

CHAPTER 6

**OFFICE OF ENVIRONMENTAL SERVICES
MATCHING GRANTS PROGRAM FOR
LOCAL ENVIRONMENTAL AGENCIES**

Authority

N.J.S.A. 13:1H-1 et seq. and 13:1H-8 et seq.

Source and Effective Date

R.2006 d.215, effective May 15, 2006.
See: 37 N.J.R. 4717(a), 38 N.J.R. 2687(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 6, Office of Environmental Services Matching Grants Program for Local Environmental Agencies, expires on May 15, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 6, Boating Regulations, was adopted and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 6 expired on December 19, 1988.

Chapter 6, Boating Regulations, was adopted as emergency new rules by R.1989 d.244 and d.245, effective April 12, 1989. See: 21 N.J.R. 1157(a); 21 N.J.R. 1157(b). The provisions of R.1989 d.244 and d.245 were readopted as R.1989 d.351 and d.352, effective June 9, 1989. See: 21 N.J.R. 1157(a), 21 N.J.R. 1856(a); 21 N.J.R. 1157(b), 21 N.J.R. 1856(b).

Chapter 6, Boating Regulations, was repealed by R.1994 d.205, effective April 18, 1984. See: 26 N.J.R. 744(a), 26 N.J.R. 1673(a).

Chapter 6, Office of Environmental Services Matching Grants Program for Local Environmental Agencies, was originally codified in Title 7 as Chapter 5, Office of Environmental Services Matching Grants Program for Local Environmental Agencies. Chapter 5 was adopted as by R.1990 d.577, effective November 19, 1990. See: 22 N.J.R. 2392(a), 22 N.J.R. 3505(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, Office of Environmental Services Matching Grants Program for Local Environmental Agencies, was readopted as R.1995 d.646, effective November 16, 1995, and Appendix A, Model Resolution Recommending Approval of Application for Funding Under the OES Matching Grant Program, was repealed by R.1995 d.646, effective December 18, 1995. See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, Office of Environmental Services Matching Grants Program for Local Environmental Agencies, was readopted as R.2000 d.498, effective November 16, 2000, and Chapter 5 was recodified as N.J.A.C. 7:6 by R.2000 d.498, effective December 18, 2000. See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

Chapter 6, Office of Environmental Services Matching Grants Program for Local Environmental Agencies, was readopted as R.2006 d.215, effective May 15, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL INFORMATION

7:6-1.1 Scope and authority

This chapter constitutes the rules of the Environmental Services Program (ESP) in the Department of Environmental Protection for the ESP Matching Grants Program for Local Environmental Agencies, providing for the award of grants to such agencies in accordance with the Environmental Aid Act (Act), N.J.S.A. 13:1H-1 et seq.

Amended by R.2000 d.498, effective December 18, 2000.
See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

7:6-1.2 Construction

This chapter shall be liberally construed to allow the Department to fully effectuate the purposes of the Act.

7:6-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” means the Environmental Aid Act, P.L. 1972, c.49 as amended by P.L. 1975, c.334, N.J.S.A. 13:1H-1 et seq.

“Applicant” means the local environmental agency that submits an application for a matching grant in accordance with these rules.

“Department” means the Department of Environmental Protection.

“ESP” means the Environmental Sciences Program in the Department.

“ESP Matching Grants” means grants awarded by the ESP to local environmental agencies in accordance with the Act.

“Governing body” means, in the case of a county or municipal environmental commission, the elected board, council, or committee of a county or municipality to which an environmental commission is accountable and by which any appropriation to the environmental commission must be approved. In the case of a soil conservation district, the governing body means the district board.

“Grant recipient” means the local environmental agency applicant named in a project agreement whose application has been approved for funding under the ESP Matching Grants Program.

“Local environmental agency” means either a municipal environmental commission certified by ordinance, joint environmental commission established by two or more municipalities, county environmental commission or soil conservation district certified by the State.

“Local government unit” means a county, municipality or soil conservation district.

“National Environmental Performance Partnership System (NEPPS)” means the document which describes the joint United States Environmental Protection Agency and Department System that emphasizes results-based management through the development of long-term environmental goals, milestones and use of environmental indicators as measures of progress.

