

FOR CONSIDERATION

January 20, 2012

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Statewide – Hurricane Irene - Tropical Storm Lee Business Flood Recovery Grant Program – Local Assistance – (Capital Grants for Business Flood Recovery Relief)

REQUEST FOR: Authorization to Adopt Guidelines; Authorization to Make Grants; Delegation of Authority; Authorization to Take Related Actions

I. Program Summary

Grantees: Small businesses, not-for-profit organizations, farms, or owners of multiple-unit residential dwellings will be eligible.

ESD* Investment: \$21 million of a \$50 million Hurricane Irene – Tropical Storm Lee Flood Recovery Grant appropriation is to be used to provide local assistance grants (“*Business Flood Recovery Grants*”) to be used for storm-related repairs and restoration of structures, and for other storm related costs. Individual grants shall not exceed 50% of storm-related damage up to a maximum of \$20,000.

Locations: New York State

Regional Council: Each of the Regional Councils has been made aware of this item.

Eligible Costs Date: On or after August 28, 2011 with respect to physical flood-related damage resulting from Hurricane Irene; on or after September 7, 2011 with respect to direct physical flood-related damage resulting from Tropical Storm Lee.

Anticipated
Appropriation

Source: Local Assistance

ESD Project No.: X592 – Business Flood Recovery Grant Program

Project Team:	Project Management	Robert Miron/Suzanne Wickham/ Brendan Healey/Beverly Bobb
	Legal	Eunice Jackson
	Affirmative Action	Denise Ross
	Environmental	Soo Kang

II. Program Description

A. Background

Hurricane Irene made landfall in New York on August 28, 2011. Shortly thereafter, Tropical Storm Lee struck New York on September 7, 2011. Both storms caused extensive flooding and substantial damage across New York. Following the aftermath of Hurricane Irene and Tropical Storm Lee, President Barack Obama issued a state of emergency declaration for New York State, which allowed affected New Yorkers access to federal disaster relief funds. In an effort to provide additional flood disaster related relief aid, Governor Andrew M. Cuomo and the Legislature created the Hurricane Irene-Tropical Storm Lee Flood Recovery Grant Program and appropriated \$50 million for assistance to businesses and communities that suffered losses as a result of these disasters. The enabling legislation for the Program designated \$21 million of the appropriation to be used for grants of up to \$20,000 to be used for storm related repairs and restoration to structures and for other storm-related costs for small businesses, farms, owners of multiple-unit residential dwellings, and not-for-profit organizations that sustained direct physical flood-related damage as a result of Hurricane Irene or Tropical Storm Lee. The legislation empowers ESD to establish guidelines and such additional eligibility criteria as it deems necessary to effectuate the use and administration of this allocation, giving preference to those applicants that demonstrate the greatest need, based upon damage data provided by applicable federal agencies.

B. Grant Description

The *Business Flood Recovery Grant Program* (the "Program") is made available from the \$21 million in state appropriation to ESD for Local Assistance. Eligible small businesses, farms, not-for-profit organizations, and owners of multiple-unit residential dwellings that sustained direct physical flood-related damage as a result of Hurricane Irene or Tropical Storm Lee may receive grants of up to 50% of storm-related losses up to a maximum of \$20,000 for the cost of eligible storm-related repairs and restoration to structures and for other storm-related costs. Losses eligible for grant funds include, but are not limited to, repair or replacement of damaged or destroyed real property and other tangible assets, including equipment, furniture, fixtures, supplies, inventory, chattel property and products of and materials for farm operations,

including, feed, and orchard and vineyard root stock, but not the crops grown thereon. Losses must be for property and items used or created in the normal and customary course of operations of the eligible business entity. Financial and operating losses and relocation expenses are not eligible losses.

Grants may also be applied or used to pay down SBA loans an applicant may have taken out to cover storm-related losses. To the extent possible, assistance will be provided to applicants that demonstrate the greatest need, based on available flood damage assessments provided by relevant federal agencies.

III. Program Guidelines

Staff has prepared guidelines for adoption by the Directors for the implementation and administration of the Program. The guidelines set forth criteria for determining eligibility for each of the categories of business enterprise specified in the legislation. The guidelines also set forth the various program and submission requirements, and describe methods of grant disbursements as well as appeal and audit processes. A copy of the guidelines for the Program is attached hereto. It is expected that the guidelines may be amended from time to time to address specific Program needs.

