



## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Timothy Lizura  
President and Chief Operating Officer

**DATE:** November 15, 2013

**RE:** Retail Fuel Station–Energy Resiliency Program – Program Guidelines

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### **Request:**

The Members of the Authority are requested to review and approve the Program Guidelines for the Retail Fuel Station – Energy Resiliency Program (RFS-ERP). The guidelines are attached as Exhibit A. The members are also requested to extend signatory and delegated authority permissions to staff as detailed herein.

### **Background:**

The Hazard Mitigation Grant Program (HMGP) provides grants to states and local governments to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of the HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster. The HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Earlier this Fall, the Authority was asked by the Governor’s Office of Recovery and Rebuilding to work with other state agencies to develop and administer a program aimed at providing incentives to gas stations to allow for the installation of electric generators.

As a result of Superstorm Sandy, extensive power outages across the State rendered liquid fuel pumps and point of sale systems at many retail fuel stations inoperable. The RFS-ERP is a voluntary program designed to assist owners/operators of retail fuel stations with enhancing their operational resiliency. Working with the New Jersey Department of Environmental Protection (NJDEP) and the New Jersey Board of Public Utilities (NJBPU) approximately 270 retail fuel stations have been targeted for the incentive program based on fuel capacity and geographic

location on evacuation routes and heavily used roadways. Operational resiliency of individual stations will be enhanced by pre-wiring a back-up electric generator “quick-connect (QC),” transfer switch, and/or the installation of back-up electric generator units to energize primary retail fuel pumps, Point of Sale (POS) systems and/or requisite lighting and safety systems/equipment. An individual grant award for any purpose under this program will not exceed \$65,000. No other infrastructure hardening and/or mitigation work is within scope of this program.

The RFS-ERP will be funded with approximately \$7 million in Federal Emergency Management Agency (FEMA) HMGP money. The NJ Office of Emergency Management (NJOEM) designated as Grantee for the FEMA funding has requested the EDA, as sub-grantee, act as program administrator. A forthcoming Memorandum of Understanding (MOU) and State and Local Agreement between the NJEDA and NJOEM will outline each agency’s respective duties.

The generator incentive program is two-tiered as follows:

- Retail stations along targeted routes with gasoline fuel storage capacity between 30,000 gallons and 35,000 gallons are eligible for up to \$15,000 in grant funding to purchase quick connect technology or offset a portion of the cost of purchasing a generator. A limited number of gas stations with less than a 30,000 gallon capacity are eligible as they are the only station available on an identified evacuation route.
- Retail stations along targeted routes with gasoline fuel storage capacity greater than 35,000 gallons are eligible for up to \$65,000 in grant funding toward the purchase and installation of an onsite generator, which will cover in most instances the full cost of equipment and installation.

Under the grant parameters, eligible fuel stations are required to serve both diesel and gasoline, except in very limited instances where a station does not sell diesel but is the only available retail fuel outlet within a quarter mile of an identified evacuation route.

Eligible applicants will be invited to participate in the program. These include retail fuel stations selling gasoline and diesel fuel located within a quarter of a mile of key evacuation routes across the State. There will be an eight week open, rolling period for accepting applications. Applications will be reviewed on a first-received, first-processed basis. Applicants will be notified within approximately 45 days as to eligibility status. The timing will depend upon secondary reviews required by OEM and FEMA and additional time may be required if any issues are raised during the environmental and historical reviews. Assistance is subject to the availability of funds. A July 30, 2015 project completion deadline has been established for this program.

If it is determined that a vendor is required for the program in support of EDA’s Real Estate Division, EDA may work with Treasury to procure a vendor from their established vendor pool through a mini-bid process. Selected vendors may support the NJEDA by providing technical assistance in a number of areas anticipated to include review of cost estimates, perform site

inspections and Prevailing Wage/Davis Bacon/Affirmative Action compliance.

