

Dedicated to expanding the application of proactive floodplain management in the Commonwealth of Virginia.

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January 31, 2021

Lisa McGee
Virginia Department of Conservation and Recreation
600 East Main Street, 24th Floor
Richmond, Virginia 23219

RE: Community Flood Preparedness Fund Draft Guidelines

Ms. McGee:

The Virginia Floodplain Management Association (VFMA) appreciates this opportunity to comment on the Department of Conservation and Recreation's (DCR) draft guidelines for implementation of the Community Flood Preparedness Fund (Fund). VFMA is a non-profit dedicated to expanding the application of proactive floodplain management across the Commonwealth, representing floodplain management professionals from local governments, state and federal agencies, private firms, and non-profits.

Please accept our comments below on the Community Flood Preparedness Fund Draft Guidelines (Draft Guidelines). In a joint letter with partners submitted on January 27, 2021, VFMA shared comments on the Community Flood Preparedness Fund Draft Guidelines (Draft Guidelines). Many of those partners have submitted individual comments, which we also support.

VFMA appreciates the significant efforts made by the Northam Administration to address the Commonwealth's resilience to flooding and climate change. Flooding is a statewide issue, and VFMA applauds the Northam Administration and the General Assembly for creating a fund that will provide greatly needed resources to all Virginia communities.

Stakeholder Engagement

First, we believe that extensive stakeholder engagement is necessary to not only establish this new program, but to ensure it continues as a stable resource for localities to increase their resilience to flooding. While some stakeholder engagement occurred, including an event hosted by VFMA with Deputy Secretary of Natural Resource Joshua Saks, the lack of detail included in the Draft Guidelines has made it difficult for our members and other stakeholders to provide substantive feedback.

As such, we respectfully request that DCR revise the Draft Guidelines to address the issues raised during this public comment period and release the revised Draft Guidelines for additional public review and public comment. We request that DCR conduct extensive outreach to stakeholders related to the revised Draft Guidelines, both before and during the public comment period.

VFMA recognizes that many of the details missing from the Draft Guidelines, such as application requirements and scoring criteria, will be addressed in the forthcoming Grant Manual. During multiple outreach events, confirmation was not provided that the Grant Manual would be made available for public comment. We request that DCR publicly commit to a public comment period for the forthcoming Grant Manual. Furthermore, we request that this public comment period last at least 60 days and that DCR conduct extensive outreach to stakeholders related to the Grant Manual, both before and during the public comment period.

Additionally, we request that DCR establish a workgroup to help develop the Grant Manual. At a minimum, this workgroup should represent local governments and Planning District Commissions (PDC) from **across the state** to ensure that the different flood-related and socioeconomic challenges faced by **all** communities are considered. However, technical experts from non-governmental organizations, higher education institutions, and other entities should also be represented on this workgroup.

Commonwealth Resilience Planning Principles

VFMA supports the guiding principles of the Virginia Coastal Master Planning Framework (Framework) and agree that in general, these principles can be applied statewide to help prioritize projects for the Fund. However, the Draft Guidelines apply statewide, and using the exact language from the Framework is confusing because some of the guiding principles use coastal-specific language. We recommend rephrasing the Framework's guiding principles to be representative of the entire state when including them in the Draft Guidelines. For example, the second guiding principle could be modified to replace "coastal" with "flood", so it reads: "Identify and address socioeconomic inequities and work to enhance equity through coastal flood adaptation and protection efforts." This does not change the applicability in a coastal context, but it does clarify that this guiding principle applies statewide.

Program Goal for the Fund

The Draft Guidelines outline the goal of the Fund and state the fund will prioritize projects that align with "local, state, and federal floodplain management standards, local resilience plans and the Virginia Coastal Resilience Master Plan." We recommend rephrasing this statement to clarify that the Virginia Coastal Resilience Master Plan applies to projects in coastal communities only. This could be done by adding a new sentence, such as "In coastal localities, projects in concert with the Virginia Coastal Resilience Master Plan will also be prioritized."

Will there be additional consideration for projects not in coastal communities? The Flood Protection Plan for the Commonwealth could be an opportunity for this. We do not recommend referencing the Flood Protection Plan in its current form, as it does not identify clear, statewide priorities for addressing flood risk. However, DCR is required to update this plan,¹ and the updated version could serve this purpose. We recommend that DCR conduct extensive stakeholder engagement as part of their update to the Flood Protection Plan, as well as a public comment period.

Priority Elements of the Fund

Project Grants

The Draft Guidelines state that grants and loans will be provided for projects that are "in accordance with local and regional resilience plans, statewide guidance on freeboard standards and sea level rise projections pursuant to Executive Order 24 (2018), or the Virginia Coastal Resilience Master Plan." The use of "or" here suggests that projects need only align with one of these plans and standards. However, in the Program Goal section, "and" is used. Furthermore, in the Planning Grants section states "a completed [flood resilience] plan will be required before a locality can apply for and receive funding from the Project category."

