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Flood Mitigation

Program Guidelines

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Section I – Statement of Purpose

Act 13 of 2012 establishes the Marcellus Legacy Fund and allocates funds to the Commonwealth Financing Authority (the “Authority”) for funding statewide initiatives to assist with flood mitigation projects.

Section II – Eligibility

A. Eligible Applicants

Any of the following entities may apply for a grant under the Flood Mitigation Program (FMP):

1. **Municipality** – Any county, city, borough, incorporated town, township or home rule municipality.
2. **Councils of Governments** – An entity organized by units of local government under an intergovernmental agreement, which provides cooperative planning, coordination and technical assistance to its member governments on issues of mutual concern that cross jurisdictional lines, and which does not act under the direction and control of any single member government.
3. **Municipal Authority** – Includes an authority created by a municipality pursuant to the act know as the “Municipal Authorities Act.”
4. **Authorized Organization** – An entity involved in research, restoration, rehabilitation, planning, acquisition, development, education or other activities, which furthers the protection, enhancement, conservation, preservation or enjoyment of this commonwealth's environmental, conservation, recreation or similar resources. The organization must be a tax-exempt institution under section 501(c) (3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c) (3)) and registered with the Bureau of Charitable Organizations or an educational institution involved in these authorized activities or a municipal authority.
5. **Institution of Higher Education** – An entity that is an accredited university, college, seminary college, community college or two-year college.
6. **Watershed Organization** – An entity recognized by the Department of Conservation and Natural Resources or the Department of Environmental Protection that was established to promote local watershed conservation efforts in an identified watershed.
7. **For Profit Businesses** – other than “producers” of natural gas as defined in Act 13.

B. Eligible Projects

Projects authorized by a flood protection authority, the Department of Environmental Protection (DEP), the U.S. Army Corps of Engineers (Corps) or the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) or identified by a local government for flood mitigation are eligible for the program.

Grants shall be awarded to eligible applicants for projects with a total cost of \$50,000 or more.

C. Eligible Use of Funds

Funds may be used by the applicant to pay for any of the following project costs:

1. Acquisition of land, rights-of-way, and easements necessary to construct an eligible project.
2. Construction, improvement, expansion, repair, or rehabilitation of flood control projects.
3. Installation of security measures.
4. Engineering costs.
5. Inspection costs.
6. Permit fees.
7. Debris removal.
8. Costs to secure appropriate bonds and insurance.
9. Administrative costs of the applicant necessary to administer the grant. Administrative costs will include advertising, legal, and audit costs as well as documented staff expenses. Administrative costs shall not exceed 2% of the grant.

Ineligible costs include but are not limited to public relations, outreach, communications, lobbying, litigation, fees for securing other financing, interest on borrowed funds, application preparation fees and other costs incurred prior to the approval of grant funds.

Section III – Program Requirements

A. Applicant Cost Share Requirements

A 15% cash match of the total project cost is required or cash equivalents for the appraised value of real estate. Eligible match contributions will be permitted for up to one year prior to the grant submittal deadline date through the life of the grant agreement as long as the eligible match expenditures are directly related to the project.

B. Planning and Permit Requirements

All recipients of funding under this grant are required to demonstrate in the application that the project has secured any necessary planning approvals for the project from the federal, state, and local governments and that the project generally is in compliance with any applicable county or local comprehensive plans as evidenced by a letter from the appropriate local planning agency prior to disbursement of grant funds.

C. Other Requirements

1. Conflicts of Interest

An officer, director, or employee of an applicant who is a party to or who has a private interest in a project shall disclose the nature and extent of the interest to the governing body of the applicant and may not vote on any action of the applicant concerning the project, nor participate in the deliberations of the applicant concerning the project.