The NJEDA will receive limited support from the New Jersey Department of Environmental Protection (NJDEP) and the New Jersey Board of Public Utilities (NJBPU) in administering the program. A forthcoming MOU with these parties will outline their supporting roles with post closing monitoring and creating and maintenance of a database of emergency contact information of gas station owners/operators.

Staff anticipates that the MOU will be recommended to the Board at the December meeting and applications will be available immediately following the meeting.

Provided there is a sufficient number of completed applications available to submit to FEMA in December, then Staff anticipates a January Board presentation for the first State and Local Agreement to be considered for execution.

**Recommendation:**

The Members are requested to approve the following:

- 1) The RFS-ERP Guidelines (Exhibit A);
- 2) Extend permission for staff delegations to the Managing Director of Post Closing Financial Services and the Director of Real Estate to approve the award of grants and approve any modifications in accordance with the Board approved Program Guidelines.

Staff will provide a monthly report to the board for informational purposes identifying the approvals.

A handwritten signature in black ink, appearing to read "Timothy J. ...", is written over a horizontal line. The signature is cursive and includes a large flourish at the end.

Attachment: Appeal Process

Prepared by: Sandy Zeglarski and Lisa Petrizzi



**RETAIL FUEL STATION – ENERGY  
RESILIENCY PROGRAM  
PROGRAM GUIDELINES**

**November 2013**

# **Retail Fuel Station – Energy Resiliency Program**

## **Retail Fuel Station – Energy Resiliency Program Goal:**

To enhance the operational resiliency of retail fuel stations statewide which are located within a quarter of a mile of one of the key evacuation routes across the State and sells both diesel and gasoline from future electric power outages by incentivizing the permanent installation of back-up electric generator “quick-connects” and/or electric generator units to the fuel pumps. In addition to the generator incentive program for retail fuel stations, the State is acquiring and will maintain a strategic cache of emergency generators that can be deployed through state emergency responders during a major power outage to critical assets such as shelters, hospitals, public safety facilities, and retail fuel stations. The generator cache will be stored by the NJ Department of Transportation at strategically located facilities to help cover north, central and south response needs.

## **Program Description:**

Superstorm Sandy caused extensive power outages across the State that rendered liquid fuel pumps and point of sale systems at many retail fuel stations inoperable. The Retail Fuel Station (RFS) – Energy Resiliency Program is a voluntary program designed to assist eligible owners/operators of retail fuel stations enhance their operational resiliency. Operational resiliency of individual stations will be enhanced by pre-wiring a back-up electric generator “quick-connect (QC),” transfer switch, and/or the installation of back-up electric generator units to energize primary retail fuel pumps, Point of Sale (POS) systems and/or requisite lighting and safety systems/equipment. An individual grant award for any purpose under this program will not exceed \$65,000. No other infrastructure hardening and/or mitigation work is within scope of this program.

## **Program Funding:**

The Hazard Mitigation Grant Program (HMGP), administered by FEMA, provides grants to states and local governments to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of the HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate

recovery from a disaster. The HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

It is expected that the RFS- Energy Resiliency Program will be funded with approximately \$7 million in FEMA Hazard Mitigation Grant Program (HMGP) money. Grants of up to \$65,000 will be made available for eligible applicants to install back-up electric generator “quick connect” packages and/or back-up electric generators to energize point of sale systems and requisite lighting and safety systems.

- Grant awards up to \$15,000 available for targeted retail stations with gasoline fuel storage capacity between 30,000 to 35,000 gallons to purchase “quick connect” technology or offset a portion of the cost of purchasing a generator. A limited number of gas stations with less than a 30,000 gallon capacity are eligible as they are the only station available on an identified evacuation route.
- Grant awards up to \$65,000 available for targeted retail stations with gasoline fuel storage capacity greater than 35,000 gallons for the permanent installation of back-up electric generator units.

**Eligible Retail Fuel Stations:**

The targeted list of eligible retail fuel stations can be found here: [pdf download](#). If an eligible retail fuel station is not included on this targeted list, the retail fuel station may apply.

