

OFFICE OF ENVIRONMENTAL REMEDIATION

NOTICE OF OPPORTUNITY TO COMMENT ON PROPOSED RULE RELATING
TO A NEW YORK CITY BROWNFIELD FINANCIAL INCENTIVE GRANT
PROGRAM

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Director of Environmental Remediation by subdivision e of section 15 of the New York City Charter, that the Office of Environmental Remediation proposes to promulgate a rule relating to a New York City brownfield financial incentive grant program.

A public hearing on the proposed rules will be held on April 16, 2010 at 10 A.M. at 110 William Street, New York, N.Y. in Rm. 4 A/B. Written comments regarding the proposed rule may be sent to Dr. Daniel C. Walsh, Director of Environmental Remediation, 253 Broadway, 14th floor, New York, NY 10007 on or before April 19, 2010.

Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between the hours of 9:30 AM and 4:30 PM at the Office of Environmental Remediation, 253 Broadway, 14th floor, New York, New York 10007.

Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are asked to notify Dr. Walsh at the foregoing address by April 5, 2010.

Section 1. Chapter 14 of Title 43 of the Rules of the City of New York is amended by adding a new Subchapter 2 to read as follows:

SUBCHAPTER 2

New York City Brownfield Financial Incentive Grant Program

§ 43-1415 Purpose and applicability

a. Purpose. The New York city brownfield financial incentive grant program is intended to promote the cleanup and redevelopment of brownfield properties in the city of New York.

b. Applicability. Brownfield financial incentive grants are available to provide financial assistance for qualified brownfield properties and applicants for and recipients of brownfield opportunity area grants for the performance of pre-development assessments and investigations, environmental investigations, property remediation, environmental insurance purchase, and technical assistance services and for the development of work plans and applications.

§ 43-1416 Definitions

a. “Affordable housing development” means a development that will be built by a developer on a qualifying brownfield property where at least twenty percent of the housing units are affordable to families that earn no more than eighty percent of the average median income of an area, as determined by the United States department of housing and urban development, and that has been issued a letter of interest from a federal, state, or local housing subsidy program.

b. “Brownfield opportunity area” means an area in the city of New York with a concentration of brownfields for which the New York state department of state has awarded a brownfield opportunity area grant to a recipient pursuant to general municipal law section 970-r.

c. “Community based organization” means a community based organization as defined in section 970-r(1)(c) of the general municipal law.

d. “Community facility development” means a development that will be built by a developer on a qualifying brownfield property where the development provides specific benefits to the local community, including, but not limited to, a community facility use pursuant to the zoning resolution, and where the development is funded and feasible.

e. “E-designation hazardous material site” means a property that has been designated with an (E) on a zoning map, pursuant to section 11-15 of the zoning resolution, because of potential hazardous material contamination.

f. “Grant administration contractor” means an entity under contract with the New York city economic development corporation for administration of the New York city brownfield financial incentive grant program. The grant administration contractor shall provide oversight of the grant process, including, but not limited to, review of grant applications including evaluation of eligibility for grants; review of statements of work; establishment and maintenance of a list of qualified vendors; communication with grantees and qualified vendors; and performance of quality control of work products.

g. “Grant payment percentage limit” means the seventy-five percent maximum payment by the office for eligible costs for approved services and activities performed under a pre-development grant or an environmental investigation grant. The grant payment percentage limit is intended to ensure that the grantee bears some of the costs for pre-development and environmental investigation services and activities.

h. “Grantee” means an owner or developer of a qualifying brownfield property, including all parties with an ownership interest in the property, or a recipient of, or an applicant for, a brownfield opportunity area grant in New York city who has been accepted into the New York city brownfield financial incentive grant program.

i. “Office” means the office of environmental remediation.

j. “Person” means an individual, trust, firm, joint stock company, limited liability company, corporation, joint venture, partnership, association, a local development corporations, and a community development corporation.

k. “Preferred community development project” means a development proposed for a qualifying brownfield property that is: (1) an affordable housing development; (2) consistent with the strategic brownfield goals established in a brownfield opportunity area plan pursuant to section 970-r of the general municipal law, as evidenced by a letter from the recipient of a brownfield opportunity area grant pursuant to section 43-1418(d)(4)(B)(ii); or (3) a community facility development.

l. “Qualifying brownfield property” means: (1) for a pre-enrollment grant, a property that contains a recognized environmental condition; (2) for an enrollment grant and a track one bonus cleanup grant, a property admitted to the local brownfield cleanup program; (3) for an e-designation hazardous material remediation grant or a restrictive declaration hazardous material remediation grant, an e-designation hazardous material site or a

restrictive declaration hazardous material site respectively; (4) for a technical assistance grant, a preferred community development project where the developer is a not-for-profit corporation or a community based organization that seeks to apply for a brownfield opportunity grant from the New York state department of state; and (5) for a brownfield opportunity area strategic property bonus cleanup grant, a strategic brownfield property that has received a New York state brownfield opportunity area grant for site assessment.

