

Frequently Asked Questions: Lake Ontario Business Resiliency Program

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For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

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I. Program Overview and Eligibility

1. What is the Lake Ontario Business Resiliency Program?

The Lake Ontario Business Resiliency Program will offer grants to eligible private businesses, not for profit organizations, farms, homeowners associations, and owners of multiple dwellings that were impacted by historically high water levels from bodies of water such as Lake Ontario and the St. Lawrence River in 2019 and that undertake capital improvement projects designed to strengthen the resiliency of their operations against impacts from future flooding. Empire State Development (ESD), the State of New York’s chief economic development agency, is leading the program.

2. How is this program different from the State’s 2017 Lake Ontario Small Business Recovery Fund Program?

The 2017 program was established to assist businesses with getting back to pre-disaster conditions and to help with losses due to a decline in revenue. In contrast, the 2019 program is designed to address the “new normal” of extreme water levels along the Lake by building back better and stronger to increase resiliency in the event of future flooding and other impacts. All projects for the 2019 program must meet the Resiliency Project Requirements specified in Attachment 1 of the Program Guidelines.

3. What kinds of organizations can apply to the program?

Eligible organizations include most private businesses, homeowner’s associations, not-for-profits that are not engaged in political or religious activities, farms and owners of multiple dwellings used for business purposes (such as rental properties) that are located in the

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

coverage area in Niagara, Orleans, Monroe, Wayne, Cayuga, Oswego, Jefferson or St. Lawrence Counties and sustained damage from high water levels between January 1, 2019, and October 31, 2019.

Eligible organizations that did not sustain damage in 2019 but that nonetheless have a demonstrated vulnerability to future flooding (such as having previously suffered flooding) may also apply for resiliency project funding, but program assistance is not guaranteed.

Please see guidelines for more specific eligibility guidelines at this link <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

4. What is the funding available for the program?

The REDI Commission has put aside \$30 million for this program.

Projects must be capital in nature and increase resiliency. If a resiliency improvement project is approved, the program will contribute up to 50% of the total cost of the capital improvement project, with a minimum award of \$10,000 up to a maximum award of \$200,000.

5. What periods are covered for flooding?

Assistance will be prioritized for those organizations that sustained direct, physical, flood-related damage between January 1, 2019 and October 31, 2019.

II. Resiliency Projects

6. What is resiliency? Do you have examples of resiliency improvement projects?

Resiliency is the capacity to withstand extreme events and other forces or risks; quickly recover the social, economic, and/or ecological structure and function in the aftermath of a disaster; and adapt to changing environmental conditions and forces. Eligible capital projects are those that will reduce vulnerability of an identified asset to a risk or risks experienced during the Lake Ontario and St. Lawrence River high water events (e.g., flooding, erosion), preventing permanent damage and loss of function to the identified asset.

Examples could include but are not limited to:

- Elevating and/or moving landward non-water dependent features such as offices, restrooms, stores, restaurants, parking, or boat storage;
- Elevating critical equipment such as electrical panels, heating and HVAC systems;
- Raising/relocating fueling facilities;
- Converting to floating docks or other docks that allow for movement with water levels;
- Elevating and/or making improvements to fortify buildings, machinery, equipment, fixtures, and other essential structures against flooding;

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

- Using flood-proof materials below grade, such as tile or concrete, or filling below grade areas (e.g., replacing below grade carpet flooring with tile flooring); and
- Septic system reinforcement

7. Do resiliency projects need to directly address only the documented physical flood damage that occurred in 2019?

No, projects that protect assets that did not experience flooding in 2019 but have a demonstrated vulnerability to future flooding events will also be considered.

8. Will DEC issue design elevation criteria or guidance for the lake level?

Any such guidance will be provided on a site-specific basis after the application and all project information is provided. There is no single design elevation that is appropriate for every shoreline location or type of project. In determining the appropriate design elevation, the State will consider factors such as Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), local geology, water elevations, and wave heights at the project location.

