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January 31, 2013

GOVERNMENT AID AVAILABLE TO NONPROFITS FOR DISASTER RELIEF

As a result of Hurricane Sandy, many nonprofit organizations have had to incur significant unexpected costs. These costs may be as a result of actual physical damage to work sites, clean-up efforts, or services provided to the public. These expenses resulting from Hurricane Sandy may be eligible for reimbursement through the federal FEMA Public Grant Program. To be eligible, organizations must meet the eligibility requirements detailed below and submit a request for public assistance by **February 27, 2013 for all 13 counties in New York.**

There are two types of low interest loans available at the city and state level via New York City Business Solutions and Empire State Development. Both loan funds are offering emergency loans of up to \$25,000 to eligible private, nonprofit organizations at a 1% interest rate. At the federal level, the Small Business Administration ("SBA") offers disaster loans of up to \$2 million to private, nonprofit organizations suffering physical or economic damage as a result of the declared disaster. Additionally, there is an interest free loan program offered by the Fund for the City of New York. These loans will be made in amounts of \$5,000 to \$100,000.

FEMA PUBLIC GRANT PROGRAM

A private, nonprofit organization may be eligible for reimbursement of costs incurred as a result of Hurricane Sandy for debris removal, actions taken to protect lives and property, and the repair, replacement and restoration of facilities damaged by a disaster. Through the FEMA public assistance grant program, the Federal Government has agreed to reimburse 75% of the costs of the eligible work, and the remaining 25% constitutes the non-federal share, which the state may or may not decide to allocate funds towards. FEMA determines whether organizations are eligible after a Request for Public Assistance and background information on the organization is submitted. If you are unsure your organization is eligible, you should submit a Request for Public Assistance.

Eligibility Requirements

There are four components to eligibility. To make this determination, FEMA requests information from the nonprofit organization regarding tax exempt status, activities and programs provided by the organization, and the bylaws of the organization. The four components of eligibility are: the type of organization, the facility where work is conducted, the type of work necessary, and the cost.

Eligible organizations include certain private, nonprofit organizations. To be eligible, the nonprofit organization must be performing an essential government service. Organizations are

split into two categories: critical government services and essential services. Critical organizations provide services such as emergency, educational institutions, utility, water, and hospital care. Essential organizations provide services such as senior citizens centers, community centers, rehabilitation and long-term care. This distinction is important because the type of work eligible for reimbursement through a Public Assistance Grant depends upon the category of organization, which will be explained in the work section. After an application for Public Assistance is submitted, FEMA will make a determination as to the categorization of each organization. Even if you are unsure whether your organization is eligible, you should submit an application.

An eligible facility is any building, system, works, or equipment that is owned by the eligible nonprofit organization. The facility must be the responsibility of the eligible organization, located within the designated disaster area, and must be in active use at the time of the disaster. Additionally, the facility must not be under the authority of another federal agency, such as the US Army Corps of Engineers. Properties that are leased will be considered an eligible facility if the nonprofit is responsible for repairs. If a nonprofit is leasing the property, the lease must specifically state the nonprofit tenant is responsible for the repairs to the property. If the facility is multi-use, restoration will only be eligible to the immediate pre-disaster eligible purpose.

Eligible Work is work that is required as the result of the disaster and is the legal responsibility of the eligible applicant. The two categories of eligible work are emergency work and permanent work. Emergency work includes debris removal and emergency protective measures. Debris removal work is eligible for public property. Emergency protective measures include measures taken before, during, and after the disaster to reduce the threat to life, public health, safety, or significant damage to improved public and private property. Permanent work includes work done to roads, buildings and equipment, utilities, and parks and recreational facilities.

An organization categorized as critical is eligible for a public assistance grant for both emergency work and permanent work. An organization categorized as essential is eligible for a public assistance grant for emergency work, but must apply to the Small Business Administration for a loan for permanent work (see loan section below). If the loan is denied, the essential organization may then be eligible for a public assistance grant for permanent work.

Eligible Costs must be reasonable and necessary to complete the work; in compliance with federal, state and local requirements for procurement; and reduced by all applicable credits. The eligible cost criteria applies to all direct costs, including labor, materials, equipment and contracts awarded for the performance of eligible work.

To show costs are reasonable and necessary, it is important to keep accurate and up-to-date records of all costs incurred. FEMA has provided forms to help nonprofits to organize their costs. They are in the Applicant Handbook, located at: <http://www.dhses.ny.gov/oem/recovery/>.

Costs must be reduced by any insurance proceeds. Donated grants from banks, private organizations, trust funds, and contingency funds must be evaluated individually to determine if they are considered a duplication of funds, thereby reducing the eligible costs. Nonprofits that receive donated cash and resources must reduce the total cost of the project by these costs, but may decide whether to use these cost to reduce the federal or the non-federal share.

