

BOA Site Assessments: Guidance for Applicants

Site Assessments

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Defining a Site Assessment

Any Site Assessment (SA) funded through the BOA Program must be conducted in accordance with the ASTM standard for Phase II Environmental Site Assessments (ASTM E1903-19 (2019)). Additional information on the standard can be found on ASTM's [website](#). This industry standard fosters a consistently applied approach to SAs and allows the grantee to end the SA at the point where sufficient data has been generated to meet BOA objectives. If an ASTM E1527-13 (2013) Phase I Environmental Site Assessment was not already performed on the property, it must be performed as part of the BOA SA.

The purpose of an SA is to gather reliable information about a property's environmental condition in order to guide the grantee in making an informed land use decision under the BOA Program. Additional environmental information must be necessary to determine technically and economically viable land uses for the BOA. The ASTM standard for Phase II Environmental Site Assessments does not include the level of technical specificity required to select and design a remedy for the property, but it does provide flexibility in determining the level of assessment and is appropriate for the land use planning stage of the redevelopment process.

Phase II Environmental Site Assessments (SA) will be evaluated on a pass/fail basis for eligibility, and then evaluated per the the scoring criteria outlined in the BOA Request for Applications (RFA). The State will not limit the number of SAs requested under one BOA. However, it has established a funding maximum of \$300,000 per application.

Responsibilities Concerning Site Contamination

Participation in the BOA Program does **not** provide a release of liability (e.g., notification requirements, enforcement actions) from New York State Environmental Conservation Law or New York State Navigation Law to grantees or owners of sites where SAs are being performed. Entities (e.g., grantees, site owners) should be aware that indemnifying another party, such as a previous owner, in regards to a site could actually increase that entity's liability regarding site contamination.

Defining the Site

The site should be defined for the purposes of an SA around one or more areas of concern and may include one or more tax parcels. The site must have definite and identifiable boundaries. The SA report will normally present findings for the site, not each tax parcel. However, if multiple tax parcels make up the site, the report may summarize the SA findings by tax parcels, if it would advance BOA objectives.

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Costs associated with the assessment of asbestos or lead paint inside a structure may be eligible if this information is required to determine technically and economically viable land uses for the BOA. However, if the scope of the site assessment is almost exclusively the assessment of indoor asbestos or lead paint, the proposed site assessment will not be eligible. In addition, no other costs associated with the assessment of indoor conditions (e.g. soil vapor) are eligible.

State Oversight

DOS will review and approve the procurement effort, draft contracts and payment requests for the entire BOA project, including SAs. The DEC BOA project manager will be available during the SA to answer any technical questions, and will review the SA workplan and report for acceptability.

It is anticipated that the grantee will procure a contractor to perform the SAs. The contractor must meet the definition of a Qualified Environmental Professional as provided at 6 NYCRR Part 375-1.2(ak). BOA grantees may not use their own employees (force account) to perform the SA, given the technical nature of the work.

The SA work plan and report must include the appropriate certification provided below. The appropriate certification must be included on the title page of all submissions of the document (so it can be reviewed along with the rest of the document) and must be fully executed when the document is submitted to DOS for review.

For SA work plan:

“I _____ certify that I am currently a Qualified Environmental Professional as defined in 6NYCRR Part 375 and that this Site Assessment Work Plan was prepared in accordance with all applicable statutes and regulations and in substantial conformance with Applicable Guidance, including ASTM E1527-13 (2013) Phase I Environmental Site Assessment and ASTM E1903-19 (2019) Phase II Environmental Site Assessment .”

For SA report:

“I _____ certify that I am currently a Qualified Environmental Professional as defined in 6NYCRR Part 375 and that this Site Assessment Report was prepared in accordance with all applicable statutes and regulations and that the Site Assessment was performed in substantial conformance with the approved work plan.”

