely that applicants under this track will be required to commit to specific capital investments for the project proposed.

Innovation/Entrepreneur Development

- Implementing a plan that brings new technologies and/or products to the marketplace, increases new startups in strategic industries and facilitates the commercialization of products that can lead to job growth in the Region.

Training and Workforce Development

- Training and related programs that will provide the necessary skills to meet industry needs. Ideally, projects should focus on concentrations of underemployed and underrepresented populations in the Region and provide programs for those populations.

Tourism Marketing

- These projects capitalize on the Region's natural assets to increase tourist traffic and revenues; develop a strategy that increases the amount of time each tourist spends in the Region; and raise the profile of the Region as a national and international destination.

Agricultural Investment

- Focuses on augmenting the agricultural profile of the Region through projects that enhance local access to markets; create new agricultural products; improve productivity; create and implement Regional marketing strategies; establish connections between research and farming; create jobs and careers in agriculture; and increase the value of a Regional brand.

Other Eligible Projects

- This Track is for eligible projects that do not fit within one of the other Tracks. Examples of such projects include energy related projects, programs and services, and research and development projects.

Job creation and retention are key indicators of economic activity. However, the Allocation Board recognizes that certain investments may increase productivity and revitalize areas without immediately increasing permanent employment. Therefore, job creation/retention commitments will be emphasized *primarily* in the Business Investment Track. While job creation and retention may not be a significant factor for other Tracks, demonstration of economic development benefits to the Region will generally be considered favorably when assessing applications under all Tracks.

The Fund seeks to promote economic development by financing investment in eligible projects that are physically located within St. Lawrence County. Although funding is offered prior to project commencement as an inducement to undertake an eligible project, generally Fund Benefits will be

disbursed in arrears, as reimbursement for expenses undertaken by an awardee. Progress payments may be provided for, subject to the terms and conditions of a Fund Benefits contract between the eligible applicant and NYPA (discussed below).

Fund Benefits can be used for a relatively broad range of hard costs, soft costs and working capital. The amount of an award will depend on project-specific circumstances. Generally, an award of Fund Benefits will seek to target approximately 20% of total project costs. Project costs incurred prior to an award of Fund Benefits may be included in project budgets submitted for consideration but Fund Benefits may not be used to pay for them.

6. Fund Benefit Contracts

As noted above, awards of Fund Benefits are issued by the NYPA Board of Trustees. The final terms and conditions applicable to an award will be set forth in a contract between the eligible applicant and NYPA. Fund Benefit contracts may be subject to the review and approval of other State officials and/or regulatory authorities and their effectiveness may be subject to any required reviews and approvals.

7. Opportunities for New York State Certified MWBEs

The Board and NYPA comply with the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) regarding all State contracts as defined therein, 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. Approval of funding by NYPA will be conditioned on agreement by the applicant to comply and cooperate with the Board and NYPA in the implementation of New York State Executive Law Article 15-A. These requirements include contracting opportunities for MWBEs, and pertinent provisions intended to demonstrate an awardee’s “good faith efforts” pursuant to 5 NYCRR §142.8 will be made part of Fund Benefit Contracts. These provisions shall be deemed supplementary to, and not in lieu of, other applicable federal, state or local laws.

For purposes of providing meaningful participation by MWBEs on the project and achieving the project goals established herein, the directory of New York State Certified MWBEs found at the following internet address: <https://ny.newnycontracts.com/> may be consulted. Additionally, applicants are encouraged to contact ESD’s Office of Contractor and Supplier Diversity at OCSD@ESD.NY.GOV to discuss additional methods of maximizing participation by MWBEs on eligible projects.

8. Changes to Procedures and Policies

These Procedures and Policies are subject to change without notice.

St. Lawrence County, NY Map