2. **Nondiscrimination**
No assistance shall be awarded to an applicant under this program unless the applicant and project user certify to the Authority that they shall not discriminate against any employee or against any person seeking employment because of race, color, handicap, national origin, age or sex.
3. **Project Records**
The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over related parties in the project. The Authority requires access to such records, as well as the ability to inspect all work, invoices, materials, and other relevant records at reasonable times and places. Upon request of the Authority, the applicant must furnish all data, reports, contracts, documents, and other information relevant to the project.
4. **Pennsylvania Prevailing Wage Act**
All of the construction work associated with the project may be subject to the Pennsylvania Prevailing Wage Act, as determined by the Pennsylvania Department of Labor and Industry.
5. **Proof of Notification**
The applicant must provide proof that the county and host municipality or municipalities have been notified about the intended project.
6. **Project Audit**
For projects receiving grant funds of \$100,000 or more, an audit from a Certified Public Accountant (CPA) licensed in Pennsylvania listing all project costs must be submitted to the Authority, within 90 days after expiration of the grant. In the opinion section of the audit, a statement shall be made certifying that commonwealth funds were disbursed in accordance with the terms of the grant agreement.
7. **Bidding Requirements**
Applicants must comply with all applicable federal, state, and local laws and regulations dealing with bidding and procurement.
8. **Guideline Provisions**
These program guidelines may be modified or waived by the Authority unless otherwise required by law.

D. Fees

The Commonwealth Financing Authority charges a \$100 non-refundable application fee for Flood Mitigation applications. The application fee is due at the time of submission.

Section IV – Grants

1. Grants shall not exceed \$500,000 for any project.
2. Commencement of work prior to receiving Authority approval will result in the project being ineligible for funding consideration.
3. To be eligible for reimbursement, project costs must be incurred within the time frame established by the grant agreement, except for costs related to engineering design.

Section V – Application Procedures

To apply for funding, the applicant must submit the electronic on-line Department of Community and Economic Development Single Application for Assistance located at www.esa.dced.state.pa.us. For inquiries on the application process, contact the Customer Service Center at (800) 379-7448 or (717) 787-3405. Once submitted, please print three (3) copies of the application, and send with the required supplemental information (please see Appendix I of these guidelines) via US Mail along with the signature page to:

PA Department of Community and Economic Development
Office of Innovation and Investment – CFA Programs Division
Flood Protection Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Please reference the Web ID number on any documents sent with the signature page.

Section VI – Application Evaluation

All applications for financial assistance will be reviewed by the Authority in conjunction with the Department of Community and Economic Development and the Department of Environmental Protection to determine eligibility of the proposed project as well as the competitiveness of the proposal. Applications are evaluated on a competitive basis using the following criteria:

1. Impact on the prevention of future flood damage.
2. Level of matching investment.
3. Financial need of the applicant.
4. Benefit to cost ratio.
5. Project readiness.
6. Number of homes and businesses that will benefit from the project.

Section VII – Procedure for Accessing Funds

Following approval of an application by the Authority, a commitment letter will be issued by the Authority to the applicant explaining the terms and conditions of the grant. The commitment letter must be signed and returned to the Authority within 45 days of the date of the commitment letter or the offer may be withdrawn by the Authority.

Following the acceptance of an offer by the applicant, a grant agreement will be sent by the Authority to the applicant for execution. The applicant shall obtain the services of a professional engineer or architect licensed in Pennsylvania who will certify to the Authority during construction that the expenses were incurred and were in accordance with the plans approved by the Authority. The Authority will release funds to the applicant at not less than 30-day intervals.

Section VIII – Program Inquiries

Program inquiries should be directed to:

PA Department of Community and Economic Development
Office of Innovation and Investment – CFA Programs Division
Flood Protection Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Telephone: (717) 787-6245
Fax (717) 772-3581
E-mail: ra-dcedsitedvpt@pa.gov

These guidelines can also be accessed online at **www.newPA.com**.

