

Hurricane Irene – Tropical Storm Lee Flood Mitigation Grant

Program Guidelines

NYS Empire State Development
NYS Department of Environmental Conservation

January 2012

Hurricane Irene – Tropical Storm Lee Flood Mitigation Grant Program Guidelines

Legislation S.50002/A.4002 creates an Empire State Development (ESD) administered grant program, developed in consultation with the New York State Department of Environmental Conservation (NYSDEC), to provide grants to counties for flood mitigation or flood control projects in those creeks, streams, and brooks impacted by Hurricane Irene and/or Tropical Storm Lee. The legislation states that ESD “shall give preference to applicants that demonstrate the greatest need, based on available flood damage data provided by applicable federal agencies. Priority also may be given to remediation which if not undertaken may result in additional flooding”. The following guidelines will be used to further define how the grant program will be implemented and what projects are eligible to be funded.

Grant Program Funding: The total amount of funding available to implement the Hurricane Irene – Tropical Storm Lee Flood Mitigation Grant Program (the “Program”) is \$9 million. Individual County funding requests must not be less than \$300,000 or more than \$500,000 and can include multiple projects and be submitted on behalf of one or more municipalities within the county. Counties may jointly apply and a joint grant may equal the sum of the amounts that would have been separately available to individual counties. While there is no match required as part of this Program, preference will be given to projects where these funds can be used to leverage other federal, State, City of New York, private or local funds to complete projects. This funding can only be used for new or prospective projects and is not eligible for flood recovery projects already completed and awaiting reimbursement through other flood recovery programs. **This funding is also not eligible for Federal Emergency Management Agency (FEMA) eligible projects. Non-federal match for FEMA reimbursable projects may be provided through other state funding sources.**

Eligible Areas: Counties subject to the federal disaster declaration including Albany, Bronx, Broome, Chemung, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Greene, Hamilton, Herkimer, Kings, Montgomery, Nassau, New York, Oneida, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington and Westchester counties.

Eligible Projects: Preference will be given to those eligible projects that demonstrate the greatest need and reduce potential threats to the integrity of public and private infrastructure from future flood events. Preference will also be given to projects which are ready to be constructed or for which construction will commence expeditiously. Projects that are eligible for grants under this Program shall include the following:

(1) Removal of flood debris¹ located in stream channels and/or floodways within Eligible Areas;

¹ Flood debris includes all items washed from the interior and exterior of households and commercial enterprises and large woody debris that may block flood flows or can be readily mobilized in a flood event.

- (2) Removal of gravel in or directly around bridges, culverts and other infrastructure that threatens public and private infrastructure integrity or that significantly constrains the conveyance of water flows and by not removing such material(s) would likely exacerbate flooding from future high flow events;
- (3) Installation or repair of stream bank stabilization measures;
- (4) Stream channel restoration to pre-flood depth, width, gradient, and where appropriate channel characteristics, and stream channel stabilization involving natural stream design techniques;
- (5) Stream bank restoration involving the removal of side cast bed load material, reconnecting a stream with its flood plain, and re-grading to pre-flood elevations combined with vegetative planting and stabilization;
- (6) Culvert repair or replacement with preference given to replacement of culverts with bridging infrastructure, or by upgrading the size of culverts to ensure adequate future flows;
- (7) Those projects eligible and approved by the United States Department of Agriculture Natural Resources Conservation Service (NRCS) Emergency Watershed Protection (EWP) Program. Projects eligible under NRCS's EWP program include, stream debris removal, stream bank stabilization and restoration, establishing cover on critically eroding lands, and repairing conservation practices necessary to relieve the immediate hazards to life and property created by Hurricane Irene and Tropical Storm Lee.

Eligible Costs: These funds can be used for the planning, design and implementation of eligible projects. Only planning costs which are a component of a specific project, which will receive funding under this Program, will be considered eligible costs. Local or regional flood planning initiatives are not eligible under this Program. In order for a project cost to be eligible, such cost must be reasonable and necessary as determined by ESD and NYSDEC. All work must be done in compliance with all applicable Federal, State and local regulations.