In order to build resilience, reduce the risk of future property damage, and minimize habitat impacts, DEC has compiled general guidelines for coastal design and development projects. The goal of these guidelines is to share technical data, regulatory guidance, best practices, and available resources for development along the dynamic shorelines of the Great Lakes and St. Lawrence River. These guidelines can be found in DEC's Great Lakes and St. Lawrence River Coastal Development Fact Sheet (PDF).
(www.dec.ny.gov/docs/water_pdf/rediguideance101819.pdf)

III. Eligible Costs

9. What costs are eligible for program reimbursement?

All project costs must be capital in nature, appropriately documented, and related to achieving resiliency, such as acquiring materials, purchasing equipment, and paying project contractors for engineering studies, design work, and construction costs.

10. Are engineering and architectural fees eligible expenses?

Yes, in general, if related to a capital resiliency improvement project that is ultimately completed, these costs will be eligible.

11. Is loss of income an eligible cost?

No. Unlike the 2017 program, loss of income is not an eligible project cost in the 2019 program.

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

12. What costs are ineligible for program reimbursement?

Costs that are not eligible for program reimbursement include the costs of labor performed by owners and their immediate family members, as well as any other costs that are non-capital or not directly related to the resiliency project.

13. If I expect to spend less than \$20,000 on my project am I eligible for reimbursement?

No, the minimum award eligibility amount is \$10,000. Therefore, an eligible project (which includes all project components) would need to cost at least \$20,000.

14. Will the program cover demolition/haul away/debris removal if this leads to completion of a resilient project?

The program will only cover capital costs that are directly related to resiliency improvements, which could include some demolition/removal depending on the specific nature of the project.

15. What counts as direct, physical, flood-related damage—does this include erosion, ice damage, inundation and wave action?

Potentially, yes. If an applicant believes that they have suffered physical, flood-related damage, then they should describe the damage in their application as well as how the resiliency improvement project would reduce the vulnerability of the identified asset.

16. Are repairs an eligible project cost?

No. In general, simple repair costs are not eligible. All costs must be related to projects that improve resiliency and reduce the vulnerability of an identified asset. All projects must meet the resiliency project requirements outlined in the attachment to the program guidelines.

17. Are improvements to natural features considered a capital project?

Yes, incorporating or improving natural features can be an eligible project capital cost if part of an overall resiliency project. The natural improvements should have a demonstrable resiliency benefit to the property. Please see Attachment 1 of the program guidelines for more information.

18. Are costs that I have already paid towards a resiliency project eligible?

Resiliency project costs previously incurred since January 1, 2019 may be eligible for the program if they fulfill all program requirements and are otherwise resiliency-related.

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

19. If my business does some or all of the work related to the project, can we be reimbursed for our labor?

ESD may consider non-immediate-family-member, non-owner employee labor costs to be part of the applicant's matching contribution as part of the total resiliency project budget based on each employee's documented hours worked and wage rate. However, program assistance funds are expected to be limited to directly reimbursing resiliency project costs that do not include an applicant's employee labor.

As an example, if a \$100,000 resiliency improvement project included \$50,000 of documented non-owner, non-immediate family member employee labor, then the applicant may still be eligible for reimbursement of \$50,000 in non-employee resiliency project costs.

20. If I use my equipment to perform project work, can I be reimbursed for its use?

In general, no. Depreciation is not an eligible capital cost, and all costs must be directly related to the resiliency improvement project.

21. My business owns property that has sustained damage but is not currently used in the business's operation. Am I eligible to incur costs at this site?

In general, resiliency projects are expected to reduce the vulnerability of business assets, and analyses will be case by case. If no such business assets exist at the site that suffered damage, then proposed resiliency measures at the unused site may not be eligible for funding.