“Personal property” means capital-type goods, capable of being reused in the future, such as equipment and machinery. It does not include such items as office supplies, computer software and other consumable goods.

“Program” means the ESP Matching Grants Program.

“Project agreement” means a document executed by the Department and the grant recipient which provides grant assistance for a project approved by ESP.

“Statewide Development and Redevelopment Plan” means the Plan adopted pursuant to the State Planning Act, N.J.S.A. 52:18A-196, et seq. The plan in effect as of January 5, 1998 was adopted on June 12, 1992.

Amended by R.1995 d.646, effective December 18, 1995.
See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).
Amended by R.2000 d.498, effective December 18, 2000.
See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).
Rewrote the section.

7:6-1.4 Severability

If any subchapter, section, subsection, clause or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter section, subsection, provision, clause portion or application directly involved in the controversy in which such judgment shall have been rendered and it shall not

affect or impair the remainder of this chapter or the application thereof to other persons.

SUBCHAPTER 2. ELIGIBILITY FOR ESP MATCHING GRANTS

7:6-2.1 Eligible applicants

Local environmental agencies are eligible to submit applications for ESP Matching Grants.

Amended by R.2000 d.498, effective December 18, 2000.
See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

7:6-2.2 Eligible projects and costs

(a) The following projects qualify for ESP Matching Grants through the Program:

1. Natural and environmental resources inventories or portions thereof including, but not limited to, identification of stream corridors, water quality, wetlands, floodplains, forestry resources, steep slopes, important open spaces, scenic areas, wildlife habitat, cultural features and potential public recreation and conservation lands;
2. New and updated planning studies and reports describing strategies to protect natural and environmental resources including, but not limited to, plans for the creation, protection or preservation of greenways; open spaces; stream corridors; ground water resources and well head protection areas; forestry or scenic resources; urban, suburban and rural trails or bikeways;
3. Preparation of draft ordinances or master plan amendments to protect natural and environmental resources for referral to a municipal or county governing body;
4. Projects designed to educate or to disseminate information to the public concerning environmental resources including, but not limited to, projects which individuals, public institutions and business entities can undertake to protect the environment;
5. Projects that would assist the Department in obtaining information or environmental indicators that will help measure progress towards the environmental goals established in the National Environmental Performance Partnership System (NEPPS); and
6. Projects designed to inventory the quality of life factors in all aspects of the environment in an urban setting.

(b) The following items are eligible for funding by the Program, when incurred in implementing qualifying projects listed in (a) above:

1. Costs of materials, supplies and reproduction for reports, policy recommendations, draft ordinances, publications, maps, diagrams and other similar documents;

2. Fees and direct expenses for consultants, including, but not limited to, those for architects, attorneys, cartographers, computer data base managers, engineers, environmental resource consultants, historic preservationists, landscape architects and planners, which may not exceed 50 percent of total project costs unless otherwise determined to be eligible expenses by the Department; and

3. The purchase of personal property which is determined by ESP to be required for the execution of a project. The applicant shall request in writing prior, written approval from the ESP before these costs may be considered. Requests for approval will be considered as part of the filing of the initial application.

(c) None of the following items and costs are eligible for funding by the Program, nor will they be considered matching funding on the part of a local environmental agency:

1. Charges for time spent by volunteers or paid municipal and county employees;
2. Fringe benefits and stipends;
3. Costs of acquisition of real property;
4. Real estate appraisals;
5. Construction or real estate improvement activities of any kind;
6. Bonus payments of any kind;
7. Charges for contingency reserves;
8. Charges for deficits or overdrafts;
9. Interest expenses;
10. Costs of services, materials or equipment obtained under any other State grant or loan program;
11. Contract cost overruns, not approved by ESP, that exceed the allowable amount as per the contract specifications;
12. Costs of fund raising;
13. Costs of lobbying;
14. Costs of all work which is performed outside the approved work period or which is not included in the scope of work set forth in the project agreement, unless otherwise approved in writing by ESP as such; or
15. Work performed on behalf of a county or municipal government which has not been awarded in compliance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

Amended by R.1995 d.646, effective December 18, 1995.
See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).
Amended by R.2000 d.498, effective December 18, 2000.
See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).
Rewrote the section.