Is a local resilience plan required? Are projects that are not included in a local resilience plan eligible? The title of this section suggests this will only be used for prioritizing projects and not necessarily all projects that are eligible for the Fund, but this language needs to be clarified. Are local resilience plans required for Planning or Study activities, or just Projects? Localities need to know what projects are eligible and what is required to receive funding.

Planning Grants

VFMA supports encouraging localities to comprehensively plan for flood preparedness and resilience, and we believe these types of activities should be prioritized. However, it is unclear what constitutes a local flood resilience plan. The Draft Guidelines mention plans being required to meet “minimum criteria” that will be detailed in the first Grant Manual. However, if a local flood resilience plan is required for project eligibility, localities need to be aware of the minimum criteria before the first Grant Manual is released.

Most localities do not currently have a local flood resilience plan, so having specific guidelines and examples of what constitutes a good plan would be helpful. Additionally, most communities have several different planning documents that address a variety of issues. While flooding may be addressed in those, they are not necessarily focused on comprehensive flood preparedness and resilience. However, the content of those plans may be valuable.

We recommend that the local flood resilience plans take an integrative planning approach, connecting a community’s existing plans and expanding upon them through a flood resiliency lens. This plan should include topics such as floodplain management, hazard mitigation, stormwater management, water quality, historic preservation, community and economic development, social vulnerability and inequity, etc. By creating an integrative planning process, multiple departments and organizations on the local level will need to coordinate, helping ensure that all factors that impact, as well as those impacted by, flooding are incorporated. Additionally, coordination with neighboring communities should be part of this planning process as flooding is a watershed issue. This coordination will allow for communities to better understand the development pressures and flooding issues faced by their neighbors and may lead to collaboration on future projects.

The American Planning Association’s Planning Advisory Service (PAS) Memo Building Resilience Through Plan Integration (January/February 2021)² may be a resource to help DCR establish guidelines and localities to develop their plans. Additionally, FEMA Region 3 and EPA Region 3 recently worked on a plan integration workshop, with a focus on green infrastructure, in Virginia and neighboring states, that could also serve as a resource.

This plan should be required to include a section on low-income geographic areas. Statue requires that “[n]o less than 25 percent of the moneys disbursed from the Fund each year shall be used for, or set aside for projects in low-income geographic areas.” Requiring localities to address these areas in their local flood resilience plan, including identifying potential projects and conducting community outreach, will help ensure these areas are not left behind in the planning and project implementation process.

Stakeholder engagement requirements should be established for the local flood resilience plan. Utilizing FEMA’s Community Rating System (CRS) program’s Floodplain Management Planning³ requirements could be option for this. By meeting these requirements, localities could be eligible for points through the CRS program, which could result in flood insurance premium discounts for citizens in high-risk flood zones. This would also support recommendations in DCR’s Response to Executive Order 24 (2019).⁴

Grants Applicability

Eligible Project Activities

VFMA supports the types of activities that are listed in the Draft Guidelines, but additional information is needed to better understand what activities will be funded. For example, acquisition of flood-prone properties will be prioritized for funding according to the Draft Guidelines, but what does this include? How is flood-prone defined? Will there be restrictions on the acquired property, such as ownership, use, maintenance, etc.? Will acquisition funding be limited to market value? These details need to be fleshed out in the Draft Guidelines and Grant Manual. VFMA recommends that DCR create a workgroup of technical experts that are familiar with other acquisition programs to help establish these requirements.

This Fund should be flexible to provide localities with an opportunity to achieve projects that may not be feasible through other state or federal programs. For example, FEMA funds can be used to acquire properties or demolish and rebuild a structure or to relocate a structure. However, there are various limitations on these programs that make it difficult for many communities to utilize them. These same activities should be funded by this Fund, but the requirements should be flexible enough that a locality can implement needed projects, either by using this Fund alone or by leveraging it with other programs.

VFMA recommends aligning project requirements with federal programs, such as FEMA's Hazard Mitigation Assistance program⁵ and Community Lifelines⁶. This will make it easier for communities to pursue federal funding as part of the match for this Fund, or if their project is not awarded funding. However, we do not recommend copying the other programs entirely.

The Draft Guidelines state that projects will be “guided by the *ConserveVirginia* model.” VFMA appreciates the robust data that *ConserveVirginia* provides. However, it is unclear if all the models including in *ConserveVirginia* would be utilized or just the Floodplains and Flooding Resilience model. The Floodplains and Flooding Resilience model is the most relevant model to this fund, but it does not capture all areas that experience recurrent flooding, and the other models may also be important depending on the type of project. It should be clarified which part(s) of *ConserveVirginia* will be considered. Conservation related projects should be supported by the *ConserveVirginia* model, but it is unclear how this model will be used for other types of projects. Aligning with *ConserveVirginia* should not be a requirement for projects, but prioritizing conservation projects that do align with the model could be addressed in the Grant Manual scoring criteria.

