

New York State
Lake Ontario-St. Lawrence River
Flood Relief and Recovery Program
2019 Guidelines for Financial Assistance
Updated November 6, 2019



**Homes and
Community Renewal**

**Housing
Trust Fund
Corporation**

OFFICE OF COMMUNITY RENEWAL

ANDREW M. CUOMO, GOVERNOR
RUTHANNE VISNAUSKAS, COMMISSIONER/CEO

2019 New York State Lake Ontario-St. Lawrence River Flood Relief and Recovery Program

Program

The 2019 Lake Ontario-St. Lawrence River Flood Relief and Recovery Program (the “Program”) is administered by New York State Homes and Community Renewal’s (HCR) Housing Trust Fund Corporation (HTFC).

Program Overview

Pursuant to Chapter 314 of the Laws of 2019 and the New York State FY 2020 State and Municipal Facilities Program appropriation, and subject to the availability of funding provided therein, the Program will provide funding to assist Eligible Homeowners (as defined herein) with direct disaster caused damages sustained as a result of severe flooding and raised water levels in the vicinity of Lake Ontario, the St. Lawrence River, Seneca Lake, the Seneca River, the Oswego River, the Oneida River, Oneida Lake, and Cross Lake (each a “Covered Waterway”) that that occurred in Cayuga, Jefferson, Monroe, Niagara, Orleans, Oswego, St. Lawrence and Wayne Counties (“Coverage Area”) from January 1, 2019 to September 30, 2019 (“Coverage Period”). The Program will offer recovery assistance for which insurance or other disaster recovery assistance is either not available, or insufficient. Eligible Homeowners may be awarded up to \$50,000 in grant funding to support repair and recovery related to their residence that sustained direct physical flood-related damage because of the raised water level of any Covered Waterway during the Coverage Period.

Coverage Period

January 1, 2019 to September 30, 2019

Program Administration

The Program will be administered through eligible not-for-profit housing organizations (Local Program Administrators or LPAs) serving the Coverage Area.

LPAs shall:

- Accept applications from homeowners;
- Compile and maintain documentation of disaster caused damage to the Eligible Homeowner’s Residence;
- Evaluate such damage;
- Report to HTFC, in a form to be prescribed, to confirm that the Program funds provided for each Eligible Homeowner have been expended for Eligible Activities, (as defined herein), pursuant to an agreement between the Eligible Homeowner and the LPA in a form approved by the HTFC, or to notify HTFC of any non-compliance with Program requirements; and

- Comply with the grant agreement between HTFC and the LPA for the administration of the Program.
- The LPA shall assist in administration of the Eligible Homeowner's grant pursuant to these Guidelines and HTFC's instructions.

Eligible Homeowners

Owners of a residence in the Coverage Area that sustained direct disaster caused damage, as a result of severe flooding and raised water levels in the vicinity of a Covered Waterway during the Coverage Period are eligible to apply. The owner must have held legal title to the property during the Coverage Period and maintain such ownership at least until the LPA provides confirmation that the Program funds have been expended for Eligible Activities. Property that was unoccupied or did not have a Certificate of Occupancy, or other documentation to substantiate legal occupancy as a residence during the Coverage Period is not eligible to receive funding. Homeowners who received grants under the 2017 Lake Ontario-St. Lawrence River Flood Relief and Recovery Program may be eligible for a grant if additional damage was sustained in the 2019 Coverage Period.

Income Limits

There are no income limits for primary homeowners.

Second homeowners (non-primary residents) shall only be eligible with respect to such non-primary residence so long as no individual on the deed of the home, or married couple, if they file their taxes jointly, had income of more than \$275,000 in the 2018 taxable year.

Applicant(s) must submit a copy of their federal or state income tax return for the 2018 income tax year. If the applicant is not required to file a tax return, the applicant must establish, to the LPA's satisfaction, through means other than a tax return, that no individual on the deed or married couple has a qualified gross income equal to or more than the eligible income standard.

Prioritization

Preference will be given to Eligible Homeowners that demonstrate the greatest need based on housing affordability, health and safety, or other such measures considered by the LPA; and/or based on disaster caused damage data provided by applicable State and/or federal agencies, if available.

Priority will be given to applications that address damage incurred to primary residences (defined herein) which sustained direct physical flood-related damage that threatens the safety of the home, or its major systems such as wells, sewer or septic.