SUBCHAPTER 3. ALLOCATION OF ESP MATCHING GRANT FUNDING

7:6-3.1 Funding availability

The availability of ESP Matching Grant funds is subject to legislative appropriation. The Department will express its intent to fund a project through a letter of award to the applicant. Funding is guaranteed only after a project agreement has been executed by the Department and funds are subsequently obligated by the Department to the local environmental agency for a particular project.

Amended by R.1995 d.646, effective December 18, 1995.
See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).
Amended by R.2000 d.498, effective December 18, 2000.
See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

7:6-3.2 Ranking of grant applications

(a) Each year, available ESP Matching Grant funds shall be allocated in accordance with a ranking of applications received by ESP, based upon the criteria listed in (b) below.

(b) All applications for ESP Matching Grants in a given year shall, for the purpose of determining priority for funding, be ranked on the basis of the degree to which the proposed project:

1. Has the broad support of other local or county agencies, civic groups, etc. Letters of endorsement may be submitted to ESP as evidence of such support;
2. Is responsive to regional as well as local needs. Projects undertaken jointly by adjacent local environmental agencies are encouraged;
3. Helps to integrate planning and regulatory goals of the Department into the local and regional planning;
4. Will document and protect environmental resources that are of particular importance to local governments in implementing the State Development and Redevelopment Plan;
5. Is designed to produce a definitive strategy to protect a resource area, particularly projects which integrate regulation of environmentally sensitive areas with local, regional and Statewide open space and recreation planning;
6. Will address urban environmental needs, particularly planning which integrates such things as open space and recreation with historic resources protection and urban forest management; and
7. Will raise awareness of the public's responsibility to actively participate in protecting the environment.

Amended by R.1995 d.646, effective December 18, 1995.
See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).
Amended by R.2000 d.498, effective December 18, 2000.
See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

In (a), deleted "within each of the funding categories set forth in N.J.A.C. 7:5-3.2" following "shall be allocated"; rewrote (b).

7:6-3.3 Grant amount

The minimum Matching Grant shall be \$1,000; the maximum grant shall be \$2,500 to any local environmental agency, except that in the case of joint environmental commissions the maximum shall be \$2,500 per participating municipality. The contribution by the Department shall not exceed 50 percent of a cost of the project which qualifies for assistance under the Act and this chapter.

7:6-3.4 Grant payment

The entire grant amount shall be paid to the grant recipient in one sum, following receipt and acceptance by ESP of all agreed upon work product or products of a project, and upon compliance with all terms of the project agreement required under N.J.A.C. 7:6-4.3(a).

Amended by R.1995 d.646, effective December 18, 1995.

See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).

Amended by R.2000 d.498, effective December 18, 2000.

See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

Inserted "products" preceding "of a project."; amended N.J.A.C. reference.

7:6-3.5 Matching funds

A local environmental agency's share of project funding shall be in the form of funding dedicated to the agency for the project. The source of matching funds may be outside a local government unit budget provided the matching funds are transferred to the local government unit and dedicated specifically for the local environmental agency's project. The availability of the matching funds must be certified by the resolution adopted by the governing body of the local government unit as required under N.J.A.C. 7:6-4.3(c) prior to the execution of the project agreement.

Amended by R.1995 d.646, effective December 18, 1995.

See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).

Amended by R.2000 d.498, effective December 18, 2000.

See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

Substituted "7:6-4.3(c) prior to the execution of the project agreement" for "7:5-4.3(c)" at the end.

SUBCHAPTER 4. APPLICATION AND PROJECT AGREEMENT PROCEDURES

7:6-4.1 Announcement of funding availability

Announcement of funding availability and the opening and closing dates for submission of ESP Matching Grants applications shall be published by the ESP in the New Jersey Register as required by and in accordance with N.J.S.A. 52:14-34.4.

Amended by R.2000 d.498, effective December 18, 2000.

See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

7:6-4.2 Application and review sequence

(a) Local environmental agencies shall submit the following items to the ESP.