m. "Restrictive declaration hazardous material site" means a property with an institutional control, arising from a city environmental quality review and recorded by the property owner, which requires a potential hazardous material condition to be addressed to the office's satisfaction before the property can be developed or an action involving soil disturbance can be undertaken.

n. "Recognized environmental condition" means the presence or likely presence of any hazardous substances on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances into structures on the property or into the ground, ground water, or surface water of the property. The term includes hazardous substances even under conditions in compliance with laws. The term does not include de minimus conditions that generally do not present material risk of harm to public health or the environment.

o. "Strategic brownfield property" means a property within a brownfield opportunity area that has been determined by the recipient of the brownfield opportunity area grant to be a strategic site during the execution of the brownfield opportunity area program and that has received funding from New York state for site assessment under such program.

§ 43-1417 Types of grants

a. Pre-enrollment grants are awarded for services and activities performed at qualifying brownfield properties that are not yet enrolled in the local brownfield cleanup program.

1. Pre-development grants finance the services and activities that usually precede environmental field investigation and advance brownfield projects at an early stage of the project. Pre-development grants may be used for eligible services and/or activities, as provided in section 43-1419.

2. Environmental investigation grants finance the characterization of a property's subsurface contamination. Environmental investigation services and activities are typically performed after pre-development work and prior to environmental remediation on a brownfield property. Environmental investigation grants may be used for eligible services and/or activities, as provided in section 43-1419.

b. Enrollment grants are awarded for activities performed at qualifying brownfield

properties that are enrolled in the local brownfield cleanup program.

1. Cleanup grants.

i. Cleanup grants pay for costs incurred in a property's remediation. They may be used for eligible services and/or activities, as provided in section 43-1419, that are included in, and performed according to the terms of, a remedial action work plan approved by the office.

ii. Brownfield opportunity area strategic property bonus cleanup grants are a type of cleanup grant that is awarded to pay for eligible cleanup services and/or activities at strategic brownfield properties.

iii. Track one bonus cleanup grants are a type of cleanup grant that provides funding for track one cleanups, as defined in section 43-1407(h)(1) of this chapter.

2. Environmental insurance grants pay for the purchase of environmental insurance, as provided in section 43-1419.

c. Other Grants

1. Technical assistance grants are awarded to a developer of a preferred community development project where the developer is a not-for-profit corporation, or to a community based organization that seeks to apply for a department of state brownfield opportunity area grant. The grant covers a range of technical services performed by a qualified vendor for project management and technical assistance, as provided in section 43-1419.

2. Brownfield opportunity area local match grants are awarded to a recipient of a New York state department of state brownfield opportunity area grant to facilitate brownfield activities and services performed under that program, by assisting recipients of brownfield opportunity area grants to meet the local match requirement for a state brownfield opportunity area grant pursuant to general municipal law section 970-r.

3. E-designation hazardous material remediation grants and restrictive declaration hazardous material remediation grants provide funding for hazardous material cleanup at e-designation hazardous material sites and restrictive declaration hazardous material sites that are not enrolled in the local brownfield cleanup program, that have an approved remedial action plan, and that have received a notice of satisfaction from the office for remediation of hazardous material.

§ 43-1418 Eligibility

a. General

1. Grants are awarded within each fiscal year to grantees. Awards shall be made until brownfield financial incentive grant funds for a fiscal year are exhausted.

2. Decisions on eligibility for all grants are made by the office and are final.

b. Property eligibility

1. A property shall be located within the city of New York.
2. A property shall meet the definition of a qualifying brownfield property for the type of grant(s) sought.
3. A property admitted to the brownfield cleanup program administered by the New York state department of environmental conservation is ineligible for a grant.

c. Applicant eligibility

1. An applicant is ineligible for a grant if the person is subject to any pending action or proceeding or order identified in section 43-1403(b) of this chapter relating to the property.
2. An applicant who has received a prior grant and did not submit information on the outcome of the brownfield project as required by section 43-1421(b)(5) is not eligible for any additional brownfield financial incentive grant.
3. An applicant who has received a prior pre-enrollment grant for a property that was subsequently developed and that was not enrolled in a New York city or New York state remedial program is not eligible for any additional brownfield financial incentive grant.
4. A grantee may receive grants for a maximum of two qualifying brownfield properties each fiscal year. For the purpose of this subdivision, all grants issued for a single property are considered one grant that is received in the year of the initial award payment. For example, a grantee that receives a pre-development grant award for a property in one fiscal year and an environmental investigation grant for the same property the next fiscal year is considered to have received only one grant issued in the first fiscal year.
5. A grantee may not receive a pre-enrollment grant for more than one qualifying brownfield property each fiscal year. However, if a qualifying brownfield property for which a pre-enrollment grant was obtained is subsequently enrolled by the grantee into a New York city or New York state brownfield cleanup program in the same fiscal year, the grantee may receive a maximum of one additional pre-enrollment grant for a second qualifying brownfield property in the same fiscal year. Pursuant to paragraph 4 of this subdivision, the grantee shall not receive a pre-enrollment grant for more than the two qualifying brownfield properties in such fiscal year.

d. Eligibility requirements for specific grants.

