

H2O PA High Hazard Unsafe Dams

Program Guidelines | June 2009

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Section I – Statement of Purpose

The H2O PA Act was established by the General Assembly in July 2008. The Act provides single-year or multi-year grants to the Commonwealth, independent agencies, municipalities, or municipal authorities for High Hazard Unsafe Dams.

Section II – Eligibility

A. Eligible Applicants

Any of the following entities, who own the project, may apply for a grant for the purpose of High Hazard Dams and High Hazard Unsafe Dams.

1. **The Commonwealth** – The Commonwealth of Pennsylvania.
2. **An Independent Agency** – A board, commission, or other agency or officer of the Commonwealth which is not subject to the policy, supervision, and control of the Governor. The term does not include a state-affiliated entity, any court or other officer or agency of the Unified Judicial System, the General Assembly and its officers and agencies, a state-related institution, a political subdivision, or a local, regional, or metropolitan transportation authority.
3. **A Municipality** – Includes any city, township, borough, town, county, or home rule.
4. **A Municipal Authority** – Includes an authority created by a municipality pursuant to the act known as the "Municipal Authorities Act."

B. Eligible Projects

Eligible H2O PA High Hazard Unsafe Dam projects include those which involve the repair, rehabilitation, or removal of all or part of the High Hazard Unsafe Dam. A High Hazard Unsafe Dam is defined as a dam so located as to endanger populated areas downstream by its failure, and is so designated by the Department of Environment Protection (DEP) with deficiencies of such a nature that if not corrected, the deficiencies could cause a failure of the dam with subsequent loss of lives or substantial property damage.

C. Eligible Use of Funds

H2O PA funds may be used by the applicant to pay for any of the following project costs:

1. Repair, rehabilitation, or removal of all or part of a High Hazard Unsafe Dam.
2. Installation of security measures.
3. Acquisition of land, rights-of-way, and easements necessary to construct an eligible project.
4. Engineering costs.

5. Inspection costs.
6. Permit fees.
7. Costs to secure appropriate bonds and insurance.
8. Administrative costs of the applicant that are necessary to administer the H2O PA grant. Administrative costs will include advertising, legal, and audit costs as well as documented staff expenses. Administrative costs shall not exceed 3% of the H2O PA grant.

Ineligible costs include but are not limited to fees for securing other financing, interest on borrowed funds, and costs incurred prior to the approval of H2O PA grant funds.

Section III – Program Requirements

A. Matching Fund Requirement

An eligible applicant shall provide funds of not less than 25% of the amount approved by the Commonwealth Financing Authority (Authority) for a High Hazard Unsafe Dam grant. An eligible applicant that is the Commonwealth or an independent agency shall not be required to provide matching funds.

B. Planning and Permitting Requirements

To be eligible, the owner of a High Hazard Unsafe Dam shall:

1. Have obtained written approval of a conceptual plan to repair, rehabilitate, or remove a high hazard unsafe dam from DEP's Division of Dam Safety to meet requirements under the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act.
2. Have in place an emergency action plan as required by section 5 (a) (4) of the Dam Safety and Encroachments Act and distribute the plan to affected county and municipal emergency management officials.
3. Comply with all inspection requirements and submit inspection reports to DEP as required by law.

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. All contracts for work to be paid with H2O PA assistance must contain the Commonwealth's official nondiscrimination clause.

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 in excess of \$100,000 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**

The H2O PA guidelines provisions may be modified or waived by the Authority unless otherwise required by law.

Section IV – Grants

1. Individual grants may not exceed \$20,000,000 per project.
2. Grants shall be awarded to eligible applicants for projects with a total cost of \$500,000 or more.
3. No more than \$20,000,000 may be awarded to an eligible applicant that is the Commonwealth or an Independent Agency.
4. Multi-year grants may not be given for a period of more than six (6) years.
5. No money shall be authorized or distributed for any project within a city or county of the first or second class, other than those projects described in the Pennsylvania Gaming Economic Development and Tourism fund, until such time as an amount equal to \$750,000,000 has been authorized and distributed from the H2O PA Program for projects outside of a city or county of the first or second class.
6. Commencement of work prior to receiving the Authority's approval will result in the project being ineligible for funding consideration.
7. To be eligible for reimbursement, project costs must be incurred within the time frame established by the grant agreement.