1. A completed application form;
2. In the case of a municipal or joint municipal environmental commission, a certified true copy of the ordinance creating the local environmental agency, which ordinance shall indicate that such agency has the power to conduct projects such as the proposed project and was established pursuant to the State enabling legislation, N.J.S.A. 40:56A-1 et seq. In the case of a county environmental commission, a certified true copy of a resolution creating the local environmental agency, describing its powers and duties, and indicating that it has the power to conduct projects such as the proposed project. In the case of Soil Conservation Districts, evidence of State certification shall suffice to satisfy this requirement;
3. A letter of intent from the chief financial officer or chief elected official of the local government unit expressing support for the project and the expectation that matching funds will be made available if the application is approved and funded; and
4. Letters of endorsement for the proposed project, if any, from interested parties directly or indirectly affected by the proposed project.

(b) A notice of receipt of the application will be sent by the ESP to each applicant.

(c) ESP shall notify each applicant of its determination to approve, conditionally approve or deny the application.

1. ESP will send a letter of award to each grant recipient whose application has been approved for funding.
2. Final approval shall be contingent upon such other conditions as ESP shall include in a notification of conditional approval to the applicant.
3. ESP will promptly notify the applicant in writing of any denial of an application and provide reasons for such denial. A denial of an application shall not preclude its reconsideration during a subsequent application period if revised and resubmitted by the applicant.

(d) Application materials become the property of the Department and will not be returned to the applicant.

Amended by R.1995 d.646, effective December 18, 1995.

See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).

Amended by R.2000 d.498, effective December 18, 2000.

See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

7:6-4.3 Development and execution of project agreement

(a) If ESP approves the application submitted pursuant to N.J.A.C. 7:6-4.2, the grant amount shall be determined as specified at N.J.A.C. 7:6-3.3 and in accordance with an executed project agreement between the Department and the applicant. The project agreement shall specify, among other things, the following:

1. The amount of the grant;
2. The project scope;
3. The work period, not to exceed one year;
4. The itemized budget; and
5. The work product to be submitted to the ESP.

(b) During the period between transmittal of the letter of award pursuant to N.J.A.C. 7:6-4.2(c) and the execution of the project agreement pursuant to (d) below, ESP and/or the applicant may revise the project proposal as necessary to meet the requirements for a project agreement set forth at (a) above. Any such modifications shall be mutually agreed upon in writing by ESP and the applicant.

(c) The local environmental agency shall submit the following resolutions to ESP before execution of the project agreement by the Department and start of the project by applicant:

1. A resolution adopted by the local environmental agency authorizing, by title, an official to execute the project agreement on behalf of the local environmental agency. In the case of a municipal, joint municipal, or county environmental commission, the official so authorized may be an officer of the local environmental agency, a member of the governing body of the local government unit or an appropriate local government employee.

2. A resolution adopted by the governing body of the local government unit authorizing the local environmental agency to enter into the project agreement and certifying that the matching funds will be provided for the project.

3. In the case of a Soil Conservation District, the resolutions required in (c)1 and 2 above may be combined into one resolution passed by the governing body of the Soil Conservation District.

(d) ESP will provide samples of the resolutions required under (c) above with the letter of award sent to the local environmental agency pursuant to N.J.A.C. 7:6-4.2(c).

(e) The ESP will prepare and transmit duplicate copies of the project agreement to the grant recipient for execution. The grant recipient shall execute such duplicate copies of the project agreement and return them by the date specified in the ESP transmittal letter.

(f) After the Department executes the project agreement, ESP shall transmit a copy with original signatures to the grant recipient.

(g) The grant award shall become effective upon execution of the project agreement by the Department and the grant recipient, and shall constitute an obligation in the amount and for the purposes stated in the project agreement.

(h) The terms and conditions, scope of services, budget, and schedule of the project agreement may be amended or modified in accordance with procedures established in the project agreement if mutually agreed upon by the Department and the local environmental agency.

New Rule, R.1995 d.646, effective December 18, 1995.

See: 27 N.J.R. 3264(a), 27 N.J.R. 5014(a).

Amended by R.2000 d.498, effective December 18, 2000.

See: 32 N.J.R. 3520(a), 32 N.J.R. 4446(a).

Amended N.J.A.C. references throughout; in (b), inserted "in writing" following "agreed upon".