1. Pre-enrollment grants.

A. Pre-development grants. For a qualifying brownfield property to be eligible for a pre-development grant, the applicant shall provide the office with evidence indicating that the property contains a recognized environmental condition that has not been remediated. Such evidence may include, but is not limited to, records of past usage, records derived from fire insurance maps, or information from direct observation and testing.

B. Environmental investigation grants.

i. Submission of a satisfactory phase one investigation shall be required for a qualifying brownfield property to be eligible for an environmental investigation grant, except as provided in clause iii of this subparagraph. A phase one investigation is a search of records and government databases to determine whether prior land uses or processes were likely to have left behind contamination at a property. Phase one investigations shall be reviewed by the office and/or the grant administration contractor. Upon request of the applicant, the grant administration contractor alone, and not the office, shall review phase one investigations.

ii. To be eligible for an environmental investigation grant, a phase one investigation shall indicate that the property contains a recognized environmental condition. Such determination of a recognized environmental condition shall be made by the office.

iii. In lieu of a phase one investigation, recognized environmental conditions may be identified in studies performed by the office, or by other means acceptable to the office.

C. E-designation hazardous material sites and restrictive declaration hazardous material sites are not eligible for pre-enrollment grants.

2. Enrollment grants. Enrollment in the local brownfield cleanup program is required for a property to be eligible for an enrollment grant.

A. Cleanup grants.

i. To be eligible for a cleanup grant, a qualifying brownfield property shall have an office-approved remedial action work plan under the local brownfield cleanup program.

ii. Cleanup services and/or activities that are eligible for awards under this grant are listed in schedule B.

iii. Cleanup services and/or activities eligible for awards under this grant shall be performed in accordance with the office-approved remedial action work plan.

B. Brownfield opportunity area strategic property bonus cleanup grant. To be eligible for a brownfield opportunity area strategic property bonus cleanup grant, a qualifying brownfield property shall be eligible for a cleanup grant and shall be a strategic brownfield property that has received a New York state brownfield opportunity area assessment grant.

C. Track one bonus cleanup grant. To be eligible for a track one bonus grant, a qualifying brownfield property shall be eligible for a cleanup grant and satisfy the requirements for a track one unrestricted remediation as defined in section 43-1407(h)(1).

D. Environmental insurance grants. To be eligible for an environmental insurance grant, a qualifying brownfield property shall have an office-approved remedial action work plan.

E. E-designation hazardous material sites and restrictive declaration hazardous material sites are eligible for enrollment grants if the applicant enrolls in the local brownfield cleanup program.

3. Other Grants.

A. Technical Assistance Grants.

i. To be eligible for a technical assistance grant for a qualifying brownfield property that

is a preferred community development project where the developer is a not-for-profit corporation, the applicant shall provide the office with evidence that the developer is a not-for-profit corporation and evidence in accordance with paragraph four of this subdivision.

ii. Community based organizations that seek to apply for a brownfield opportunity grant are eligible for a technical assistance grant for the purpose of development of the brownfield opportunity area grant application.

B. Brownfield opportunity area local match grants. For the recipient of a brownfield opportunity area grant to be eligible for a brownfield opportunity area local match grant, the applicant shall be a community based organization and have entered into a brownfield opportunity area contract with the New York state department of state.

C. E-designation hazardous material remediation grants and restrictive declaration hazardous material remediation grants. To be eligible for an e-designation hazardous material remediation grant or a restrictive declaration hazardous material remediation grant respectively, a qualifying brownfield property shall have been remediated pursuant to an office-approved remedial action plan for an e-designation hazardous material site or a restrictive declaration hazardous material site and have received a notice of satisfaction from the office.

4. Preferred community development projects.

A. For a qualifying brownfield property to be eligible for a grant as a preferred community development project based on a proposed development of an affordable housing development, the applicant shall provide the office:

i. evidence that at least twenty percent of the housing units are affordable to families that earn no more than eighty percent of the average median income of the area;

ii. a proposal for redevelopment of the property that evidences the feasibility of the project; and

iii. a letter of interest from a federal, state or local housing subsidy program.

B. For a qualifying brownfield property to be eligible for a grant as a preferred community development project based on a proposed development that is consistent with the strategic brownfield goals established in a brownfield opportunity area plan, the applicant shall provide the office with a signed letter of support for the proposed development from the recipient of a brownfield opportunity area grant that has an executed brownfield opportunity area contract with the New York state department of state pursuant to section 970-r of the general municipal law. The letter shall state that the brownfield property is located within the identified brownfield opportunity area and that its proposed redevelopment is consistent with plans established for the brownfield opportunity area by such recipient of a brownfield opportunity area grant.