**Eligible Costs:**

Under the Retail Fuel Station – Energy Resiliency Program, the permanent installation of back-up electric generator “quick-connects” and/or the permanent installation of back-up electric generator units to energize primary retail fuel pumps, Point of Sale systems and/or requisite lighting and safety systems/equipments costs are eligible. No other infrastructure hardening and/or mitigation work is within the scope of this program.

**Eligibility Criteria:**

- Applicant is owner of the project site or operator with legal authority to make such permitting and construction alterations to the project site.
- Work on project has not commenced prior to approval of the grant.
- Located within a quarter of a mile of one of the key evacuation routes across the State.
- Retail fuel stations with gasoline fuel storage capacity between 30,000 to 35,000 gallons are eligible for up to \$15,000 to purchase quick connect technology or offset a portion of the cost of purchasing a generator. In addition, a limited number of fuel stations with less than a 30,000 gallon capacity are eligible for \$15,000 in grant funding as they were also the only stations available on an identified evacuation route.
- Retail fuel stations with gasoline fuel storage capacity greater than 35,000 gallons are eligible for up to \$65,000 toward the purchase and installation of an onsite generator.
- Retail fuel station must sell both gasoline and diesel fuel. (If a station does not sell diesel but is the only available retail fuel outlet within a quarter mile of an identified evacuation route, it will be eligible).
- Retail fuel station must have an effective UST (underground storage tank) registration

**Conditions:**

- Work must be completed and documentation submitted to the EDA within 6 months of the applicant's receipt of the grant agreement. If the retail fuel station was lawfully licensed to operate on October 29, 2012 and sustained verifiable physical damage as a result of Superstorm Sandy, the owner/operator will have one year from date of program launch to complete reconstruction and elevation work and meet all program conditions.
- Applicant must ensure a maintenance contract for permanent generator be in place for 5 years from date of final approval of municipal building inspector
- Applicant must comply with Prevailing Wage/Davis Bacon requirements
- Valid Tax Clearance Certificate at approval
- Flood insurance required, if project site in flood plain (V Flood Zone) *and must be maintained in perpetuity in minimum amount of grant award (FEMA to verify)*
- Must be a US citizen or provide proof of non-citizen national or qualified alien status



- Satisfactory debarment review for applicant and contractor(s) (similar to Sandy grant application questions with price gauging)
- Project must comply with all environmental and historic preservation laws and requirements.

All local permitting should be obtained including the Local Use and Occupancy inspection from municipality. A NJDEP air permit may be required should the size of the permanent generator and its heat input exceed the permitted thresholds. Municipalities will be notified of program participation.

**Application Process:**

- Eligible applicants will be invited to participate in the RFS – Energy Resiliency Program. There will be an eight week open, rolling process for accepting applications.
- Completed applications will be reviewed on a first-received basis. The application will gather specific information about the applicant and project responsive to program requirements.
- Applications received from operator of project site must demonstrate legal authority to make such permitting and construction alterations to the project site.

**Application Approval Process:**

- If it is determined a vendor is required, EDA may work with Treasury to support the NJEDA in application review process by providing technical oversight, performing site inspections and providing Prevailing Wage/Davis Bacon oversight.
- Once an application is deemed complete, the application and all accompanying documentation will be reviewed by EDA staff and the Vendor to determine if it meets program parameters and is eligible. The application and supporting documentation will be submitted to OEM and FEMA for review and approval.
- The applicant will be notified within approximately 45 days as to eligibility status. The timing will depend upon secondary reviews required by OEM and FEMA and additional time may be required if any issues are raised during the environmental and historical reviews.

A grant agreement will be executed between the EDA and the applicant outlining the conditions of the grant award. The applicant will be required to complete the installation of a quick connect and submit all the necessary documentation no later than 6 months from the date the applicant received the grant agreement. The applicant will be required to complete the installation of a permanent generator and submit all the necessary documentation no later than 9 months from the date the applicant received the grant agreement. If zoning board approval is required in order to complete the installation of the permanent generator, the applicable time waiting for the hearing in front of the local zoning board and its subsequent decision will be tolled. The applicant must inform the EDA in writing upon notification that a zoning board approval is required and provide evidence of its decision.