Among second homeowner (non-primary resident) applicants, priority will be given to residences which sustained direct physical flood-related damage that threatens the safety of the home, or its major systems such as wells, sewer or septic. Priority for second homeowner applicants will be given to those residences where no individual on the deed of the home, or married couple, if they file their taxes jointly, had income of more than \$175,000 in the 2018 taxable year.

Determining Primary Residency

Although no single factor is solely determinative, factors which may be considered in determining if a property is occupied as a Primary Residence shall include, without limitation:

- (1) Listing by the owner of the property's address as his or her personal residence on any tax return, motor vehicle registration, driver's license, voter's registration form or other document filed with a public agency;
- (2) occupancy of the property by the owner as his or her personal residence for an aggregate of more than 183 days in the most recent calendar year, except for temporary periods of relocation for:
 - a. active military duty;
 - b. enrollment as a full-time student;
 - c. compliance with a court order;
 - d. employment requiring temporary relocation;
 - e. hospitalization for medical treatment;
 - f. or other reasonable grounds as determined upon application.

It is the responsibility of the LPA to determine primary whether the property qualifies as the owner's Primary Residence.

Trust Beneficiaries

A trust beneficiary who conveyed their home to trustees but continues to live in the home, may be eligible to apply for the Program. For example, a senior creates a trust and conveys her home to her children as trustees. If she remains in the home as the beneficiary of the trust, she is considered the homeowner and would be an Eligible Applicant.

Life Estates

Under a life estate, one party has a life tenancy (ownership for the rest of his or her life) and another party—the remainderman—will become the owner after the life tenant dies. While the deed may appear to convey ownership to the remainderman, the remainderman will not take title until the death of the life tenant. Therefore, for eligibility purposes, the life tenant is deemed to own the property and is an Eligible Applicant.

Award Amount

Eligible Homeowners may be awarded up to \$50,000 in grant funds for disaster caused damage to their residence which was not covered by any other federal, state, or local recovery program funds, or any third-party insurers. This represents the maximum grant amount per residence and is not intended to cover all losses sustained during the Coverage Period. All, or a portion of this amount may be awarded to the Eligible Homeowner, dependent upon the eligible scope of work. Applicants owning more than one residence may only receive Program benefits on one residence regardless of the amount in grant funds awarded. If a property contains two or more physically separate residences, the Program may assist only where each residence is separately owned and assessed. Separate applications by the respective homeowners are required.

Application Deadline

- **Primary Homeowners**

Applications from primary homeowners will be accepted beginning Tuesday, October 1, 2019 through Thursday, October 31, 2019. Applications must be postmarked no later than October 31, 2019 or submitted in person to the local not-for-profit administering the Program no later than 4:00pm on October 31, 2019. Please use a secure method to send your documents, such as registered or certified mail. This ensures that you will receive confirmation that your application has been received.

- **Second Homeowners**

Applications from second homeowners (non-primary residents) will be accepted beginning Wednesday, November 6, 2019 through Tuesday, December 10, 2019. Applications must be postmarked no later than December 10, 2019 or submitted in person to the local not-for-profit administering the Program no later than 4:00pm on December 10, 2019. Please use a secure method to send your documents, such as registered or certified mail. This ensures that you will receive confirmation that your application has been received.

Supporting Documentation

The disclosure of information and submission of supporting materials related to this application is voluntary. Applications received by the respective deadline will be accepted for further processing even if supporting documentation, such as bids, estimates and permits are pending. However, in order to move forward with evaluating an application for eligibility, all supporting documentation must be submitted. Failure to provide such in a timely manner may delay the applicant from receiving assistance or result in the application being deemed ineligible. The Program is subject to the availability of funding.

Eligible Activities

Program funds shall reimburse, on an incurred cost basis for direct disaster caused damage to the residence, not covered by any other federal, state, or local recovery program funds, or any third-party insurers. To the extent practicable, direct disaster caused damage should be supported with before and after photographs, videos, receipts or other evidence. The program is not intended as a substitute for insurance, or to pay for all losses sustained during the Coverage Period. It is primarily intended to meet up to a maximum grant amount of \$50,000, basic standards for a safe and habitable home. Eligible Activities may include, but are not limited to:

- Environmental health hazard mitigation activities related to the repair of disaster caused damage to a residence. This may include, lead based paint abatement, asbestos removal, mold remediation, or remediation of other health hazards, including testing and clearance costs
- Electrical and plumbing systems repair or replacement
- Sump pump repair or replacement, (if ancillary to a larger repair or replacement project)
- Furnaces, water heaters, water filtration systems, heating systems and sump pumps repair or replacement
- Refrigerators, cooking stoves and built-in appliances, such as dishwashers, repair or replacement

- Laundry washers and dryers repair or replacement
- Permanently installed paneling, wallboard, bookcases and cabinets repair or replacement
- Drywall or finishing
- Insulation
- Foundation repair
- Window and door repair or replacement
- Siding repair or replacement
- Flooring repair or replacement
- Bathroom repair
- Well or septic replacement, or connection to a municipal system
- Fuel tanks (oil or propane, but not actual fuel replacement)
- Dehumidifiers (eligible for replacement if ancillary to a larger repair or replacement project)

Additional Eligible Activities

- **Destroyed, or At-Risk Homes.** In limited circumstances, if a residence is structurally compromised, or destroyed making safe and habitable repair prohibitive, the Program may fund up to the maximum award amount to safely reposition and rebuild. Costs reasonably necessary to demolish, complete site remediation, and integrate flood resiliency and mitigation measures will be eligible for reimbursement. If the residence is to be rebuilt in a Special Flood Hazard Area, the homeowner shall be required to comply with flood insurance purchase requirements and local flood codes and requirements. To close out the Eligible Homeowner's contract the LPA shall request proof of insurance which may include, but not be limited to, a written application, method of premium payment, or the declarations page with the policy number and insurance company name.
- **Leased Land.** Residences on leased land may be eligible for consideration if there is a long-term lease of one year, or longer, and the land owner executes a landowner agreement in a form acceptable to the LPA, agreeing to the repair work.
- **Mobile and Manufactured Homes.** Repair or replacement of mobile and manufactured homes may be eligible for consideration if the home is permanently located. Distinguishing features may include poured concrete pads, permanent utility hookups, regular mail delivery to the address, or taxation as a residential property.
- **Travel Trailers and Fifth Wheel Trailers.** Travel trailers and fifth wheel trailers may be eligible for consideration if the home is permanently located. Distinguishing features may include poured concrete pads, permanent utility hookups, regular mail delivery to the address, or taxation as a residential property. Boats, motor vehicles, pop-ups, toy haulers, truck campers, motor homes and other vehicular structures designed for recreational, camping, travel or seasonal use are ineligible.
- **Materials.** Reimbursement for material purchases must be related to disaster caused expenses only and must have been purchased during, or after the Coverage Period. The Eligible Homeowner must submit verifiable date stamped receipts, or other documentation that demonstrates the materials purchased were for disaster caused recovery. The LPA shall conduct a site visit and document an inspection to confirm that repair work for Eligible Activities was completed and materials were used at the Eligible Homeowner's residence.

Ineligible Activities

Ineligible Activities include:

- Repairs that are cosmetic in nature
- Docks
- Boathouses
- Guest homes, pool houses, sheds, detached garages
- Personal property, such as vehicles, furniture, household goods, electronic equipment, window coverings and clothing
- General home improvements not related to direct disaster related damage
- Heating or cooking fuel replacement
- Portable and window air conditioners (exceptions for health-based hardships will be considered)
- Portable heaters, microwaves, and dishwashers
- Small countertop appliances, such as coffee pots, toaster, or blenders
- Garage door openers
- Swimming pools, hot tubs, saunas, or associated equipment
- Walks, decks, patios, fences, lawns and landscaping
- Luxury countertops, such as stone, granite, composite, or high-end luxury fixtures and appliances
- Fireplaces including wood, gas, or electric (exceptions for disaster caused damage to chimneys will be considered)
- Covered porches, patios, decks, stairs or driveways (exceptions will be considered if access to residence is impeded, or poses a documented safety hazard)
- Central air conditioning systems (exceptions for health-based hardships will be considered)
- Common areas of residential condominium and cooperative buildings, or associations.
- Food freezers
- Loss of use or access to the waterfront, beachfront for personal enjoyment
- Pre-existing damage or repairs resulting from deferred maintenance, and not directly disaster caused
- Moving and storage fees
- Supplemental work after a project has been deemed complete and the initial application is closed
- Homeowners Associations are ineligible entities

Additional Ineligible Activities

- **Reimbursement for Labor.** A contractor, or his/her immediate family members cannot receive Program funding for labor performed on a property that s/he owns. A conflict of interest exists due to the unique information and influence that the Eligible Homeowner has over developing work scopes, use of material, soliciting bids and evaluating satisfactory performance. Immediate family is defined as a spouse, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law. Materials may be reimbursed subject to the Eligible Activities stated herein.