C. For a qualifying brownfield property to be eligible for a grant as a preferred community development project based on a proposed development that is a community facility development, the applicant shall provide the office:

i. a proposal for redevelopment of the property that evidences the feasibility of the project;

ii. evidence of the specific benefits the facility provides the community; and

iii. evidence that the development is funded.

§ 43-1419 Eligible Services and Activities

a. Eligible services and/or activities within each grant type for which grant awards may be issued are listed in Schedule B.

1. For pre-development grants, eligible services and/or activities shall include, but shall not be limited to, title insurance, title search, project feasibility study (i.e. market analysis, concept plans, pro forma financial analysis, zoning analysis, and permitting), planning board application, community outreach, and phase one investigations.

2. For environmental investigation grants, eligible services and/or activities shall include, but shall not be limited to, development of a phase two/site characterization workplan; development of a remedial investigation workplan; study of soil, groundwater, and soil vapor; laboratory analysis of soil, groundwater, and soil vapor samples; and development of phase two/site characterization reports.

3. For cleanup grants, track one bonus cleanup grants, brownfield opportunity area strategic property bonus cleanup grants, e-designation hazardous material remediation grants, and restrictive declaration hazardous material remediation grants, eligible services and/or activities shall include, but shall not be limited to, development of an approved remedial action work plan or remedial action plan; soil removal and disposal; backfill; engineering controls (i.e. cap emplacement); institutional controls; documentation preparation; and development of remedial action reports.

4. For environmental insurance grants, eligible services and/or activities shall include purchase of pollution legal liability insurance and cleanup cost cap insurance.

5. For technical assistance grants for preferred community development projects, eligible services shall include consulting services for activities including, but not limited to, assistance in the planning and execution of a brownfield project, including assessment of the viability of a brownfield project; development and/or review of documents required by the brownfield financial incentive grant program or the local brownfield cleanup program, including applications, agreements, statements of work, scopes of work, work plans, or reports; selection of qualified vendors; preparation of a budget; project planning; and review of brownfield project sequencing and scheduling. For technical assistance grants for community based organizations seeking to apply to the New York state department of state for a brownfield opportunity area grant, eligible services shall include consulting services for the development of such an application.

6. For brownfield opportunity area local match grants, eligible services and/or activities shall include those that are covered by a work plan approved by the New York state department of state associated with a contract executed with the New York state department of state.

b. Except as provided in subdivision c of this section, the office shall require a statement of work before eligible services and/or activities may be performed using grant funds.

1. The statement of work may be submitted with or after the grant application.

2. The statement of work shall be submitted on a form and in a manner to be established by the office.

3. The grant administration contractor shall review the statement of work to ensure that the proposed services and/or activities comply with schedule B.

4. Eligibility for awards is contingent upon submission of an acceptable statement of work.

c. The office shall require a remedial action work plan or remedial action plan, respectively, before eligible services and/or activities may be performed using the following grant funds:

1. For cleanup grants, track one bonus grants, and brownfield opportunity area strategic property bonus cleanup grants, the eligible services and/or activities shall be described in a remedial action work plan approved by the office as part of the local brownfield cleanup program.

2. For e-designation hazardous material remediation grants and restrictive declaration hazardous remediation cleanup grants, the eligible services and/or activities shall be described in a remedial action plan approved by the office as part of the e-designation hazardous material and restrictive declaration hazardous material management programs respectively.

3. Eligibility for awards is contingent upon approval of a remedial action work plan or remedial action plan.

d. The grant administration contractor shall establish a list of qualified vendors for performance of eligible services and/or activities.

§43-1420 Applications

a. Applications are required for all brownfield financial incentive grants.

b. Consistent with the provisions of this subchapter, applicants may submit a single application to request grant funding for eligible services and/or activities for one qualifying brownfield property for different grants at different stages of remediation of the property, or for the same grant at different stages of remediation of the property.

c. An applicant or a grantee may apply for another grant for the same qualifying brownfield property by submitting a modification to the original application or, if the office deems appropriate, by submitting an additional statement of work.

d. Applications shall be submitted to the office in such form and manner and containing such information as the office may require.

e. All applications shall include:

1. the identity of all applicants. Where a limited liability company owns a brownfield project, all parties with a ten percent ownership interest in the limited liability company shall be individually identified in the application.

2. the street address of the property;

3. the location of the property, by borough, block and lot;

4. the zoning designation of the property;

5. a description of the development plan for the property;

6. the grant type(s) applied for; and

7. any other information requested by the office.

f. If activities to be reimbursed under a grant require that the grantee and its vendors and/or contractors have access to the qualifying brownfield property, the applicant shall provide certification of property ownership, a property access agreement, or certification that work will be done in accordance with an executed property access agreement.

g. If the applicant or grantee identified in an application for a brownfield financial incentive grant changes, a new application or modification to the existing application identifying the new applicant or grantee shall be submitted to the grant administration contractor.