ESD will reimburse applicants for eligible costs upon substantial documentation of completion of the project and submittal of invoices, paid receipts and such other supporting documentation as ESD may deem necessary in order to verify the payment of eligible costs. ESD may, in consultation with DEC, advance and disburse to the applicant a sum up to fifty percent (50%) of the grant award. In cases where it can be demonstrated that there is an imminent risk to life or property, ESD may advance greater than fifty percent of the grant award. In the event ESD advances payments of a grant, the applicant will not receive the final payment of its grant award until the project is complete and all supporting documentation is received. Supporting documentation includes, but is not limited to, copies of invoices, proof of payment, cleared checks, credit card receipts and documentation of completion of project.

Coordination with Regulatory Agencies: The project sponsor, or its agents, shall coordinate with all regulatory agencies with review authority over the project, and shall complete all permit processes as needed. To expedite this process, NYSDEC issued a General Permit (i.e.,

GP-0-11-008) for repair of damages resulting from Hurricane Irene and Tropical Storm Lee, while the United States Army Corps of Engineers issued a Regional General Permit (NYPDGP-15 and RGP 99-000-1). GP-0-11-008 is applicable to all protected streams, navigable waters and freshwater wetlands and is applicable in NYSDEC Regions 1 - 9. NYSDEC's General Permit is available online at http://www.dec.ny.gov/docs/permits_ej_operations_pdf/genprmt.pdf and a copy of the Corp's Regional General Permit can be found at <http://www.nan.usace.army.mil/business/buslinks/regulat/pnotices/NYDGP15.pdf>

No design shall be considered complete until all reviews are complete and all approvals and permits have been obtained. Project sponsors are responsible for complying with the State Environmental Quality Review Act ("SEQRA"), if necessary.

Program Assistance Recapture: ESD may require the applicant to repay any grant award received under this program in the following events:

- (i) if its application, including any information provided therewith or thereafter, contains any material misrepresentations or is incomplete;
- (ii) if the Program assistance was awarded or disbursed in error and the applicant is not entitled to assistance under these Guidelines; or
- (iii) if supporting documentation for actual eligible costs incurred is not submitted in a timely manner or is not true and complete.

In the event the applicant receives insurance payments and/or additional grants or assistance for costs associated with a qualifying project that has been reimbursed with all or any portion of a Grant Award, the applicant shall immediately repay to ESD the Grant Award proceeds corresponding to such costs.

In the event of any fraudulent misrepresentations by the applicant, in addition to the recapture of the Grant Award, ESD may pursue other legal remedies and refer the matter to the appropriate governmental authorities for investigation and prosecution.

Application Submission: Applications may be obtained by going to www.dec.ny.gov/lands/79243.html or www.esd.ny.gov. Applications can be completed online but an original, signed application must be printed and mailed, along with any supporting documentation and attachments to the address listed directly below. The applicant should also email one (1) electronic copy of the signed application, including attachments and photos in Adobe PDF format to: wquipuser@gw.dec.state.ny.us. If your file is too large to be e-mailed, please mail a copy on compact-disc along with the hard copy of your application.

Attn: Flood Mitigation Grant Program
New York State Department of Environmental Conservation
Division of Water
625 Broadway, 4th Floor
Albany, NY 12233- 3507

Applications will be processed and reviewed in the order of their receipt and will be accepted on a rolling basis. However, all applications must be received or postmarked by no later than

April 11, 2012. Applications received after such date may be rejected by ESD. Based on interest in this Program and the availability of Program funds, the deadline for submission of applications may be extended by ESD at its discretion. To the extent possible, counties should present their list of proposed projects in priority order. Completed grant applications should be signed by the County Executive or the Chairman of the Board of County Supervisors. Project(s) shall be completed and funds expended within 18 months of receipt of the Program funds.

Points of Contact:

Thomas R. Snow, Jr.
New York State Department of Environmental Conservation
625 Broadway, 4th Floor
Albany, NY 12233-1040
518-402-9395
trsnow@gw.dec.state.ny.us

Christine J. Costopoulos
Empire State Development
30 S Pearl Street
Albany, NY 12245
518-292-5348
ccostopoulos@esd.ny.gov

Project Selection: ESD and NYSDEC will jointly review grant requests to determine funding eligibility and project selection.

Grant recipients must reimburse ESD for any direct expenses incurred in connection with an approved project, including costs related to holding a public hearing.