Application Process

To obtain a grant, the eligible nonprofit must submit a Request for Public Assistance (“RPA”) before **February 27, 2013**. The RPA is available at <http://www.dhSES.ny.gov/oem/recovery/> in the PNP Checklist/Forms link. You must complete all of the PNP forms. The forms include questionnaires regarding the use of and damage to the facility, your DUNS number (Dun and Bradstreet number), and a Substitute Form W-9, which requests your Federal Tax Identification Number. If you are unsure of where to find your DUNS number, contact the person in charge of bookkeeping for your organization. Along with the PNP forms, you must submit supporting documents including your certificate of incorporation and tax-exempt determination letter from the IRS, organizational charter or by-laws; material describing the organization and its services and a description of membership policies or fee structures. If you need help locating any of these documents, please contact Lawyers Alliance for New York for assistance.

After an applicant submits a RPA, the nonprofit will be assigned to a Public Assistance Coordinator (“PAC”). The PAC holds a kickoff meeting with the applicant where the extent of the recovery effort is assessed. The PAC then helps the applicant fill out project worksheets, which documents the necessary work for recovery. The project worksheets are then approved after being validated. The funds are made available to the state. The state makes the funds available to the applicant.

For additional information please visit <http://www.dhSES.ny.gov/oem/recovery/> or call New York State Office of Emergency Management: 518-485-1159.

How to submit the Request for Public Assistance:

- By fax to: (518) 322-4984
- By mail: State Office of Emergency Management
1220 Washington Avenue, Suite 101, Building 22
Albany, NY 12226-2251
- By e-mail to: John Grubsick at jgrubsick3@dhSES.ny.gov.

FEMA Appeals Process

In the event an organization is denied a FEMA Public Assistance Grant there is an opportunity to appeal that denial. There are two levels of appeal. The first level of appeal is to the Regional Director. The second level of appeal is to the Assistant Director at FEMA Headquarters. The applicant must file an appeal within 60 days of receipt of the denial. The applicant must submit documentation that supports the appeal and an explanation of why the original determination was incorrect and the amount of adjustment being requested.

New York City Council Hurricane Recovery Grant

New York City Council is awarding grants of up to \$1,500 to tax-exempt cultural organizations. Any cultural group whose site or collection was damaged and has salaried staff responsible for the cleanup is eligible to apply. Awards will be made on a rolling basis until the application deadline on January 31, 2012. These grants may be used to defray the cost of staff members

work associated with storm clean up and recovery. For more information and to apply, visit: <http://www.nyhumanities.org/grants/recovery12.php>.

SMALL BUSINESS LOANS

United States Small Business Administration Disaster Loans

The U.S. Small Business Administration (“SBA”) is offering loans to small businesses, which includes private, nonprofit organizations, for damage resulting from a declared disaster. There are two types of SBA disaster loans available to nonprofit organizations. Business Physical Disaster (“BPD”) loans are available to businesses located within the declared disaster area that have sustained physical damage from the storm. These loans are available for the cost of replacing property or restoring property to the condition it was in before the disaster. The SBA will not require collateral to secure the loan, but may require a pledge for available collateral. The application deadline for BPD loans is **January 28, 2013**.

Additionally, there are Economic Injury Disaster (“EID”) loans available to private, nonprofit organizations that have sustained substantial economic injury, regardless of any physical injury, due to a declared disaster. Substantial economic injury is the inability of the organization to meet its obligations as they become due and to meet ordinary operating expenses. EID loans are intended to allow the organization to maintain a reasonable working capital condition during the period after the disaster. As with a BPD loan, the SBA will not decline an EID loan for lack of collateral, but may require you to pledge available collateral. The application deadline for an EID loan is **July 31, 2013**.

As mentioned in the FEMA Public Assistance Grant section above, grant applicants categorized as essential, rather than critical organizations must apply for a SBA loan for permanent work. If the SBA denies a loan, or the loan does not cover the entire amount of the work required, the applicant may be eligible for a public assistance grant for the permanent work.

If eligible for a BPD or EID loan, private, nonprofit organizations may obtain a loan of up to \$2 million. The SBA may increase a loan up to 20 percent of the total amount of disaster damage to real estate and/or leasehold improvements, to make improvements that lessen the risk of property damage by future disasters of the same kind. EID loans are only available to organizations unable to obtain credit from other sources. The interest rate on EID loans will not exceed 4%. For BPD loans, the interest rate is determined by the ability of the nonprofit organization to obtain credit from other sources. If the organization is unable to obtain credit from other sources, the interest rate will not exceed 4%. If the organization is able to obtain credit from other sources, the interest rate will not exceed 8%. The repayment period for both types of loans is 30 years. For more information on SBA loans and for application forms, visit <http://www.sba.gov/category/navigation-structure/loans-grants/small-business-loans/disaster-loans>.