§ 43-1421 Agreements

a. Brownfield financial incentive grants require an executed agreement between the grantee and the grant administration contractor prior to the performance of eligible services and activities.

b. Brownfield financial incentive grant agreements shall include:

1. A grantee shall indemnify the city of New York for all services and activities to be performed in relation to the grant, including, but not limited to, all services and activities that will be performed using grant funds.

2. A grantee's vendors and contractors shall indemnify the city of New York for all services and activities to be performed in relation to the grant, including, but not limited to, all services and activities that will be performed using grant funds.

3. A grantee shall accept all terms of the grant including, but not limited to, administration of grants by the grant administration contractor.

4. Project information required by the office. A grantee shall provide basic information required for each grant in a manner and form developed by the office for this purpose. Information required by the office may include:

A. a schedule for work;

B. details of the planned development;

C. an estimate of the number of jobs to be created by the planned development;

D. estimated costs of the planned development;

E. basic development information, including, but not limited to, the square footage of residential, commercial and industrial space to be created; and

F. the number of residential affordable housing units to be created.

5. A grantee shall agree to office requirements for future reporting on projects related to each grant. Such reporting shall be submitted on forms developed by the office for this purpose and may include details of the outcome of each project after grant activities are completed, including, but not limited to:

A. whether the proposed development was constructed;

B. whether a government remediation program was utilized for the cleanup; and

C. an update of information contained in paragraph 4 of this subdivision.

§ 43-1422 Grant Awards and Award Limits

a. Brownfield financial incentive grants shall be paid to the grantee upon receipt of invoices for eligible and pre-approved activities and/or services, provided that brownfield opportunity area local match grants shall be paid to the grantee upon receipt of a copy of a work plan approved by the New York state department of state and a copy of a contract executed with the New York state department of state.

b. A grantee may be awarded brownfield financial incentive grants from one or more of the grant types for the same qualifying brownfield property. Total grant amounts awarded to the grantee, including costs for grant administration, may not exceed the award limits identified in subdivision c of this section.

c. Award limits.

1. Generally. Grants may be awarded for a qualifying brownfield property totaling up to the amount listed in schedule A, including the costs for administration pursuant to § 43-1423(a)(2).

2. Preferred community development projects. A grantee for a preferred community development project may be awarded: (1) a pre-enrollment grant of up to \$25,000 and (2) a technical assistance grant of up to \$5,000. A grantee for a preferred community development project that is enrolled in the local brownfield cleanup program may be awarded an enrollment grant of up to \$100,000, including the sum of the pre-enrollment grant and excluding the sum of the technical assistance grant. The cost of grant administration shall not be deducted from grants awarded to a grantee of a preferred development project.

3. Brownfield opportunity area local match grant. A grantee of a brownfield opportunity area local match grant may receive a grant of up to \$25,000 or ten percent of the brownfield opportunity area grant award from the New York state department of state, whichever is less.

4. Community based organization brownfield opportunity area grant applicant. A community based organization that seeks to apply for a brownfield opportunity grant may receive a technical assistance grant of up to \$10,000 for eligible consulting services.

5. Brownfield opportunity area strategic property bonus cleanup grant. A grantee of a

brownfield opportunity area strategic property bonus cleanup grant may receive a grant of up to \$10,000 for cleanup services and activities. This grant award may be in addition to pre-enrollment and other enrollment grants received under this program.

6. Track one bonus cleanup grants. A grantee who achieves a track one cleanup may receive a grant award of \$25,000. This grant award shall be in addition to pre-enrollment and other enrollment grants received under this program.

7. E-designation hazardous material sites and restrictive declaration hazardous material sites. The award limits for e-designation hazardous material sites and restrictive declaration hazardous material sites shall be as follows:

A. A grantee of an e-designation hazardous material remediation grant or restrictive declaration hazardous material remediation grant may receive a grant of up to \$5,000 for cleanup services and activities. If the property subsequently enrolls in the local brownfield cleanup program and is awarded an enrollment grant, then the enrollment grant shall be reduced by the amount of the e-designation hazardous material remediation grant or restrictive declaration hazardous material remediation grant respectively.

B. A grantee for an e-designation hazardous material site or a restrictive declaration hazardous material site that has been admitted into the local brownfield cleanup program may be awarded an enrollment grant of up to \$60,000.

C. A grantee for an e-designation hazardous material site or a restrictive declaration hazardous material site that has been admitted into the local brownfield cleanup program and is a preferred community development project may be awarded an enrollment grant of up to \$100,000. The cost of grant administration shall not be deducted from grants awarded to a grantee of a preferred community development project.

§ 43-1423 Grant Disbursements and Administration

a. Administration of grants.

1. The grant administration contractor shall review all invoices prior to awarding grant funds, in order to ensure that services and/or activities comply with this subchapter.