IV. Application Process and Timeline

22. I completed an Intake Form for this program, do I still need to fill out an application for funding?

Yes. The Intake Form was not an application for funding—it was a means for prospective applicants who were interested in learning more about the program to provide their contact information so that staff could notify them with program updates. In addition, information submitted via the intake form helped to inform the design of the program. Applicants are not required to have submitted the intake form.

To be considered for grant funding, all eligible entities must submit a completed application for funding. The application and specific eligibility guidelines can be found at this link <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

23. What is the process to apply for a grant, and will I be notified if I am eligible or ineligible for an award?

All organizations seeking funding under the program will be required to complete an application. Following receipt of program applications, staff will be in touch with the applicant to collect any additional information necessary to make a conditional eligibility determination.

Applicants who are preliminarily deemed eligible for program assistance will then receive a conditional eligibility letter from ESD indicating additional terms and conditions, which is expected to require entering into a grant agreement with ESD, that the applicant must fulfill prior to receiving program assistance.

Applicants not eligible for funding will also be notified.

24. What is the timeline for a business to apply for a grant, and how long will it be until my application is approved?

ESD will accept applications beginning in November 2019 until **January 31, 2020** (postmarked by deadline). Following its application review, ESD will begin making eligibility determinations on a rolling basis.

25. If I experienced flood damage in 2019 and also have a demonstrated vulnerability to future flooding, should I submit two applications (one under each category)?

No. In this instance, each eligible applicant (generally based on individual Employer Identification Number) should submit one application and check both boxes in Section 1, #3 of the application. The distinction in the program is that priority will be given to applicants who have suffered flood damage in 2019 over those who did not experience damage but are nonetheless vulnerable to future flooding.

26. If a business has multiple project components, should it file multiple applications?

No, in this instance, each eligible applicant should only submit one application. Projects that have multiple resiliency components should instead submit extra pages for each resiliency component. As an example, a project might include one resiliency project component related to replacing fixed docks with floating docks, and a second distinct project component related to elevating certain facilities. For convenience, copies of the extra application pages can be found under "Additional Project Component Pages" on the program web page.

27. I have an LLC that owns several rental properties, do I file an application as an LLC or as an owner of multiple dwellings? Do I need to submit an application for each property?

The applicant can check both the LLC and owner of multiple dwelling boxes. For the purposes of better understanding the damages to each property, yes, we recommend that you submit a

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

separate application for each site. Only one set of common documents (e.g., tax returns, state issued IDs) needs to be submitted. Please note that all of the applications submitted in this manner will be reviewed as if they were a single application—the maximum award per eligible entity will be unchanged at \$200,000.

28. Can I apply for the program without having a contractor's price quote for my proposed project?

Yes. While applicants are encouraged to solicit and include quotes from contractors in their application to improve the accuracy of their project budgets, applicants are not required to have a quote from a contractor in order to first apply to the program. If no quotes are submitted, please provide the basis for how the estimate was developed in your application.

29. Do I need to submit engineering and architectural documents with the application?

No, detailed engineering studies or architectural documents are not required at time of the submission of your application and may be premature in cases where it is not, as designed, an eligible resiliency project. As noted in the application, applicants must provide the requested details of the project in the project narrative and provide a drawing to describe the vulnerability being addressed and the resiliency benefits of the proposed project. Applicants are encouraged to describe the site conditions as completely as possible.

With that said, if an applicant already has an engineering study or design, you are encouraged to submit it. Ultimately, ESD will work with applicants who are deemed to be conditionally eligible in an effort to understand and, as necessary, advise on how to modify a planned resiliency project such that it will be an eligible project. In particular, projects involving shoreline stabilization, landside stormwater/drainage, or storm/wastewater systems will likely require some consultation.

30. Is it possible the program application deadline will be extended past January 31, 2020?

At this time, the deadline remains January 31, 2020. If the program deadline is extended, updates will be posted to the program website at: <https://esd.ny.gov/lake-ontario-business-resiliency-program>, and ESD will make every effort to email all prospective applicants who have contacted staff or previously submitted an intake form.