### **Project Completion Process**

- The applicant will be required to complete a project completion certificate and attach the required documents in order to receive disbursements of funds. A final project review will include a site inspection, anticipated to be performed by the Vendor, to take place two weeks from date of receipt of the project completion certificate.
- Upon satisfactory review of the project completion documentation, EDA will submit said documentation to OEM and FEMA for approval and requisition the funds to be disbursed to the applicant.

Funding of projects will depend on the applicant's ability to provide completed information and all required documentation within the timeframes specified within the grant agreement.

A July 30, 2015 project completion deadline has been established for this program.

All awards are subject to availability of funds.

### **Appeal Process:**

An applicant may appeal NJEDA's decision by submitting in writing to NJEDA no later than 20 calendar days from the date of the denial, an explanation as to how the applicant has met the program criteria. Such challenges are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The CEO of NJEDA shall designate an employee of NJEDA to serve as a hearing officer for the challenge and to make a recommendation on the merits of the challenge to the Board according to the attached process.

### **Compliance Process**

- NJDEP has agreed, in conjunction with their annual underground storage tank inspections, to verify certain program requirements. We anticipate NJDEP verifying the current operation of the quick connect or permanent generator, continued operation and ownership of the project site in a similar manner, and current emergency contact information of the owner or operator of the gas station.
- NJBPU has agreed to create and maintain a database of emergency contact information of station owners who have back-up generation capabilities. This information will be used by NJOEM in an emergency situation whereby portable generators are needed to be strategically deployed throughout the State. In addition, NJOEM will be able to reach out to gas station owners to determine when they will be operational to sell fuel to the surrounding communities.
- The EDA will consider recapturing all or part of a grant or rescinding or terminating a grant agreement if terms or conditions set forth in the grant agreement are not met.

### **Reporting:**

Approved projects will be subject to all reporting required by NJOEM and FEMA including, but not limited to: labor requirements, historical reviews and environmental requirements. To the extent that other reporting requirements may apply, the applicant will be made aware and will have to provide information sufficient to satisfy those requirements.

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (NJEDA)

RETAIL FUEL STATION – ENERGY RESILIENCY PROGRAM

APPEAL PROCESS

An applicant may challenge the NJEDA's decision by submitting in writing to the NJEDA no later than 20 calendar days from the date of the denial, an explanation as to how the applicant has met the program criteria. Such challenges are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Challenges that are timely submitted shall be handled by the NJEDA as follows:

1. The CEO of the NJEDA shall designate an employee of the NJEDA to serve as a hearing officer for the challenge and to make a recommendation on the merits of the challenge to the Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer shall have sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the challenge. The NJEDA may consider new evidence or information that would demonstrate that the applicant meets all of the application requirements.
2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Board containing his or her finding(s) and recommendation(s) on the merits of the challenge. The hearing officer's report shall be advisory in nature and is not binding on the Board. The CEO, or equivalent officer, of the NJEDA may also include a recommendation to the written report of the hearing officer. The applicant shall receive a copy of the written report of the hearing officer and shall have the opportunity to file written comments and exceptions to the hearing officer's report within a reasonable amount of time from receipt of such report.
3. The Board shall consider the hearing officer's report, the recommendation of the CEO, or equivalent officer, if any, and any written comments and exceptions timely submitted by the applicant. Based on that review, the Board shall issue a final decision on the challenge. Such decision shall become effective 10 working days after the Governor's receipt of the minutes of the public meeting at which such decision occurs, provided no veto has been issued. The applicant shall have the opportunity to attend the public meeting at which the Board considers its challenge.
4. Final decisions rendered by the Board shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing Courts of the State of New Jersey.