Eligible Planning Activities

As stated above, the requirements for a local resilience plan need to be clarified. Additionally, requiring plans to meet the guiding principles of the Framework should be clarified. As suggested above, this could be accomplished by restating the guiding principles using non-coastal specific language, so they are applicable statewide.

In the Draft Guidelines, “projections for future conditions” are identified as an eligible planning activity specific to sea level rise and coastal communities. Considering future conditions should also be an eligible activity for non-coastal communities.

VFMA recommends adding “or similar plans or ordinances” to the end of sixth bulleted item under Planning (page 5) in the Draft Guidelines. This will provide flexibility to localities to use flood-related information to support as many plans and ordinances as are applicable to them.

The seventh bulleted item (page 5) states “Revising floodplain maps (not to include regular map updates) to incorporate higher standards to reduce the risk of flood damage.” It is unclear what this means. Is “floodplain maps” intended to

mean Flood Insurance Rate Maps (FIRMs) created by FEMA? Assuming this is referring to FIRMs, are “regular map updates” intended to mean regular community-wide updates conducted by FEMA? What will be considered “higher standards”? Does this mean studying additional storm frequencies that FEMA does not study? Mapping a floodway based on a more restrictive threshold, such 0.5 feet instead of one foot? Some communities have their own floodplain maps beyond what FEMA creates. Would those also be eligible for funding?

This language is very concerning and needs to be addressed in the Draft Guidelines and Grant Manual. FEMA does not update community FIRMs on a regular basis, and their updates do not necessarily involve updating all the data used to create the maps. Old data is often carried over into map updates, leaving the community with a new effective date with outdated data. Additionally, communities are often mapped with approximate A Zones, the least detailed flood zone. It is imperative that localities be able to use this Fund to update FIRMs with better data than what FEMA provides, as well as to map other areas that experience flooding outside of FEMA’s project scope. The term “higher standards” should be removed. Instead, language such as improving existing data, creating new data, considering future conditions, etc. could be used. Additionally, if FIRMs can be updated using this Fund, additional requirements like submitting a Letter of Map Change through FEMA will need to be considered. This should be outlined in the Grant Manual.

VFMA strongly supports the inclusion of costs associated with staff training. Building capacity on the local level is critical to ensure that communities are properly implementing their local floodplain management programs. However, this section should be expanded upon. Will the Fund cover the cost for training to take the Certified Floodplain Manager (CFM) exam, or will it also cover the cost for the exam itself? What happens if the grant recipient does not pass the exam? What about CFM maintenance? We recommend that the locality provide written agreement that the CFM designation will be maintained for a specified timeframe. There should be flexibility if the recipient does not pass the exam, as everyone reacts to tests differently. However, information should be included related to retaking the exam and who will cover those costs.

Studies and Data Collection of Statewide and Regional Significance

In the Priority section of the Draft Guidelines, Study Grants are identified. However, in this section, studies are only captured as part of “Studies and Data Collection of Statewide and Regional Significance.” Does this mean that studies will only be funded if they are of statewide or regional significance? While regional and statewide studies are important, studies on a local level are critical for localities to properly plan for and address their flood risk. This needs to be clarified that local-level studies are eligible activities.

What criteria will be used to determine if a study is of statewide or regional significance? This needs to be established, so it is clear to localities what projects are eligible. Additionally, who is eligible for this type of project? Will localities be able to submit a joint, multi-jurisdictional application or will one locality be expected to take on a statewide or regional challenge? Will PDCs be eligible on their own, or will they be required to apply on behalf of one locality that is taking on this larger initiative? Will state agencies be eligible for this application type?

Grant Award Criteria

This section mentions the use of a sliding scale for the match. Additional information is needed on this sliding scale to provide useful feedback. However, VFMA does support having a sliding scale and flexibility with match requirements. During VFMA’s outreach event with Deputy Secretary Saks, some of our members expressed the desire to allow communities to have a zero-match requirement. In-kind matches should be allowed, either to meet the entire match requirement or a portion of it.

This section of the Draft Guidelines again includes conflicting language related to whether a local resilience plan is required. This language needs to be clarified. This section also uses “local, regional or statewide significance”, but

previous sections only refer to regional or statewide significance. VFMA supports allowing projects that are determined to be of local significance, but as mentioned above, criteria need to be established for how something will be considered significant.