31. Is there any additional assistance available to help me with my application?

Yes. Answers to other questions and application support can be obtained by calling (518) 292-5100 and referencing the program or by emailing LakeOntario@esd.ny.gov.

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

In addition to this document, ESD also hosted a webinar on December 12, 2019—a copy of this webinar has been recorded and published to the program website at: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

32. As a non-profit organization or a homeowners association, we do not have business owners. Whose state-issued identification must be submitted with the application?

Please submit a list of the organization’s current officers, and a photocopy of the state-issued ID for the person authorized to apply on behalf of the organization.

33. Do I need to submit my full business taxes, or just a few pages?

A complete set of 2018 state and federal tax returns are required for the business, including all tax return schedules and forms. If the business tax returns are not separate from the business owner’s personal taxes, then the complete 2018 state and federal personal tax returns must be submitted.

34. If I applied for a grant through the 2017 program, do I need to supply all of the deeds, maps and owner paperwork again?

Yes, applicants must submit all required documentation for this program whether or not it was submitted for the 2017 program.

V. Reimbursement Process and Timeline

35. When can I expect to be reimbursed through the program?

The time required to receive reimbursement will vary significantly depending on how complete applications are, the nature of any required permitting or environmental reviews, the applicant’s responsiveness to requests for additional necessary information from ESD, and other factors such as the time to complete the project itself. Ultimately, ESD will seek to work with each applicant to process funding as quickly as possible.

Following receipt of program applications, staff will be in touch with the applicant to collect any additional information necessary to make a conditional eligibility determination.

Applicants deemed eligible for program assistance will then receive a conditional eligibility letter from ESD indicating additional terms and conditions, which may require entering into a grant agreement with ESD, that the applicant must fulfill prior to receiving program assistance.

To be reimbursed, applicants who are deemed to be conditionally eligible must still complete their project, adhere to the additional terms and conditions provided by ESD and submit all of the necessary paperwork to Program satisfaction. Eligible applicants who complete all required steps will be reimbursed for 50% of the eligible costs, up to a maximum of \$200,000.

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

36. Can the program pay my contractor directly, or must I pay out of pocket and seek reimbursement?

No. As this is strictly a reimbursement program, applicants must submit proof of payment for all eligible project costs to be eligible to receive their 50% reimbursement (up to a \$200,000 maximum). Payments will be made only to awardees and will not be paid to contractors.

37. Will interim payments be made as project elements are completed?

As a general rule, no. ESD funding is provided on a reimbursement basis after a project has been completed. However, if an applicant or prospective applicant is unable to complete a resiliency project without a progress payment and/or is unable to access the necessary financing, provide an explanation in your completed application as to the nature and amount of the financial hardship that you are facing.

38. Will the state fund more than 50% of project costs?

No, State funds are limited to 50% of program costs, up to a maximum award of \$200,000. For projects costing greater than \$400,000, the program will only cover up to \$200,000 in project costs.

39. I have a financial hardship such that I am unable to finance the private matching portion of my resiliency project budget. Does the program provide any loan or financing options?

There is not a specific loan program available specifically under the REDI program. If you are attempting and struggling to obtain financing, please include this information in your application so that we can better understand your circumstances.

40. Is there a deadline by which I will need to complete my resiliency project to qualify for the grant funding?

No, at this time, a deadline has not yet been established for the completion of projects for the program. ESD may elect to establish a deadline in the future, however, and program funding is only available subject to re-appropriation in each year's New York State Budget.

VI. Local Matching Contribution

41. The program guidelines state that all projects are required to include a local matching contribution equal to 5% of the grant amount. Are applicants required to identify a local matching contribution prior to submitting an application”?

