

Greenway Ecological Fund Standing Committee

Award Guidelines & Application Requirements

I. Introduction

Pursuant to the Niagara Relicensing Settlement Agreement (“Settlement Agreement”), the New York Power Authority (“NYPA”) has established a Greenway Ecological Fund (“Fund”) that will be administered by a Greenway Ecological Fund Standing Committee (“Standing Committee”). The following requirements will govern the process by which applications are submitted to, and awards are granted by, the Standing Committee. The Standing Committee is comprised of representatives from NYPA, the New York State Department of Environment Conservation (NYSDEC), the U.S. Fish and Wildlife Service (USFWS), the Seneca Nation of Indians, the Tuscarora Nation, the Tonawanda Seneca Nation, and the Niagara Relicensing Environmental Coalition (NREC). Each member of the Standing Committee shall each appoint a Standing Committee representative and an alternate representative.

The Fund will improve and enhance the Niagara River Greenway as more fully described in the Settlement Agreement and the Niagara River Greenway Plan (NRGP) approved by the Niagara River Greenway Commission.

The four standing committees formed by the Niagara Power Project relicensing settlement agreements considered the adoption of “Standing Committee Protocols” that establish a common approach for the operation of each Standing Committee. The Standing Committee has, by consensus, adopted the Standing Committee Protocols dated October 17, 2007. These award Guidelines and Application Requirements are deemed to be in compliance with the Standing Committee Protocols.

II. Funding Priority, Project Criteria & Use of Funds

The Greenway Ecological Fund will support the creation, improvement, and maintenance of conservation areas and ecological projects in the Niagara River Basin to promote tourism, enhance the environment, advance the economic revitalization of riverfront communities, and support the creation of a Greenway.

The Standing Committee will determine which projects to fund (“Approved Projects”) from those submitted for consideration. The Standing Committee reserves the right to not fund any or all projects in an award cycle if it determines that a project or projects do not merit an award.

1. **Priority and Project Criteria - Funding will be for projects that create and support ecological enhancements within the Niagara Greenway and priority will be given to projects in the Niagara River Greenway Plan’s (NRGP) focus area.** Projects could include, but are not limited to, habitat improvement projects, land acquisition; habitat research; and fish, wildlife, indigenous plant restoration; and ecological stewardship activities in the Niagara River Basin. Selection of projects to be funded shall be guided by the following criteria:
 - a. Projects that preserve rare, threatened, and endangered (“RTE”) plant aquatic, or terrestrial species and/or their habitat in the Niagara Basin;
 - b. Projects with a strong scientific foundation;

- c. Projects that contribute to long-term protection and enhancement of RTE plant, aquatic, or terrestrial species and/or their habitat in the Niagara Basin;
- d. Projects that achieve multiple ecological goals;
- e. Projects that preserve and restore Haundenosaunee cultural, religious, and historic features;
- f. Projects that involve multi-stakeholder collaboration;
- g. Projects consistent with applicable local, State, and Federal resource management plans;
- h. Projects that feature matching resources;
- i. Projects that are time-sensitive;
- j. Projects that have documented municipal, county, or Indian Nation support;
- k. Projects that are feasible from a cost/probability of success perspective

2. Accepted Use of Funds- Funds may be used for the following costs of approved projects:

- a. Capital improvements;
- b. Environmental improvements including associated legal, architecture, planning investigation or remediation;
- c. Operating and maintenance expenses including staff costs, supplies and services;
- d. Professional consultant services;
- e. Promotional services related to approved projects to promote public awareness of the Greenway and its resources,
- f. Land acquisition; and
- g. Costs associated with the creation, maintenance, and improvement of conservation areas.

3. Prohibited Uses of Funds-

- a. Funds may not be used to conduct any lobbying activities as such term is defined in the Internal Revenue Code;
- b. Funds may not be used to support or oppose any candidate for public office;
- c. Funds may not be used to support, oppose or participate in litigation;

- d. Funds may not be used to support any fund raising activity of any organization (this is not meant to exclude leveraging Greenway Funds to obtain matching funds);
 - e. Funds may not be used to create or enhance an endowment for any organization;
 - f. Funds may not be used to pay prior debts, to satisfy any bankruptcy order, to satisfy a claim for damages made by an employee, vendor or other third party or to pay a settlement or judgment related to litigation;
 - g. Funds may not be used to pay the personal expenses of any person;
 - h. Funds may not be used to pay for, or reimburse any person for travel related expenses or for expenses associated with attendance at a conference, trade show or exhibition;
 - i. Funds may not be used to pay the salary or benefits of any employee of any city, town, village or county, except as outlined in 2(c);
 - j. Funds may not be utilized to (1) meet the obligations, existing as of August 31, 2007, of any local municipality or State agency; or (2) pay for the operation and maintenance of any projects existing as of August 31, 2007;
 - k. Funds may not be used to carry out, support or advance or to oppose any religious activity or purpose.
4. Payment Arrangements- The Standing Committee reserves the right to make advances, to make partial payments, and to fund projects in whole or in part. Award payments may be withheld and the award may be cancelled if conditions or requirements associated with the award are not achieved.
5. Multi-Year Projects- An applicant may request funds for a single project that will be spent over a number of years; however, the Standing Committee will not fund a single project or single phase of a project that cannot be completed over a three-year period or that seeks more than three years of funding from the Standing Committee.

The Standing Committee may make a contingent future year award that depends upon the applicant achieving certain milestones such as obtaining additional funding from sources other than the Standing Committee. If the milestones are not achieved the award may be cancelled, or extended if the Standing Committee determines that such an extension with new milestones is in the best interest of the Greenway.