How To Apply For Site Assessment Funding

The applicant must complete and submit a BOA Site Assessment Supplement form for each SA requested in the application. In addition to a fully completed form, a request for SA funding must include:

- a deed as proof of site ownership;
- any environmental reports (Phase I and II environmental site assessments, property descriptions from the Nomination report, etc.) that currently exist for the site or a portion of the site;

- for sites where the applicant is not the site owner, a Non-Applicant Site Owner and Access Certification Form, which includes certification that the site owner will allow access to the properties that compose the site; and
- a scope of work and budget that is reasonable for the proposed project.
 - The proposed scope of work must include schedule (in months) and a breakdown by major tasks: development of the workplan, assessment activities, evaluation of data, interpretation of results, and report preparation. See ASTM E1903-19 (2019) guidance for detailed discussion of major tasks.
 - If an ASTM E1527-13 (2013) Phase I ESA was not already performed on the property, the scope of a Phase I must be added to the proposed scope of work of the Phase II. It may be necessary to complete the Phase I prior to finalizing the scope of work of the Phase II; therefore, the Phase II final workplan may not be approved prior to the completion of the Phase I. The final report for the Phase I and II ESAs should be combined into one document.
 - The estimated contractual budget should be broken down by expenditure categories within major tasks. Applicants should use the Site Assessment Budget Request Worksheet included in the Site Assessment Supplement Package to develop the estimated budget. Applicants should provide as much detail as possible in the scope of work (e.g. number of planned samples or wells) to develop an accurate estimated budget.
 - The total of all the SA budgets (contractual costs only) must be included in BOA Supplemental Budget.

New York State Brownfield Opportunity Areas Program Site Assessment Supplement

Instructions:

Please fill out this form for each strategic brownfield site for which site assessment funding is being requested. The form(s) must be attached to the Consolidated Funding Application (CFA) application for Brownfield Opportunity Area funding. A site can be defined for the purposes of a site assessment around one or more area(s) of concern and may include one or more tax parcels. The budget requested should be for the site and not broken down by tax parcel. Please refer to BOA Site Assessments: Guidance for Applicants when filling out this form.

03/2023

Part I: BOA Information

- | | |
|---------------------------|--|
| 1. Applicant Name: | |
| 2. Name of Designated BOA | 3. Site Rank (in order of importance to the BOA Plan): |

Part II: Site Eligibility Information

The questions apply to all tax parcels and all owners of the tax parcels that are part of the site. Please note, a yes answer to questions 1-5, or a no answer for questions 6-9, will result in the site being determined ineligible. If the site is ineligible, do not complete or submit supplement.

****Due to different eligibility criteria, acceptance of a site for a site assessment under the BOA Program does not relate to site eligibility under the New York State Brownfield Cleanup Program****

- | | | |
|--|-----|----|
| 1. Is the site, or was any portion of the site, listed on the National Priorities List ? | Yes | No |
| 2. Is the site, or was any portion of the site, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites as a Class 1 or 2 Site? See the Division of Environmental Remediation (DER) website for a database of sites. | Yes | No |
| 3. Is the site subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? See DER website for a list of RCRA permitted sites. Note: for purposes of this application, interim status facilities are not deemed to be subject to a RCRA permit. | Yes | No |
| 4. Is the site subject to a cleanup order under Article 12 of the Navigation Law or ECL Article 17 Title 10? | Yes | No |
| 5. Is the site subject to enforcement action under a State or Federal remedial program? | Yes | No |
| 6. Is the site currently owned by a municipality as defined at 6 NYCRR 375-4.2 and 4.3(b)(1), or a volunteer as defined at 6 NYCRR 375-3.2? (see definitions on the following page) | Yes | No |
| 7. Brownfield Site – During BOA planning process, did DOS determine that further Phase II Environmental Site Assessment analysis was warranted to determine if a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards adopted by NYS Department of Environmental Conservation. | Yes | No |
| 8. Site Assessment Needed - Is additional environmental information necessary to determine technically and economically viable land uses for the BOA? Justification to support a yes answer must be provided as an attachment. | Yes | No |
| 9. Site Ownership and Access - Is the applicant the site owner?
-If yes , the applicant must submit a deed with the application and certify that it is either a municipality as defined at 6 NYCRR 375-4.2 or a volunteer as defined at 6 NYCRR 375-3.2 by checking one of the boxes
-If no , the site owner of each tax parcel that is part of the site must submit a deed and a BOA Non-Applicant Site Owner and Access Certification form with the application. The form is available with the BOA Site Assessment Supplement package on the Department of State’s website at https://dos.ny.gov/funding-bid-opportunities . | | |

Part II: Site Eligibility Information (Continued)

****CERTIFICATION FOR APPLICANT-OWNED SITES ONLY** THE APPLICANT MUST BE ONE OF THE FOLLOWING:**

VOLUNTEER

An owner who is not responsible for the disposal of hazardous waste or discharge of petroleum, including an owner whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

-By checking the volunteer box, the site owner is also certifying that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

MUNICIPALITY

A local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town, or village, or indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York State, or any combination thereof who did not generate, transport, dispose of, arrange for, or cause the generation, transportation, or disposal of hazardous substance located at the site.