No, obtaining the local matching requirement is not required at the time of application—as stated in the application, an applicant must only accept and agree to the requirement to later solicit a local matching contribution. If an applicant is deemed to be conditionally eligible for

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

program assistance based on their application, then ESD will provide further guidance to the applicant in terms of securing their 5% local matching contribution.

42. What are eligible forms of local matching contributions that will be permissible?

A non-exhaustive list of local match options that ESD expects to consider includes the following:

- Waivers of the costs of ordinarily due project permits and fees by local governments and boards;
- Direct expenditures by local governments on project-related infrastructure costs;
- Tax abatements and exemptions from a local government or Industrial Development Authority (such as property and/or sales tax abatements), including when the value of such contributions are committed to be provided over multiple years; and
- Other financial assistance provided by governmental and quasi-governmental entities, including Local Development Corporations.

VII. Other Questions and Project Requirements

43. What are some other requirements that are associated with receiving program funding?

Prior to any payments of program assistance by ESD, for all resiliency projects, applicants will need to obtain all relevant federal, state and local permits and authorizations. Applicants are strongly encouraged to review the information on the Department of Environmental Conservation (DEC)'s website at: <https://on.ny.gov/rediguideance>, including the "Great Lakes and St. Lawrence River Coastal Development Fact Sheet" (PDF) at: https://www.dec.ny.gov/docs/water_pdf/rediguideance101819.pdf.

Depending on the nature of the project, the awarding of state program funds may also be subject to participation goals for minority- and women-owned business enterprises (MWBEs), the State Environmental Quality Review Act (SEQRA), the New York State Parks, Recreation and Historic Preservation Law, and/or the State Smart Growth Public Infrastructure Policy Act.

44. What projects will require MWBE participation goals?

MWBE participation goals will be assessed on a project-by-project basis, considering factors that include, but are not limited to, the size and nature of the project, opportunities for subcontracting, and the availability of MWBE contractors to complete the work. MWBE participation goals, if any, will be determined after the application is submitted, and if the application is considered conditionally eligible.

In cases where projects are assigned with MWBE participation goals, grantees will be required to use good faith efforts to achieve the prescribed MWBE goals assigned to the project and

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.

must maintain such records and take such actions necessary to demonstrate compliance with Article 15-A of the New York State Executive Law.

45. Is there going to be any expedited permit processing?

If desired, applicants may meet with their local DEC permit office for direction on project specific permitting needs prior to submitting their grant application. Such a meeting, however, is not required prior to submittal of a grant application.

46. Can a repair project previously funded in the 2017 grant program receive additional funding through this program if additional improvements are made to make it more resilient?

Yes. Recipients of grants from the 2017 program may be eligible for the 2019 program if they meet all of the other the program requirements.

47. I own two businesses, one that owns the land where the project will be located, and another that conducts business at the site. Will each business be eligible for a grant?

It depends. In cases where multiple eligible entities are applying for program assistance for a resiliency project at the same location, ESD may elect to collectively award the eligible entities not more than a maximum of \$200,000 in total program assistance.

Alternatively, in some cases, an owner may have multiple businesses that each undertakes its own resiliency project—for example, a marina that replaces its docks and a restaurant that undertakes resiliency measures. In such cases, if each business has a separate Employer Identification Number (EIN) and completes an independent resiliency project, ESD may consider awarding program assistance to each business for each project, with a per project cap of \$200,000.

48. My business is incorporated in another Country/State, am I eligible?

Yes. A foreign corporation that is authorized to do business in New York State and meets all other program requirements is eligible to apply.

49. I am still waiting for reimbursement from the 2017 program. When will I receive that funding?

If you are eligible for assistance and have not received reimbursement for costs associated with an approved application under the 2017 program, it is most likely because of missing paperwork or other required documentation. Please contact LakeOntario@esd.ny.gov immediately to avoid losing eligibility for program assistance.

For official program application and guidelines, see: <https://esd.ny.gov/lake-ontario-business-resiliency-program>.