New York City Emergency Loan Program

The City of New York and Goldman Sachs and a consortium of local banks through the New York Banker's Association have made a small business loan fund of \$15 million available to businesses damaged as a result of Hurricane Sandy. The emergency loan program is administered by New York City Business Solutions and New York Business Development Corporation. The emergency loans are available to private nonprofit businesses located within the declared disaster area. To be eligible for a small business loan, the organization must have fewer than 100 employees, filed 2011 tax returns, including form 990, and have direct damage through flooding or power outages as a result of the disaster. The loan proceeds may be used to cover the costs of replacement and repairs to facilities or equipment or as working capital needed to restart or continue business operations.

If eligible, organizations may obtain a loan of up to \$25,000. The loans are interest free with no payment required for the first six months. After the first six months, the loans have a 1% interest rate and will be amortized over a 24 month period. For more information on obtaining an emergency loan through the NYC Business Solutions, visit www.nyc.gov/nycbusiness or your local New York Business Solutions Center listed below.

- Bronx Center: 400 East Fordham Rd., 7th Fl., Bronx NY 10458 (718) 960-7910
- Staten Island Center: 120 Stuyvesant Pl., 3rd Fl., Staten Island, NY 10301 (718) 285-8400
- Brooklyn Center: 9 Bond St., 5th Fl., Brooklyn, NY 11201 (347) 296-8021
- Upper Manhattan Center: 215 W. 125th St., 6th Fl., New York, NY 10027 (917) 493-7243
- Lower Manhattan Center: 79 John St., New York, NY 10038 (212) 618-8914
- Washington Heights Center: 560 W 181st St., 2nd Fl., New York, NY 10033 (212) 928-3400
- Queens Center: 168-25 Jamaica Ave., 2nd Fl., Jamaica, NY 11432 (718) 577-2148

Matching Grant Program

The City of New York, The Mayor's Fund and New York City Partnership Foundation are providing the NYC Matching Grant Program for businesses impacted by Hurricane Sandy. NYC Business Solutions and New York Business Development Corporation (NYBDC) will administer the loan program.

Nonprofits that have applied and been approved for a New York City Emergency Loan, and have been displaced from their workplace for 3 or more weeks or have been deemed by New York Business Development Corporation as suffering undue hardship, are eligible for a matching grant. The amount of the grant will match the amount of the approved loan funds, up to \$10,000. If your nonprofit meets the eligibility requirements, contact your local New York City Business Solutions Center at www.nyc.gov/nycbusiness or listed above.

New York State Emergency Loan Program

Empire State Development, the New York Bankers Association and the New York Business Development Corporation have set aside \$10 million for loans of up to \$25,000 to businesses with fewer than 100 employees in designated disaster areas: Orange, Putnam, Rockland, Sullivan, Ulster, Westchester, Nassau, and Suffolk Counties, as well as the five boroughs of New York City. Similar to the New York City emergency loans, state loans are interest- and payment-free for six months and then have 1% interest for the following 24 months. To be eligible, the business must be located within New York State, have fewer than 100 employees, have filed tax returns or Form 990 in 2011, and have direct damage as a result of Hurricane Sandy. The loan proceeds may be used to repair or replace damaged property or as working capital to continue business operations.

Businesses in NYC should apply to the NYBDC through the NYC Department of Small Business Services Business Solution Centers. For more information, please visit www.nyc.gov/sbs or call 311 and ask for “NYC Business Emergency Loan.” Businesses outside of NYC should apply to the NYBDC through their local NYS Small Business Development Center. To find your local Small Business Development Center, visit <http://www.nyssbdc.org/locations/locations.html> or call 800-732-7232.

New York City Nonprofit Recovery Loan Program

The Fund for the City for New York has developed a loan fund program of at least \$26 million worth of bridge loans to Nonprofit organizations to assist with cash flow issues during the period between Hurricane Sandy and anticipated revenues from grants, contract reimbursements, pledges, FEMA grants, and insurance payments. The loans are available to nonprofits located within the disaster area and may be used for operating and capital costs. The loans will be made against any insurance payments, government contracts, foundation, corporation and private grants.

Most notably, loans are interest free and will have no associated fees. Repayment periods will begin within 8 to 15 months of the disbursement. Loans will be made in amounts of \$5,000 to \$100,000. For more information and to apply to the Nonprofit Recovery Loan Program, visit: <https://rlp.fcny.org/rlp/about/>.

This alert is meant to provide general information only, not legal advice. If you have questions about this alert, please contact Linda Manley at (212) 219-1800 ext. 239 or visit our website at www.lawyersalliance.org for further information.

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, we help nonprofits to develop affordable housing, stimulate economic development, promote community arts, and operate and advocate for vital programs for children and young people, the elderly, and other low-income New Yorkers.