2. Grant awards, other than awards for preferred community development projects, shall be reduced by ten percent of the grant award, representing the cost of administering the New York city brownfield financial incentive grant program.

b. Disbursement of grants.

1. Grants are payable to the grantee.

2. Where possible, the office shall earmark grant funds for reimbursement to the grantee at the time of approval of the statement of work for eligible activities and/or services.

3. Enrollment grants may be reimbursed in the year following the award year if funds are no longer available in the award year and are available in the subsequent year.

4. Pre-development and environmental investigation grants are awarded subject to the grant award limits pursuant to section 43-1422 and subject to the grant payment percentage limit applied to eligible costs for approved services and activities in schedule

B. A preferred community development project where the developer is a not-for-profit corporation is not subject to the grant payment percentage limit.

Schedule A
Grant Awards and Award Limits

		Property Type ⁱ						BOA Development Grants	
Standard Grants		Qualifying brownfield properties not enrolled in LBCP ⁱⁱ	Qualifying brownfield properties enrolled in LBCP ^{ii,iii}	Preferred community development projects not enrolled in LBCP ^{iv}	Preferred community development projects enrolled in LBCP ^{iv,v}	E-designation/ restrictive declaration hazardous material sites not enrolled in LBCP ⁱⁱ	BOA strategic property enrolled in LBCP	Community based organization BOA grant applicant	BOA grant recipient with an executed state assistance contract ^{vi}
	Predevelopment grant	Up to \$5,000	Up to \$5,000	Up to \$10,000	Up to \$10,000	N/A	Up to \$10,000	N/A	N/A
	Environmental investigation grant	Up to \$10,000 ^{vii}	Up to \$10,000 ^{vii}	Up to \$25,000 ^{vii}	Up to \$25,000 ^{vii}	N/A	Up to \$25,000 ^{vii}	N/A	N/A
	Cleanup grant	N/A	Up to \$60,000 ^{viii}	N/A	Up to \$100,000 ^{viii}	N/A	Up to \$100,000 ^{viii}	N/A	N/A
	E-designation hazardous material remediation grant or restrictive declaration hazardous materials remediation grant	N/A	N/A	N/A	N/A	Up to \$5,000 ^{ix}	N/A	N/A	N/A
	Environmental insurance grant	N/A	Up to \$60,000 ^x	N/A	Up to \$100,000 ^x	N/A	Up to \$100,000 ^x	N/A	N/A
	Standard grant award cap ^{xi}	\$10,000	\$60,000	\$25,000	\$100,000	\$5,000	\$100,000	N/A	N/A
	Special Grants	Track-one bonus cleanup grant	N/A	\$25,000	N/A	\$25,000	N/A	\$25,000	N/A
BOA strategic property bonus cleanup grant	N/A	N/A	N/A	N/A	N/A	\$10,000	N/A	N/A	
Technical assistance grant	N/A	N/A	Up to \$5,000 ^{xii}	Up to \$5,000 ^{xii}	N/A	Up to \$5,000	Up to \$10,000 ^{xiii}	N/A	
BOA local match grant	N/A	N/A	N/A	N/A	N/A	N/A	N/A	The lesser of \$25,000 or 10% of the BOA grant award ^{xiv}	
Maximum grant award	\$10,000	\$85,000	\$30,000	\$130,000	\$5,000	\$140,000	\$10,000	\$25,000	

LBCP: The local brownfield cleanup program administered by the office of environmental remediation.

BOA: The brownfield opportunity area. This is a program for area-wide brownfield and community planning managed by the New York state department of state.

N/A: not applicable.

ⁱ Properties for which a grant is pursued can fall into only one type. The property type may change as conditions change.

ⁱⁱ Grants shall be reduced by ten percent for the cost of administration.

ⁱⁱⁱ Includes e-designation hazardous material sites and restrictive declaration hazardous material sites that are enrolled in the LBCP.

^{iv} Grants shall not be reduced by the cost of grant administration.

^v Includes e-designation hazardous material sites and restrictive declaration hazardous materials sites that are also preferred community development projects and enrolled in the LBCP.

^{vi} A BOA grant recipient with an executed state assistance contract by definition also has an approved work program.

^{vii} Limit includes all proceeds from pre-development grant.

^{viii} Limit includes all proceeds from pre-development grant, environmental investigation grant and environmental insurance grant.

^{ix} For e-designation hazardous material sites and restrictive declaration hazardous material sites that are remediated pursuant to an office-approved remedial work plan.

^x Limit includes all proceeds from pre-development grant, environmental investigation grant and cleanup grant.

^{xi} Cap includes proceeds from all standard grant types.

^{xii} Technical assistance grants for preferred community development projects are limited to not-for-profit developers.

^{xiii} Technical assistance with development of BOA program application.

^{xiv} Grant amount includes grant awards received for technical assistance.

