

# IDA & ARP PLANNING DISCUSSION

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NJ DEPT. OF COMMUNITY AFFAIRS, DIVISION OF LOCAL GOVERNMENT SERVICES  
JACQUELYN A. SUÁREZ, DIRECTOR

# TROPICAL STORM IDA

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- N.J.S.A. 40A:4-46 et seq. establishes process for municipalities to make unplanned appropriations and expenditures for natural disasters, weather emergencies.
  - Emergency expenses are those related to storm response, recovery, and restoration of services that were not anticipated in the current year's budget.
- Storm Recovery Reserves (N.J.S.A. 40A:4-62.1)
  - Municipality may utilize funds in its storm recovery reserve for any purpose relating to storm recovery after current budget appropriations utilized for that purpose have been expended.
  - Any reimbursement of these expenditures shall be deposited back into the reserve.
  - Unexpended balances for storm recovery expenses may be lapsed into the reserve on an annual basis.

# TROPICAL STORM IDA

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- In circumstances where an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services, a contract may be awarded without public bidding or pay-to-play regardless of the bid threshold
- State law requires that an emergency contract shall only address the immediate needs of the emergency, rather than encompass everything having to do with the emergency.
  - Example: tree debris removal from public rights-of-way and removal of hazards (i.e. tree debris in danger of falling on people or property) may be procured on an emergency basis; however, the emergency contract exception to public bidding cannot be utilized for other tree debris removal work that is not an urgent matter of public safety.
- Contracting units may enter into emergency contracts without first obtaining a vendor's or contractor's Business Registration Certificate (BRC), but the contracting unit cannot make a payment until a copy of the BRC is provided to the contracting agency.
  - Contracting unit should inform the vendor or contractor of the BRC requirement upon awarding an emergency contract.
  - Contractors awarded public works contracts under emergency procedures must also be notified of applicable Public Works Contractor Registration (PWCR) and prevailing wage requirements at the time of award.
  - Confirm compliance with these requirements prior to making payment for completed work.

# TROPICAL STORM IDA

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## Storm Debris Management Resources

DEP has a team available to walk local governments through storm debris management options and resources: <https://www.nj.gov/dep/dshw/debris/contactinfo.html>

[solidwasteemergencies@dep.nj.gov](mailto:solidwasteemergencies@dep.nj.gov) or (609) 984-4250.

Available State contracts for stand-by debris management:

<https://www.nj.gov/dep/dshw/debris/contracts.html>.

General information on Emergency Authorizations, Stream Cleaning, and Debris Removal:

<https://www.nj.gov/dep/landuse/emergencies.html#>.

Additional guidance related to the removal of sediment and debris from within rivers and streams:

<https://www.nj.gov/dep/landuse/activity/sclean.html>.

# TROPICAL STORM IDA

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## **In-Kind Replacement of Public Infrastructure within Flood Hazard Areas**

- DEP has adopted several general permits-by-certification to facilitate emergency repairs of public infrastructure by governmental entities: [https://www.nj.gov/dep/landuse/download/fha\\_043.pdf](https://www.nj.gov/dep/landuse/download/fha_043.pdf)
- General permits-by-certification are instant approvals that can be obtained through DEP's online portal at: <https://www.njdeponline.com>

### Flood Hazard Area Permit Contacts:

North Jersey - Contact: Dennis Contois at [Dennis.Contois@dep.nj.gov](mailto:Dennis.Contois@dep.nj.gov).

South Jersey - Contact: Damian FriebeI at [Damian.FriebeI@dep.nj.gov](mailto:Damian.FriebeI@dep.nj.gov)

Tel: (609) 633-6563

### Coastal Permits (Includes Waterfront Development, CAFRA, and Coastal Wetland Permits):

Christopher Jones at [Christopher.Jones@dep.nj.gov](mailto:Christopher.Jones@dep.nj.gov).

Tel: (609) 633-2289

### Freshwater Wetlands Permits:

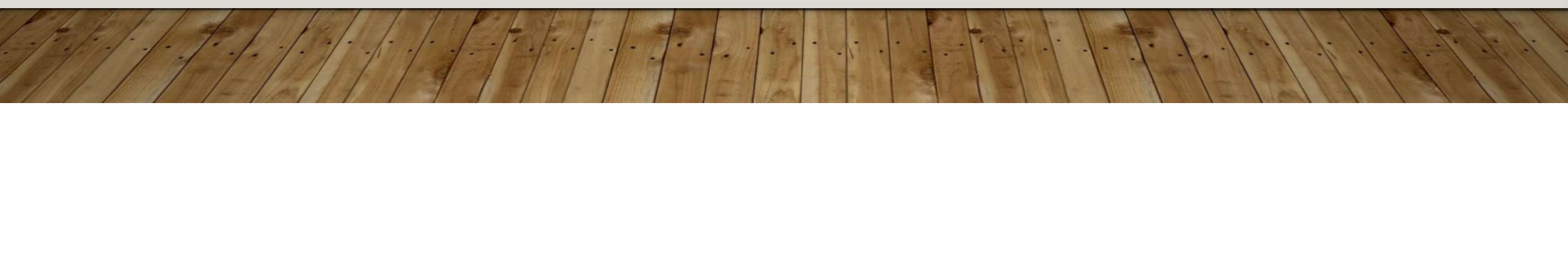
Ryan Anderson at [Ryan.Anderson@dep.nj.gov](mailto:Ryan.Anderson@dep.nj.gov).

