



Saw Mill Creek Wetland Mitigation Bank Credit Sale RFP
Project # 5330
FAQ

Updated on May 22, 2023

ANSWERS TO FREQUENTLY ASKED QUESTIONS¹

The following are responses to specific and general questions about the Saw Mill Creek Wetland Mitigation Bank Credit Sale RFP (the “RFP”)

1. Q: Where do I determine the number or fraction of Credit(s) my permit requires?

A: Respondents should consult directly with permitting agencies to determine the Credit(s) your project needs from the Saw Mill Creek Pilot Wetland Mitigation Bank.

2. Q: My project is not in the Primary Service Area, can I still acquire and use Credits as compensatory mitigation for my permitted project?

A: Only permitted projects in the Primary and Secondary Service area are eligible to use Credits as compensatory mitigation for their project. Whether your project is in the Primary or the Secondary Service Area, you should consult NYS DEC and/or USACE regarding using Credits from the Saw Mill Creek Pilot Wetland Mitigation Bank to satisfy your compensatory mitigation obligations.

3. Q: Is the bank only open to developers, or are public entities also eligible to acquire Credits?

A: Public entities are eligible to purchase Credit(s) provided those entities do not acquire Credits with funds derived from the City of New York’s fiscal budget. See section 1.5 (“Eligible Respondents”) of the RFP.

4. Q: Can Credits from the Saw Mill Creek Pilot Wetland Mitigation Bank be used to satisfy compensatory mitigation requirements outside of NYC?

A: No.

5. Q: On submittal of a proposal, how long will the review period be, and upon selection, how long will it take to be awarded?

A: NYCEDC will review all Responses received by each Submission Deadline. NYCEDC reserves the right to clarify proposals and to request additional information at its discretion. The timing of the selection may differ depending upon the degree to which further information on individual Responses must be obtained or due to other factors that NYCEDC may consider pertinent. The selection of the Respondent is contingent on the execution of the Contract as described in the RFP. In addition, all approvals for transfer of the Mitigation Credits must be obtained, including approval by the NYCEDC Board of Directors and other entities, as applicable. After any required approvals and payments are received, Seller shall transfer the Credits pursuant to the terms of the Contract.

¹ All capitalized terms used in this Frequently Asked Questions shall have the same meaning as such terms in the RFP.

6. Q: Once a Credit or fraction of a Credit is acquired, can it be resold?

A: Pursuant to the terms of the Contract that will be entered into for the acquisition of the Credits, the resale or transfer of Credits for other unrelated permit requirements, as compensation for other resources, or to satisfy the requirements of any other program other than for the project(s) or intended uses specifically presented to NYCEDC prior to execution of any Contract will be prohibited unless approved in advance by NYCEDC and the City.

7. Q: Can additional credits be purchased for use against future unidentified projects? Is that acceptable to EDC under the terms of the RFP?

A: Respondents can purchase Credits for future projects, but projects must be identified and Respondents should provide as much information as possible about the likely project and/or intended use(s) for the Credits. Responses will be evaluated and potentially selected based on certain criteria which may include the proposed project(s) or intended Credit use. In addition, in order to acquire the Credits, the Purchaser will need to execute a Contract which will include a Project Submission Completion Date by which the Purchaser will need to submit confirmation of the Mitigation Obligation and USACE and/or NYSDEC permits for the project. The Contract will also include a Project Commencement Date by which the Purchaser must commence improvements on the Property.

8. Q: Is submittal of a conceptual design acceptable for the project description?

A: Respondents are encouraged to provide as much information as possible regarding the proposed project. While conceptual design information is acceptable, if possible, Respondents should submit information regarding guidance from government agencies about the likelihood that purchasing Credits would fulfill the mitigation requirement, and the amount of mitigation required.

9. Q: Do the following requirements all need to be fulfilled prior to application submittal: NYSDEC and/or USACE confirmation the conceptual development plans are permissible, NYSDEC and/or USACE mitigation requirement is established and the credits available through the mitigation bank would be accepted by the NYSDEC and/or USACE?

A: Respondents may submit a Response prior to the conditions above being fulfilled. However, Respondents should include as much information as possible in their Response regarding the status of relevant discussions with government entities, including copies of correspondence with such entities. Responses should provide as much evidence as possible that the project is permissible and the acquired Credits would meet mitigation requirements.

Respondents should confirm directly with federal and state regulators that Credits and Credit quantities from the Saw Mill Creek Pilot Wetland Mitigation Bank address Respondents' specific project permit mitigation requirements. All due diligence is the responsibility of the Respondent and Respondents are urged to satisfy themselves with respect to the Site, Credits, and the permitting value of a Credit to a Respondent's specific project that may require mitigation.

10. Q: What is the smallest amount of Credit that can be requested?

A: Respondents may identify any fractional amount of credits desired so long as the competitive offer to purchase is in excess of the Reserve Price. Credits from the bank represent wetland rehabilitation, re-establishment, and enhancement. Depending on Respondents' specific need, fractions of Credits are available to offset impacts less than one acre.

11. Q: When will additional Credits beyond the amount now available be expected to be made available?

A: It is anticipated that additional Credits will be available over the duration of the restoration and monitoring of the Saw Mill Creek Pilot, which is anticipated to be approximately six years. The extent of restoration and monitoring will determine the actual release schedule over this period. Regulatory agencies will make the final determination regarding Credit release and therefore availability. Respondents should continue to monitor the NYCEDC Saw Mill Creek project webpage (<https://edc.nyc/project/marshes-initiative>) and the USACE Regulatory In-lieu Fee and Bank Information Tracking System (“RIBITS”) website (<https://ribits.ops.usace.army.mil/>) for the latest information about Credit release and availability.