Schedule B
Eligible Services and Activities / Reimbursable Allowance¹

Activity	Unit	Grant Allowance²
<i>Pre-development Design</i>		
Site survey	day	\$1,275
Title insurance/ Title search		
full coverage	each	\$1,020
limited coverage	each	\$510
non-insured reports	each	\$340
Project Feasibility Study		
market analysis	each	\$1,020
concept plans	each	\$1,020
pro-forma financial analysis	each	\$1,020
zoning analysis	each	\$1,020
permitting (Federal, State, Local)	each	\$2,975
Community Outreach	each	\$1,275
Phase I ESA	each	\$2,125
<i>Environmental Investigation</i>		
Workplans		
Phase II / site characterization workplan	each	\$2,125
Remedial Investigation workplan	each	\$1,700
Phase II (soil)		
Geophysical Survey Report (GPR Contractor)	1/2 day	\$1,020
Geophysical Survey Report (GPR Contractor)	day	\$1,488
Geophysical anomalies investigation (excavator/operator)	day	\$808
soil boring Installation	1/2 day	\$850
soil boring Installation	day	\$1,275
soil sample collection / field screening	day	\$680
Phase II (Groundwater)		
monitoring well installation (Unconsolidated)	well	\$2,125
monitoring well installation (Bedrock)	well	\$3,400
disposal of drill cuttings and transportation	drum	\$106

¹ All listed prices are inclusive of all subcontractor, professional oversight, materials and equipment costs.

² The Grant Allowance amounts presented in Schedule B represent the maximum amounts up to which specified activities may be funded. An eligible service and activity will not necessarily be funded up to that maximum amount.

Activity	Unit	Grant Allowance²
monitoring well survey	day	\$1,275
temporary well-point installation	each	\$510
groundwater sample collection	day	\$680
disposal of purge water and transportation	drum	\$68
aquifer test	each	\$510
Phase II (Vapor)		
vapor probe installation	day	\$1,275
vapor sample collection	day	\$680
ambient air sample and collection	day	\$680
Reports		
Phase II / Site Characterization Report	each	\$1,700
Remedial Investigation Report	each	\$2,125
remedy selection report	each	\$1,700
grant project reporting	each	\$425
Lab Analysis		
metals (soil/water)		
Priority Pollutant metals (13 metals)	sample	\$83
Total RCRA metals (8 metals)	sample	\$53
Target Analyte List metals (23 Metals)	sample	\$129
organics (soil/water)		
base neutrals	sample	\$115
base neutrals + 10 or 15	sample	\$128
base neutrals/acid extractables (semivolatile organics)	sample	\$204
BTEX	sample	\$41
BTEX + MTBE + TBA	sample	\$41
herbicides	sample	\$77
PAHs	sample	\$115
PCBs	sample	\$51
PCBs in oil	sample	\$41
pesticides	sample	\$51
volatiles	sample	\$68
volatiles + 10 or 15	sample	\$77
volatiles (drinking water)	sample	\$105
volatiles (drinking water) + 10 or 15	sample	\$115
target compound list (VO+10, BNAE+20, Pest/PCB)	sample	\$408
organics (air)		
TO-15	sample	\$272
Group Tests		
ID-27 (TCLP Metals, TPH, PCBs, Reactive CN & S, Ignitability, pH)	sample	\$208
Priority Pollutants + 40 (VO+15, BNAE+25, pest/PCB, 13 metals, CN, phenol)	sample	\$535
RCRA characteristics (reactive CN & S, ignitability, corrosivity)	sample	\$51
TCLP-full (8 metals, VO, BNAE, pesticides, herbicides)	sample	\$509
Environmental Remediation		
Workplans		

Activity	Unit	Grant Allowance²
remedial action workplan (approved by OER)	each	\$25,000 ³
remedial action monitoring plan	each	\$1,275
community and environmental protection plan	each	\$510
Community Air Monitoring Plan	each	\$340
site management plan	each	\$765
Soil Removal		
disposal - soil, hazardous (does not include transportation)	ton	\$102
disposal - soil, non-hazardous (does not include transportation)	ton	\$43
waste characterization: ID-27 (TCLP metals, TPH, PCBs, reactive CN & S, ignitability, pH)	sample	\$208
mobilization/demobilization - one time allowable per site per machine	each	\$425
loader/backhoe w/operator	day	\$808
Small-trackhoe w/operator (J Deere 200LC or equivalent)	day	\$1,190
large trackhoe w/operator (Cat 325 or equivalent)	day	\$1,445
skid steer loader w/operator	day	\$595
Dump truck w/operator (approx. 12 yd3)	day	\$340
Dump truck, tandem - triaxle w/operator (25 yd3)	day	\$765
rolloff container (20 yd.3)	each	\$510
vacuum truck w/operator	hr	\$77
post-excavation soil sample collection	day	\$680
Backfill		
recycled concrete aggregate	ton	\$13
certified clean fill material	ton	\$17
top soil	cy	\$21
Engineering Controls (cap emplacement)		
clean fill/ gravel	ton	\$17
top soil	cy	\$21
asphalt (2in. compacted asphalt on 2 in gravel base)	sf	\$3.80
cement paving (4 in.)	sf	\$4.25
Institutional Controls		
deed restriction preparation	each	\$2,125
Reports		
remedial action progress report	each	\$850
construction completion report	each	\$1,530
final engineering reports	each	\$2,125
periodic review report	each	\$680
grant project reporting	each	\$425

³ Amount may cover all activities leading up to preparation of a Remedial Action Work Plan report that have not already been funded.