- A municipality is not considered a generator, transporter, or arranger:(i) for having rendered care, assistance, or advice in the course of an incident creating a danger to public health or welfare or to the environment as a result of any release of a contaminant or the threat of same; or (ii) for having leased a site to another party that generated, transported or disposed of, or that arranged for or caused the generation, transportation or disposal of, any contaminant on such site unless such municipality knew that such other party generated, transported or disposed of, or arranged for or caused the generation, transportation or disposal of, such contaminant and failed to take any action to remediate, or cause the remediation of such contaminant.

Part III. Current Site Owner/Operator Information

Owner's name and affiliation (List all parties holding an interest in the property):

Address

City/town

Zip Code

Phone

Fax

E-mail

Date of site ownership:

Operator's name and affiliation:

Address

City/town

Zip Code

Phone

Fax

E-mail

Date of start of current operations:

Part IV. Site Information

1. Site Name:

2. Location/Address:

3. City/Town :

4. Zip Code:

5. Municipality where site is located:

6. Counties:

7. Site Size (acres):

8. Latitude for approximate center of property (degrees/minutes/seconds):

9. Longitude for approximate center of property (degrees/minutes/seconds):

10. Horizontal Collection Method (method used to acquire location): Survey GPS Map

11. Horizontal Reference Datum (NAD27 or NAD82):

Part IV. Site Information (Continued)

12. Complete tax map information for all tax parcels included within the site boundaries.

Tax Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

13. Three attachments must be provided:

1. A reference to the site (map or narrative) in the BOA Nomination (Step 2), with the brownfield sites clearly identified.
2. A county tax map with identifier numbers, along with any figures needed to show the location and boundaries of the site. If the boundaries of the site do not correspond to the tax map boundaries, provide a description of the property as an attachment.
3. A USGS 7.5 minute quad map on which the site appears.

14. List of existing easements that have a direct bearing on the site assessment.

<u>Easement Holder</u>	<u>Description</u>

15. List of existing permits that have a direct bearing on the site assessment.

<u>Type</u>	<u>Issuing Agency</u>	<u>Description</u>

16. Previous Owners and Operators - A list of previous site owners and operators with names, dates of ownership/operation, last known addresses and telephone numbers must be provided as an attachment. Describe site owner's relationship, if any, to each previous owner and operator listed. If no relationship, put "none".

Part V. Site Environmental History

1. ENVIRONMENTAL REPORTS

If environmental reports (i.e. Phase I environmental site assessment (ESA); Phase II ESA; descriptive profile from the Nomination Report; remedial investigation) currently exist for the site or a portion of the site, they must be provided with this supplement.

2. KNOWN CONTAMINANTS: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents					
Other VOCs					
SVOCs					
Metals					
Pesticides					
PCBs					
Other*					

*Please describe:

SCHEDULE 1(b) DIRECT SALARY/LABOR HOURS BUDGET

BOA Name:
Site Name:

Rev. 09/15/2010

<i>NSPE Level*</i>	<i>IX*</i>		<i>VIII*</i>		<i>VII*</i>		<i>VI*</i>		<i>V*</i>		<i>IV*</i>		<i>III*</i>		<i>II*</i>		<i>I*</i>		<i>Total</i>	
Av. Hourly Salary Rate * Calendar Year _____																				
Description	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost
Task 1: Development of Workplan																				
Task 2: Site Assessment Activities (Note: includes records review, site reconnaissance, and interviews if the SA includes a Phase I ESA)																				
Task 3: Evaluation of Data																				
Task 4: Interpretation of Results																				
Task 5: Report Preparation																				
<i>Total Hours/Cost</i>																				

Footnotes:

- * Refers to National Society of Professional Engineers (NSPE) levels and job descriptions. See Schedule 1(a) for additional instructions.
- ** Tasks are in accordance with ASTM Phase II. Refer to ASTM Phase II guidance for details.
- *** Applicant should enter estimated number of hours for each NSPE level to complete each task and then calculate cost for each NSPE level, task, and the totals. The total Direct Salary/Labor Hours Budget must match the Direct Salary on Schedule 1(a).