12. Q: Can an RFP Respondent apply for the amount of Credits available now, although it may be insufficient to meet the known mitigation need, and then reapply for the remaining needed Credits at the time they are available?

A: Respondents may apply for any amount of Credits they may require. If the total amount of Credits Respondents anticipate requiring exceeds the currently available Credits per the NYCEDC Saw Mill Creek project webpage (<https://edc.nyc/project/marshes-initiative>) and the USACE Regulatory In-lieu Fee and Bank Information Tracking System (“RIBITS”) website (<https://ribits.ops.usace.army.mil/>), Respondents are encouraged to specify the total amount of Credits they anticipate would be required for their proposed project in the description of their project. Respondents should describe their anticipated plan for meeting the total anticipated mitigation obligation required, and any conversations with regulators regarding their plan.

13. Q: Can only NYC government institutions purchase from this bank, or can private contractors purchase from it?

A: Non-governmental and private purchasers are eligible to respond and purchase Credits. Purchasers may only be parties intending to acquire Credits with funds not derived from the fiscal budget of the City of New York. See section 1.5 (“Eligible Respondents”) for information.

14. Q: Is this a tidal credit only bank, or are you also selling wetland credits?

A: The Saw Mill Creek Pilot provides off-site compensatory mitigation for unavoidable tidal wetland impacts to waters of the United States, including wetlands, occurring within the New York City municipal limits. Respondents are encouraged to discuss the utility of Credits for their proposed projects with applicable regulatory agencies.

15. Q: Will any RFP results be available to the public? List of entities bidding and bid price?

A: The total number of mitigation Credits currently available, reflecting any sales as well as increases due to Credit releases by regulators, is available on the NYCEDC Saw Mill Creek project webpage (<https://edc.nyc/project/marshes-initiative>) and on the USACE Regulatory In-lieu Fee and Bank Information Tracking System (“RIBITS”) website (<https://ribits.ops.usace.army.mil/>). The number of Credits will only reflect a sale after any selected Respondent has executed the Purchase and Sale Agreement, and all approvals have been received and the Credits have been transferred pursuant to the terms of the respective Purchase and Sale Agreement.

16. Q: What is the background of the Saw Mill Creek Pilot or the subject matter of this RFP should be directed to? Where is the Saw Mill Creek?

A: The subject matter of the Saw Mill Creek Pilot Wetland Mitigation Bank RFP relates to mitigation offset Credits. Saw Mill Creek is a natural area in the process of restoration. Please download the full [RFP here](#) for the context of the following summary explanation of the RFP:

“New York City Economic Development Corporation (“NYCEDC”) is issuing this open Request for Proposals (“RFP”) on behalf of The City of New York (the “City”) for the sale of compensatory mitigation tidal wetland credits (“Credits”) generated by the City’s first wetland mitigation bank (the “Saw Mill Creek Pilot Wetland Mitigation Bank” or the “Saw Mill Creek Pilot”). The Saw Mill Creek Pilot Wetland Mitigation Bank is a mechanism that provides compensatory mitigation through the sale of Credits to applicants in the waterfront permitting process. Under federal regulations, compensatory mitigation when applied to tidal wetlands means the restoration (re-establishment or rehabilitation), establishment, enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. It is anticipated the Saw Mill Creek Pilot will facilitate both the improvement and protection of critical coastal resources, and the establishment of a predictable, efficient, and environmentally responsible process to serve the wetland mitigation needs in certain geographical service areas of New York City.” (First paragraph page 3 of the RFP)

The Saw Mill Creek Pilot Wetland Mitigation Bank is located on the West Shore of Staten Island at the intersection of Chelsea Road and Edward Curry Avenue.

17. Q: Is there an option to sole source credits?

A: Sole source is not an option. Proposals are received and reviewed through a competitive RFP process.

18. Q: Does the project have to be fully permitted in order to submit a proposal for mitigation credits?

A: Any correspondence verifying the state of permitting is useful. Projects do not need to be fully permitted to be eligible. However, full description and transparency on the state of permitting is part of the response evaluation.

19. Q: Can a project bid for impacts less than one acre?

A: Yes. Fractions of Credits are available to offset impacts less than one acre. See section 1.4 (“Credits and Credit Demand”) for more information.

20. Q: Is there a different process or minimum bid cost when the applicant is a government agency?

A: If the Respondent is a government agency, the evaluation process does not differ. All proposals are evaluated according to the same criteria, and all proposals should propose a competitive price for Credits. See section 4.1 (“Evaluation and Selection by NYCEDC”) of the RFP.

Also take note of Question 3 regarding public entity eligibility.

21. Q: I understand there is a formula for calculating credits when the impact is associated with a volume of fill within tidal waters. Could you please provide the formula.

A: For previous permits issued by the New York State Department of Environmental Conservation (NYS DEC), NYS DEC has accepted 1 Credit from the Saw Mill Creek Pilot Wetland Mitigation Bank as equivalent mitigation for the placement of 1,374.5 CY of fill in regulated tidal wetlands at a 1:1 ratio. However, this calculation is subject to change over time and may vary based on the assessments of relevant permitting agencies for each prospective project. Respondents should consult directly with the relevant permitting agencies to determine the Credit(s) your project will need from the Saw Mill Creek Pilot Wetland Mitigation Bank.