Activity	Unit	Grant Allowance ²
<i>Technical Assistance Grants</i>		
Professional Services	Unit	Grant Allowance
attorney	hr	\$213
architect	hr	\$128
planner	hr	\$128
professional engineers	hr	\$128
environmental consultants	hr	\$81
community based organizations	hr	\$81
<i>Brownfield Opportunity Area Local Match Grants</i>		
<p>For Brownfield Opportunity Area (BOA) Local Match Grants, eligible services and/or activities must be reasonable, relevant, and directly related to the BOA scope of work. In order for these eligible costs to be reimbursed, they must be related to a work plan approved by the New York State Department of State pursuant to an executed State Assistance Contract and be appropriately documented in accord with the BOA Record Keeping and Payment Guide. See BOA Program guidance for questions or clarification regarding eligible and ineligible costs. The total amount of reimbursable expenses may not surpass the grant limit of the lesser of \$25,000 or 10% of the Brownfield Opportunity Area Grant award.</p>		
<i>Environmental Insurance Grants</i>		
<p>For environmental insurance grants, eligible services and/or activities shall include purchase of Pollution Legal Liability Insurance and Cleanup Cost Cap Insurance. The total amount of reimbursable expenses may not surpass the grant limit established in Schedule A.</p>		

STATEMENT OF BASIS AND PURPOSE

Local Law No. 27 of 2009 amended the New York City Charter to create the Office of Environmental Remediation (OER) and authorized its director, *inter alia*, to develop and administer a financial incentive program to encourage public or private entities to identify, investigate, remediate, and redevelop brownfields in support of the City's economic development.

Through the New York City brownfield financial incentive grant program, OER would award grants to support and advance brownfield projects across the City. Eligible grantees include private and non-profit owners and developers of qualifying brownfields properties and recipients of New York State brownfield opportunity area grants in the City. Grant recipients can use grant funds to pay for eligible services and activities performed by a qualified vendor of their choosing, or in the case of a recipient of a brownfield opportunity area grant, for its local match for the State grant. Generally, grantees can receive grants for up to two brownfield projects per City fiscal year, but to qualify for a second grant at least one of these projects must be enrolled in the New York City local brownfield cleanup program.

The financial incentive grant program would make grant funds available to brownfield projects from the earliest stages of project development through project remediation. OER would create nine types of grants divided into three general grant categories, including pre-enrollment grants, enrollment grants, and other grants. Enrollment grants, which are only available to brownfield properties enrolled in the City's local brownfield cleanup program, are larger than pre-enrollment grants.

Pre-enrollment grants consist of predevelopment grants and environmental investigation grants. Depending upon the type of project, these pre-enrollment grants for eligible services and activities are available for up to \$10,000 to up to \$25,000.

Enrollment grants consist of environmental insurance grants, cleanup grants and two types of bonus cleanup grants for complete cleanups (called “Track 1” or unrestricted use cleanups) and for strategic brownfield properties in brownfield opportunity areas. Cleanup grants and environmental insurance grants range from up to \$60,000 to up to \$100,000; track one bonus cleanup grants are \$25,000, and BOA strategic property bonus cleanup grants are \$10,000.

In addition, OER would award three other grants. A grant for technical assistance would provide project management and planning assistance for brownfield projects to non-profit developers of preferred community development projects and to community based organizations that seek to apply for State brownfield opportunity area grants. Technical assistance grants range from up to \$5,000 to up to \$10,000. Another grant would assist recipients of State brownfield opportunity area grants in meeting the State program’s local match requirements. The brownfield opportunity area local match grants would be up to \$25,000. Finally, OER would award cleanup grants to properties with either a hazardous material E-designation or a hazardous material restrictive declaration which, upon cleanup, receive a notice of satisfaction from OER. E-designation and restrictive declaration hazardous material remediation grants are \$5,000.

The proposed rule sets forth eligibility requirements for properties, applicants and types of grants. An eligible property must be located within the City of New York, may

not be admitted to a State remedial program, and must meet specific eligibility requirements for each type of grant. An applicant would be ineligible for a grant if he or she is subject to any pending action, proceeding, or order relating to the property where the City, State, or federal government seeks penalties or the investigation, removal, or remediation of contamination.

The proposed rule also details the eligible services and activities for each type of grant and requires grantees to apply for grants and execute agreements with OER prior to performing grant-eligible services and activities.