Timing

The Draft Guidelines state there will be two grant rounds. VFMA supports having established grant rounds on a regular schedule, so localities can adequately prepare. However, we are concerned that the grant rounds identified will not allow for adequate time for DCR to review applications and make any necessary modifications to the Guidelines or Grant Manual. For example, round one is expected to end one June 1, with awards announced in August. This would give DCR roughly two months to review grant applications and approve awards. Round two is expected to begin on August 1, so if any changes are necessary after round one, there will not be time to incorporate them. Additionally, round two is expected to end on December 1, with awards announced in December, giving DCR less than one month to review grant applications and approve awards.

VFMA recommends establishing procedures for how the Guidelines and Grant Manual will be reviewed and modified. For instance, will there be one modification per year? Will that be based on the calendar year or fiscal year? When will the Grant Manual be released in relation to the application period? The grant round time periods should be revised to reflect this. VFMA recommends releasing the Grant Manual well in advance, at least 6 months, of the application period to give localities enough time to properly prepare applications and budget allocations.

Eligible Entities

The Draft Guidelines state that localities, PDCs (on behalf of localities), Soil and Water Conservation Districts, and Tribal Governments are eligible for grant funding. This conflicts with statute, which states the Fund is available to any “locality”, which is not defined. However, the statute does define “local government” as “any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution of Virginia or laws of the Commonwealth.”⁷ Assuming that “locality” is synonymous with “local government”, the Draft Guidelines have restricted the eligible entities for the Fund.

Additional information on tribal government eligibility is needed. For instance, does this include federally recognized tribes, state recognized tribes, recognized tribes with land use authority, etc.? Will the application requirements and administration steps be the same for tribal governments as other entities? This needs to be clarified in the Draft Guidelines and forthcoming Grant Manual. We encourage DCR to coordinate with the various state and federal tribal liaisons currently working with the tribal governments in Virginia, as well as conducting outreach with the tribal governments themselves, to ensure this program appropriately addresses their needs.

During outreach events, including VFMA’s event with Deputy Secretary Saks, it was mentioned that the Fund could be used by localities to implement projects and although PDCs are listed as an eligible entity, they would serve more as a pass-through entity to assist the locality with grant management. We believe that PDCs should be an eligible entity, on their own as well as to assist localities, for the Fund. Several activities outlined in the Draft Guidelines under Planning Grants and Study Grants can be conducted on a regional scale, which would be better suited for a PDC to manage on their own. They should not be required to coordinate through one locality as the applicant, nor should one locality have to bear the burden for a regional, multi-jurisdictional project.

During our outreach event, there were questions about whether localities can hire consultants to implement their projects. The use of contractors and sub awards should be addressed in the Draft Guidelines and Grant Manual.

Loans

The Draft Guidelines outline several activities that will be prioritized by the Fund through the grant program. However, the Fund was established as a **grant and loan** program, and the Draft Guidelines do not address how loans will be managed. Will the same projects that are eligible for grant funds be eligible for loans? How will the loans be managed? Who will be eligible for loans? How will loan forgiveness⁸ for low-income geographic areas be managed? This must be addressed in the Draft Guidelines.

Program Administration in General

Throughout the Draft Guidelines, the terms project and activity are used. Project appears to refer to on-the-ground projects that will be implemented, which along with plans and studies would be an activity. This should be clarified in the Draft Guidelines and Grant Manual to avoid confusion.

Many localities do not have the resources necessary to properly prepare a grant application. It would be helpful for DCR to have grant administrator staff dedicated to providing technical assistance to localities to help them through the grant application process.

Thank you for the opportunity to provide public comment on DCR's Draft Guidelines for the implementation of the Community Flood Preparedness Fund. VFMA strongly supports this new Fund, and we welcome the opportunity to answer any questions or provide additional details on any of the comments provided above.

Sincerely,



Kristin Owen, AICP, CFM
President
Virginia Floodplain Management Association

¹ <https://law.lis.virginia.gov/vacode/title10.1/chapter6/section10.1-602/>

² https://planning-org-uploaded-media.s3.amazonaws.com/publication/download_pdf/PAS-MEMO-2021-01-02.pdf

³ https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf#page=399

⁴ [https://www.naturalresources.virginia.gov/media/governorviriniagov/secretary-of-natural-resources/images/EO24-DCR-Report-\(2019\).pdf](https://www.naturalresources.virginia.gov/media/governorviriniagov/secretary-of-natural-resources/images/EO24-DCR-Report-(2019).pdf)

⁵ <https://www.fema.gov/grants/mitigation>

⁶ <https://www.fema.gov/emergency-managers/practitioners/lifelines>

⁷ <https://law.lis.virginia.gov/vacodefull/title10.1/chapter6/article1.3/>

⁸ <https://law.lis.virginia.gov/vacode/title10.1/chapter6/section10.1-603.25/>