Appendix I – Supplemental Information

In addition to completing the Department of Community and Economic Development Single Application for Assistance, please include the following items when applying for a grant:

- Exhibit 1** Provide narrative description of the project and an engineering feasibility study conducted by a registered professional engineer that includes the following information: (a) a detailed description of the problem area along with a flood inundation map outlining the extent of the flood area; (b) the number and name of the municipalities that will potentially benefit from the project; (c) a detailed breakdown of the number of structures (homes, businesses, and industrial sites) that have experienced flood damage to include the number of times the structures have been flooded, the type and depth of flooding (basement or first floor), and the amount of damage sustained per flood event; (d) a detailed hydrologic analysis listing the recommended flood discharges for a series of annual events such as the 2-year, 5-year, 10-year, 25-year, 50-year, 100-year, 500-year; and a discussion on which hydrologic methods were considered and why the recommended discharges were selected; (e) an updated cross-sectional survey of the waterway and floodplain; (f) a simulated computer model using the U.S. Army Corps of Engineer's Hydrologic Engineering Center's River Analysis System (HECRAS) verifying the flood inundation limits for a 100-year flood discharge; (g) information on the cost effectiveness, annual maintenance (ease of and cost), and constructability of the project; (h) preliminary construction drawings showing the features of the recommended project; (i) a preliminary rights-of-way acquisition plan showing types and limits of easements needed to construct and maintain the project; and (j) an annotated sketch that shows how the project will impact (change) the flood plain limits shown on the current FEMA Flood Insurance Mapping.
- Exhibit 2** A detailed construction cost estimate prepared by an engineer or other qualified professional.
- Exhibit 3** A set of construction drawings showing project details including but not limited to plans, profiles, payment sections, structural details, erosion and sedimentation control plan, miscellaneous details, and traffic control plan.
- Exhibit 4** A complete set of technical specifications addressing each construction item; these specifications, if applicable, should adhere to guidelines specified in the following: PennDOT 408 manual and ACI, ASTM, and AASHTO specifications.
- Exhibit 5** Copies of land acquisition drawings showing property boundaries and the various property easements (both temporary and permanent) required to construct the project.
- Exhibit 6** List of all state, federal, and local planning and permit approvals that will need to be obtained.
- Exhibit 7** Funding commitment letters from all other project funding sources if applicable (including equity commitments). Letters should include the term, rate, and collateral conditions and must be signed and dated.
- Exhibit 8** The most recent audited financial statements of the applicant. Financial statement should include balance sheets, income statements and notes to financials.
- Exhibit 9** A statement as to the amount of grant funding requested.
- Exhibit 10** A letter from the appropriate planning agency certifying that the proposed project is in compliance with the comprehensive land use plans.

- Exhibit 11** For public sector applicants, provide a resolution duly adopted by the applicant's governing board formally requesting the grant, designating an official to execute all documents, describing briefly the project scope, and identifying the grant amount.
- Exhibit 12** For all applicants, provide copies of notifications provided to county and municipal governing bodies advising them of the proposed project.
- Exhibit 13** For Authorized Organizations who are using grant funds for acquisition, provide copies of written consent from the county and municipality in which the land is situated.

Appendix II – Authorized Official Resolution

Be it RESOLVED, that the _____ (Name of Applicant) of _____ (Name of County) hereby request a Flood Mitigation grant of \$ _____ from the Commonwealth Financing Authority of the Commonwealth of Pennsylvania to be used for _____.

Be it FURTHER RESOLVED, that the Applicant does hereby designate _____ (Name and Title) and _____ (Name and Title) as the official(s) to execute all documents and agreements between the _____ (Name of Applicant) and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

I, _____, duly qualified Secretary of the _____ (Name of Applicant), _____ (Name of County) _____, PA, hereby certify that the forgoing is a true and correct copy of a Resolution duly adopted by a majority vote of the _____ (Governing Body) at a regular meeting held _____ (Date) and said Resolution has been recorded in the Minutes of the _____ (Applicant) and remains in effect as of this date.

IN WITNESS THEREOF, I affix my hand and attach the seal of the _____ (Applicant), this _____ day of _____, 20____.

Name of Applicant

County

Secretary