IV. Delegation of Authority

Since the disaster declarations in August and September of last year, businesses in communities affected by the storms have been struggling to survive and recover from flood related losses. In the interest of responding to the needs of these communities, and to implement the legislative mandate as swiftly and effectively as possible, the Board is asked to delegate to the President and Chief Executive Officer of the Corporation or his designee(s) the authority to, 1) accept applications for grants; 2) approve grants ; 3) make any necessary findings or take any necessary action that the Corporation may be required to take under the New York State Urban Development Corporation Act and other applicable law and regulations to effectuate the Program; 4) approve project plans for the Program; 5) hold any public hearings that may be necessary pursuant to applicable law; 6) act on behalf of the Corporation to affirm, modify or withdraw any contemplated grant assistance as a result of testimony given at any such hearing, if necessary; and, 7) disburse grant funds.

V. Statutory Basis

The Program was authorized during a special legislative session. No residential relocation is required.

VI. Environmental Review

ESD staff has determined that the requested authorization to adopt the Hurricane Irene – Tropical Storm Lee Flood Recovery Grant Program guidelines and make grants constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the

implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization.

VII. Non-Discrimination

ESD's Non-Discrimination policy will apply. Grantee shall not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability, or marital status.

VIII. ESD Employment Enforcement Policy

ESD's Employment Enforcement Policy will not apply since the project will not directly create or retain jobs.

IX. ESD Financial Assistance Subject to Availability of Funds and Additional Approval

The provision of ESD financial assistance is contingent upon the availability of funds and the approval of the State Division of the Budget.

X. Requested Actions

The Directors are requested to: authorize the Hurricane Irene – Tropical Storm Lee Business Flood Recovery Grant Program; adopt Program guidelines and authorize the President and Chief Executive Officer or his designee, to amend such guidelines from time to time; delegate to such officer or his designee(s) the authority to award grants to Eligible entities in accordance with these materials, including but not limited to authorizing such officer to make any necessary findings or to take any necessary action; that the Corporation may be required to take under the New York State Urban Development Corporation Act (the "Act") and other applicable law and regulations; and authorize the taking of all related actions necessary or appropriate to effectuate the foregoing, including without limitation the holding of any public hearings that may be necessary pursuant to applicable law and to act on behalf of the Corporation to affirm, modify or withdraw any contemplated assistance as a result of testimony given at any such hearing, if necessary.

XI. Additional Submissions to Directors

Resolutions
Guidelines

January 20, 2012

Statewide – Hurricane Irene - Tropical Storm Lee Business Flood Recovery Grant Program – Local Assistance (Capital Grants for Business Flood Recovery Relief) – Authorization to Adopt Guidelines; Delegation of Authority; Authorization to Make Grants; Authorization to Take Related Actions

RESOLVED, that the Corporation hereby authorizes the Hurricane Irene – Tropical Storm Lee Business Flood Recovery Grant Program (the “Program”), described in the materials presented in this meeting (the “Materials”), a copy of which has been presented to this meeting and is ordered filed with the records of the Corporation; and be it further

RESOLVED, that the Corporation hereby adopts the guidelines for the Program, a copy of which has been presented to this meeting and is included in the Materials, and authorizes the President and Chief Executive Officer of the Corporation, or his designee(s), to amend, from time to time, such guidelines (such guidelines, as they may from time to time be amended, the “Guidelines”) as he or she deems necessary or appropriate to effectuate the purposes of the Program; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) is hereby authorized to accept grant applications and award grants to eligible recipients pursuant to the Program in accordance with the Guidelines and these Materials (each such grant for the Program being hereby authorized) and to take such other actions as are necessary in order to effectuate the purposes of the Program; and be it further

RESOLVED, that the President and Chief Executive Officer of the Corporation or his designee(s) be, subsequent to the making of the grants, and each of them hereby is, authorized to take such actions and make such modifications to the terms of the grants as he or she may deem necessary or appropriate in the administration of the grants; and be it further

RESOLVED, that the provision of ESD financial assistance is expressly contingent upon: (1) the approval of the Public Authorities Control Board, if applicable, (2) receipt of all other necessary approvals, and (3) the receipt of adequate funding for such assistance from the State of New York; and be it further

RESOLVED, that the President and Chief Executive Officer or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions, including without limitation, to make findings and hold public hearings that may be necessary pursuant to applicable law and to act on behalf of the Corporation to affirm, modify or withdraw any contemplated assistance as a result of testimony given at any such hearing, if necessary.

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