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. Once submitted, please print two (2) 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. 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 based on the following criteria:

1. The level of hazard posed by the dam.

The level of hazard for dams considered for funding will be based on the use of a Dam Safety Risk Prioritization Tool. This prioritization tool looks at not only the potential for a given dam to fail due to its condition and existing spillway capacity, but also analyzes the loss of life potential based upon the proximity of the downstream population to the dam structure.

2. Whether the proposed project represents the most cost-effective way to address the hazard.

This will be evaluated by reviewing an alternatives analysis including the estimated cost of each alternative. These costs can be compared with actual costs previously incurred for similar work, the cost or pricing data received from other vendors, and independent cost estimate breakdowns.

3. Whether the project will have a positive impact on tourism.

4. Whether an approved Emergency Action Plan has been completed for the dam.

An Emergency Action Plan, in a form approved by the Department of Environmental Protection and the Pennsylvania Emergency Management Agency, must be completed by the dam owner.

5. Whether the dam has been inspected annually by a registered professional engineer for the past five years.

Owners of high-hazard dams are required to have their dams inspected by a registered professional engineer on an annual basis and provide the Department of Environmental Protection two copies of the report prior to December 31 of each year.

6. Whether the project involves water supply and the importance of this dam on the overall water supply system.

Section VII – Procedures for Accessing Funds

Following approval of an application by the Authority, a commitment letter will be issued 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 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
Center for Business Financing – Site Development Division
H2O PA Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Telephone: (717) 787-7120
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

H2O PA

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 under H2O PA:

- Exhibit 1:** Provide a description of the project which discusses all of the following: (a) the specific location of the project area; (b) the work to be completed; (c) the estimated start and end dates of the project; (d) the number and name of the municipalities that will potentially benefit from the project; (e) the level of hazard posed by the dam; and (f) how the project promotes the most efficient management of water resources and protects the health and safety of the citizens of the Commonwealth.
- Exhibit 2:** A statement as to the estimated cost of the project. The estimate must be prepared by an engineer or other qualified professional and should be accompanied where appropriate by copies of the signed bid/quotations, contractor estimates, or sales agreements that verify project cost estimates.
- Exhibit 3:** An alternative analysis complete with an estimated cost of each alternative. The cost elements examined should include, but not be limited to, design, materials, labor, equipment, and inspection.
- Exhibit 4:** Information about the impact of this project on water supply. The information should include the percentage of water in the system that comes from this source; information on interconnections with other water suppliers including the percentage of the average daily demand that can be provided by these suppliers; and any other pertinent information such as major industrial users or entire communities dependent on only this source for water supply.
- Exhibit 5:** Funding commitment letters from all other project funding sources. Letters should include the term, rate, and collateral conditions and must be signed and dated.
- Exhibit 6:** A color-coded map detailing the location of the project and any improvements.
- Exhibit 7:** The most recent audited financial statements of the applicant (except the Commonwealth). Financial statements should include balance sheets, income statements, and notes to financials.
- Exhibit 8:** A description of the current level of public usage of the facility, if the project will increase the usage of the facility, and the distances from the site to similar facilities. Using this information, the applicant must state the impact of the proposed project on tourism.
- Exhibit 9:** A statement as to the amount of grant funding requested.
- Exhibit 10:** For applicants which are not the Commonwealth, 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 (see Appendix II for a Sample Resolution).

Exhibit 11: A copy of all applicable Department of Environmental Protection conceptual plan and permit approvals.

Exhibit 12: For all applicants, provide copies of notifications provided to county and municipal governing bodies advising them of the proposed project.

Send 2 copies of completed application with all supplemental information and attachments to:

PA Department of Community and Economic Development
Center for Business Financing – Site Development Division
H2O PA Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

If you have any questions on completing the application, please call the Center for Business Financing at (717) 787-7120.

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Appendix II – Authorized Official Resolution

Be it RESOLVED, that the _____ (Name of Applicant) of _____ (Name of County) hereby request an H2O PA grant of \$ _____ from the Commonwealth Financing Authority 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