Prepared By:
Date Prepared:

**SCHEDULE 1(c)
DIRECT NON-SALARY BUDGET**

BOA Name: _____

Site Name: _____

Budget Category	Description	Rates Specify Units	No. of Units	Amount
1. Supplies				
a. Office				
b. Field				
Total Supplies				\$
2. Travel				
a. Meals		Per day		
b. Lodging		Per day		
c. Transportation		Per mile		
d. Misc. (Specify)				
Total Travel				\$
3. Equipment				
Rental				
1.				
2.				
Total Equipment				\$
4. Other (Specify)				
a.				
b.				
Total Other				\$
5. Total Direct Non-Salary Budget				\$

Footnotes

- The Total Direct Non-Salary Budget must match the Non-Salary Budget on Schedule 1(a) and must be directly related to the site assessment scope of work.
- Office and Field Supplies must be broken down by type and will be reimbursed, if reasonable, based on receipts submitted.
- Equipment will be reimbursed at reasonable rental rates.

Prepared By: _____

Date Prepared: _____

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SCHEDULE 1(d)
UNIT PRICE/LUMP SUM SUBCONTRACTS

BOA Name:
 Site Name:
 Type of Contract:
 Scope of Work:

Subcontract Items	Rates Specify Units	No. of Units	Amount
1.			
2.			
3.			
Total Price of Subcontract			\$
Contractor's Subcontract Management Fee			\$
Total Price and Fee of Subcontract			\$

Footnotes

- A Schedule 1(d) should be completed for each unit price and lump sum subcontract anticipated under the prime contract. If a subcontract is a time and materials, not to exceed, or cost plus fixed fee, schedules 1(a), (b) and (c) must be completed for those types of contracts.
- The total of all Schedule 1(d)s must match the totals entered on Schedule 1(a) under 3.

Prepared By: _____
 Date Prepared: _____

***New York State
Brownfield Opportunity Areas Program
BOA Phase II Site Assessment Supplement***

Non-Applicant Site Owner and Access Certification

03/2021

Part I: BOA Information					
1. Applicant Name:					
2. Name of Designated BOA:			3. Site Name (as given on the Site Assessment Supplement):		
Part II: Site Information - Indicate all tax parcels owned that are part of site (if more than three parcels, attach additional information)					
Tax Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
Part III. Current Site Owner and Operator Information					
Owner's Name and Organization:					
Address					
City/Town			Zip Code		
Phone		Fax		Email	
Date of Site Ownership:					
Operator's Name and Organization:					
Address					
City/Town			Zip Code		
Phone		Fax		Email	
Date of Start of Operation:					

Part IV: Site Owner Certification

1. ****CERTIFICATION FOR NON-APPLICANT SITE OWNERS ONLY****
IN REGARDS TO THE TAX PARCELS LISTED IN PART II, THE SITE OWNER MUST BE ONE OF THE FOLLOWING:

<p>VOLUNTEER An owner who is not responsible for the disposal of hazardous waste or discharge of petroleum, including an owner whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.</p> <p>-By checking this box, the site owner certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.</p>	<p>MUNICIPALITY A local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town, or village, or indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York State, or any combination thereof who did not generate, transport, dispose of, arrange for, or cause the generation, transportation, or disposal of contamination located at the site.</p> <p>- A municipality is not considered a generator, transporter, or arranger:(i) for having rendered care, assistance, or advice in the course of an incident creating a danger to public health or welfare or to the environment as a result of any release of a contaminant or the threat of same; or (ii) for having leased a site to another party that generated, transported or disposed of, or that arranged for or caused the generation, transportation or disposal of, any contaminant on such site unless such municipality knew that such other party generated, transported or disposed of, or arranged for or caused the generation, transportation or disposal of, such contaminant and failed to take any action to remediate, or cause the remediation of such contaminant.</p>
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The undersigned does hereby certify that:

- I have read *BOA Site Assessments: Guidance for Applicants* and understand the terms and conditions of this guidance.
- All statements and information provided are set out in full in this form or are set out in full in the documents attached to this form and incorporated by reference, are true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal law.
- The individual whose signature appears hereon is the current site owner.

• I agree to provide access to the tax parcels listed in Part II for purposes of performing a site assessment pursuant to General Municipal Law §970-r. I agree to enter into a site access agreement with the BOA applicant within 120 days of the approval of the State BOA application.

Print Name: _____ Title: _____
Organization: _____
Signature: _____ Date: _____