Tel: (609) 984-6216

### Dredging/Port/SRP Facilities Projects:

Suzanne Biggins at [Suzanne.Biggins@dep.nj.gov](mailto:Suzanne.Biggins@dep.nj.gov).

Tel: (609) 633-2289



# ARP FUNDING & PROVIDING GOVT. SERVICES

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- LFRF proceeds offsetting COVID-19 revenue losses must be applied toward provision of government services not to exceed amount of revenue loss
  - Maintenance or pay-go funded building of infrastructure (e.g. roads, sidewalks)
  - Environmental remediation
  - Cybersecurity
  - Public safety
  - Health or educational services
- Cost of providing these government services must be incurred on or after March 3, 2021
- LFRF Funds cannot be used for principal and interest on debt service

# ARP FUNDING & WATER/SEWER INFRASTRUCTURE

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- Eligible water and sewer projects align with those eligible for financial assistance through the EPA's Clean Water and Drinking Water State Revolving Funds
- Projects can include:
  - Lead service line replacement
  - Water and/or sewer mains
  - Supply and treatment infrastructure
  - Stormwater remediation

# ARP FUNDING & WATER/SEWER INFRASTRUCTURE

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- Not limited by amount of COVID-19 revenue loss
- The “period of performance” will run until December 31, 2026, but ARP funds must be obligated by 12/31/24
- Recipients may use LFRF funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021
- The Interim Final Rule encourages strong labor standards
  - Project Labor Agreements now permitted for all prevailing wage public works projects over \$5 million excluding land acquisition costs (P.L. 2021, c. 69)



# ARP FUNDING: EFFECTIVE PLANNING

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- Coordination and communication between the local government and State, local, and non-profit partners is crucial to ensuring non-duplication of benefits while maximizing the impact of other outside assistance.
  - Especially important for Ida-impacted communities concerning FEMA resources and other agencies and outside organizations.
- Weigh how LFRF funds can achieve maximum longer-term impact while minimizing future unfunded legacy costs.
  - Allocating LFRF funds towards providing government services, thus freeing funds to offset sustained COVID-19 related revenue losses
  - Deploy funds toward improved stormwater infrastructure
  - Division strongly encourages multiple local units to collaborate in using LFRF funds for capital or programmatic eligible uses.

# ARP FUNDING: EFFECTIVE PLANNING

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- Local governments intending to use LFRF funds for eligible projects should develop a realistic timeline for public bidding.
  - Projects expected to exceed \$12.5 million must be submitted to the Office of the State Comptroller for review at least 30 days prior to advertisement - N.J.S.A. 52:15C-10(b).
  - For contracts valued at \$2.5 million or more, but less than \$12.5 million, local governments are required to notify OSC within twenty business days after making the award.

# ARP FUNDING: EQUITY CONSIDERATIONS

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- President Biden's [Executive Order 13985](#)
- Substantial emphasis on projects promoting racial and economic equity
  - Program design
  - Outreach and Access
  - Geographic and Demographic Distribution
  - Outcomes
- U.S. Treasury strongly emphasizing efforts to improve equity and solicit diverse input from underserved communities.

# ARP FUNDING: EQUITY CONSIDERATIONS

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Per U.S. Treasury, LFRF expenditures are to be grounded in the following three key principles:

- Advancing equity must be a core part of management and policy making processes.
- Successful equity work yields tangible changes positively impacting American lives.
- Equity benefits all Americans, not just some.

# ARP FUNDING: EQUITY CONSIDERATIONS

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- Equity = the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment.
- Underserved Communities = populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life.
  - Black, Latino, Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons living in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

## ADDITIONAL RESOURCES:

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- Local Finance Notices [2021-11](#); [2021-13](#); [2021-15](#)
- Office of State Comptroller COVID-19 Local Guidance:  
<https://www.nj.gov/comptroller/covid19/oversight/localguidance.shtml>

U.S. Treasury ARP LFRF page:

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>