Bidding Requirements

To the extent feasible, Eligible Homeowners shall be required to collect at least two separate estimates/bids for work to be performed. The LPA shall review the scope of work and estimates/bids to ensure cost reasonableness and prevent price gouging. The Eligible Homeowner may select a higher bidder, but the homeowner must agree in writing to contribute the difference in the bids. Exceptions may be considered on a case-by-case basis.

Process for Submitting an Appeal

Applicants have the right to appeal the decision of an LPA within (20) business days of receipt of notification that the application was awarded or denied.

Additionally, applicants who can substantiate they missed the deadline due to circumstances such as extended hospitalization, active military duty, or death of an immediate family member may submit an Appeal. A copy of the original application and denial letter must be submitted with the Appeal Form, along with written justification and supporting documentation.

The Appeal must be filed within a reasonable timeframe to be considered for good cause. The deadline for primary homeowners to appeal based upon a missed deadline is November 29, 2019. The deadline for second homeowners (non-primary residents) to appeal based upon a missed deadline is January 10, 2020.

A three-member Appeals Committee consisting of representatives of HCR who did not take part in the first determination will review appeals. All decisions by the Appeals Committee shall be final. The Appeals Committee is the sole arbiter in interpreting the intent and implementation of the Program and these Guidelines.

All appeals must be submitted on the prescribed Appeal Form and provide an explanation as to the basis for reconsideration. A copy of the award or denial letter, and documentation supporting the Applicant's claim should be included along with the Appeal Form. The appeal will be decided based on the submitted written record. No hearings will be held. Appeals cannot be accepted by phone.

The Appeal Form and all supporting documents may be emailed to floodrecovery@nyshcr.org, or mailed to:

NYS Homes and Community Renewal
Office of Community Renewal
"Appeals Committee"
38-40 State Street
Albany New York 12207

Non-Discrimination

An LPA 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. The LPA shall comply with all applicable federal, New York State and local fair housing and employment non-discrimination laws.

Amendments to Guidelines

HCR may amend these Guidelines, at any time and from time-to-time, to provide clarification during program administration.

NYS Executive Law Article 15-a

NYS Executive Law Article 15-A requirements that address employment and business opportunities on state contracts for minorities and women, are waived for exigent emergency disaster recovery circumstances. The LPA and Eligible Homeowners are encouraged, however, to promote and assist the participation of certified Minority and Women-owned Business Enterprises (MWBES).

Administrative Funding

Ten percent (10%) of Program funds awarded to an LPA may be used for eligible operating and administrative expenses.

Eligible Soft Costs

Eligible soft costs fall within the \$50,000 maximum grant award. If the LPA is covering soft costs and retaining a portion of the grant award for reimbursement, the homeowner's contract shall clearly outline those costs and a reimbursement statement.

Other Certifications

- Eligible Homeowners (or their approved contractors) may not begin work on an approved property until all required building, or other permits have been issued.
- Home improvement projects are identified in the State Environmental Quality Review ("SEQR") Act as "Type II SEQR Actions," which do not require environmental assessments. In the case of lead, asbestos, mold or other remediation activities the Eligible Homeowner (or their approved contractors) must adhere to all local, state or federal certification requirements.
- State Historic Preservation Office ("SHPO) is waived.
- Contractors must be certified under Environmental Protection Agency Renovation Repair and Paint ("EPA RRP") Regulations. LPAs are required to include this statement in their program material and contracts.
- Renovations made to properties located within Special Flood Hazard Area ("SFHA") must meet requirements as defined by federal and State law, and regulations. The local municipality is responsible for the application and enforcement of these requirements. To determine whether a property resides within a SFHA and ensure that repairs meet relevant requirements, please contact the local municipality. Homeowners may visit FEMA's Map Service Center at <https://msc.fema.gov/portal> to conduct a search. Contact information for local flood plain administrators is available upon request to HCR.

Recapture

HTFC may recapture Program funds if any such funds are disbursed in error, upon the basis of incorrect or incomplete documentation, disbursed for Eligible Activities not completed on a timely basis, as determined by HTFC, or for any instance of material misrepresentation in connection with the Program.