III. Eligibility Requirements

1. Applicant Legal Status- Applications may be submitted by Standing Committee members, individuals or organizations located within the Buffalo-Niagara region. Applicants must be one of the following entities, or be partnered with one of the following entities, at the time of the submission:

- a. A non-for-profit corporation that has received a determination letter from the Internal Revenue Service stating that it is a 501(c)(3) entity;
 - b. A city, town, village, county, or Indian Nation located in the area defined by the NRGP;
 - c. A public benefit corporation organized under the laws of New York State;
2. Project Location- Projects must be located within the boundaries established by the NRGP.
 3. Ability to Proceed with Project - Applicant must demonstrate that it has or will have the ability to proceed with the project within the time frame described in the application. Ability to proceed can be demonstrated by site control, an option to obtain site control, a letter(s) of commitment from other funders, a well conceived, realistic plan to obtain funds, approval from governmental agencies and support from neighborhood and community groups affected by the project. Ability to proceed in most instances will involve more than one of the above factors and may involve other factors. The application must demonstrate that the project will not be prevented from moving forward as planned.

IV. Pre-Application Consultation

- A. Prior to submission to the Standing Committee, applicants are required to submit their proposal for consultation to:
 - (1) The Niagara River Greenway Commission;
 - (2) The chief elected officer, or a designated representative, of any municipal, county and Indian Nation affected by the proposed project; and
 - (3) Appropriate State and Federal agencies, (It is recognized that it may be difficult to identify the appropriate state and federal agencies for purposes of consultation. The Standing Committee will be flexible in administering this requirement and will provide guidance to the extent it can on state and federal agencies to be consulted).
- B. Information to be supplied to Consulting Parties is expected to include, at a minimum:
 - (1) A description of the project including any necessary maps and drawings as well as any past or subsequent phases;
 - (2) A description of how the proposed project is consistent with the NRGP and;
 - (3) A description of how the proposed project is consistent with other applicable legal requirements.

Project proponents shall submit to the Consulting Parties information as outlined in the above paragraph. The consultation period will officially end 90 days after the project proponent initiates consultation unless comments are received sooner. Consultation will be considered initiated when the consulting party determines it has all required information from the project proponent.

It is strongly encouraged that applicants notify the Standing Committee when they begin the consultation process with the Greenway Commission and other Consulting Parties.

V. Application Requirements

To be considered for funding, eligible applicants must submit a written application. The application must be complete and submitted on or before the established deadline.

1. Applicants will provide:
 - (a) Organization name and mailing address;
 - (b) Federal ID number and/or Charities Registration number;
 - (c) Point of contact for the project.

The Standing Committee requires Greenway project funding requests to include written documentation of the following:

2. Evidence of consultation with: (a) the Niagara River Greenway Commission regarding a project's consistency with the NRGF; (b) the chief elected officer, or a designated representative, of any municipal, county and Indian Nation affected by the proposed project; and (c) appropriate State and Federal agencies (collectively, Consulting Parties as provided for in Article V).

For purposes of this section, evidence of consultation will include:

- (a) A list of all materials submitted to the Consulting Parties by the project proponent including a copy of the Application submitted to the Niagara River Greenway Commission;
 - (b) Copies of written comments provided by Consulting Parties to the project proponent; and
 - (c) Documentation describing the manner in which the project proponent addressed the Consulting Parties' comments. In "addressing" comments from a consulted party, the project proponent should demonstrate that it has an understanding of the comments and should indicate whether the proponent agrees or disagrees with the comments and why. It is not required that the proponent agree with the consulted party. However, if the proponent has changed its proposal to accommodate a comment, this accommodation should be noted.
3. An operation and maintenance plan for the proposed project or an explanation as to why an operation and maintenance plan is not needed for the proposed project;
4. A description of the project's consistency with the NRGF, including a discussion of the project's relationship to the principles, goals, and criteria established by the NRGF;
5. A description of the project's consistency with other State and Federal laws or regulations where applicable;
6. A description of the project proponent's efforts and/or opportunities to obtain matching funds;
7. A statement that the Greenway funds requested will not be used to defray: (1) any obligation existing as of August 31, 2007 or (2) operation and maintenance costs associated with any project existing as of August 31, 2007;
8. A description of current and proposed land ownership associated with the project; and
9. An overall project budget and cash flow summary including all phases for which relicensing greenway funds would be sought.
10. Applications should be submitted to the Secretary:

New York Power Authority
Edward Alkiewicz
123 Main Street
White Plains, NY 10601
914 287 3247
edward.alkiewicz@nypa.gov

VI. Standing Committee Approval Required

Funds will only be awarded to applicants who are approved for funding by the Standing Committee as provided for in Part III, IV and V, and with any terms and conditions required by the Standing Committee, including any requirement for the applicant to provide periodic and/or final reports to the Committee.

When a member of the Standing Committee has a proposal before the Committee, they will reclude themselves from the deliberation and decision-making for its proposed project.

VII. Procedures to Determine Funding Approval

Project funding will be determined by the Standing Committee as provided for in this section and based on a projects consistency with the NRGF, meeting Eligibility Requirements in Section III and Funding Priorities in Section II.

1. The Standing Committee shall seek to make all funding decisions by consensus of its members as the term consensus is defined in the Standing Committee Protocols.
2. If a project is determined to be inconsistent with the NRGF as outlined above, the project shall not be eligible for funding.
3. From the projects that have been determined consistent with the Greenway Plan, the Standing Committee will:
 - (1) Identify projects that will receive funding; and
 - (2) Determine the appropriate level of funding for each selected project.
4. The standing committee will advise the project proponents of the decision of the standing committees on the consistency of each proposal and if the project will be funded.