WORK SESSION AGENDA

BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street Room 160

Port Angeles, Washington

Monday, February 14, 2022 – 8:00 a.m.

****ATTENTION****
In response to the current pandemic, to promote social distancing, and in compliance with Governor's Proclamation and the recommendation of the Clallam County Health Officer, the Board of Commissioners meetings will be virtual only. The Board of Commissioners strongly encourages public comments to be submitted in writing.

This meeting can be viewed on a live stream at this link: http://www.clallam.net/features/meetings.html

If you would like to participate in the meeting via Zoom audio only, call 253-215-8782 and use meeting ID: 875 561 7844 and passcode: 12345

If you would like to participate in the meeting via Zoom video conference, visit https://zoom.us/j/8755617844 and use meeting ID: 875 561 7844 and passcode: 12345

Public comment and questions can be directed to the Clerk of the Board at 360-417-2256 or agores@co.clallam.wa.us.

Administration – 9 a.m.

1. Calendar/Correspondence

2. Pre-application questionnaire with the Health Care Authority for the Uninsured Care Expansion Grant

   Pre-application questionnaire

3. Agreement with Justice AV Solutions (JAVS) for audio and video recording in Superior Court

   Agreement

4. New position request for Emergency Management Assistant

   Request

5. Discussion with Olympic Peninsula Community Clinic about the Medications for Opium Use Disorder Grant

   Discussion

Community Development

6. Marine Resources Committee update

   Update

7. Contract with Jamestown S'Klallam Tribe to coordinate and implement the Olympia Oyster Population Surveys

   Contract

Board of Commissioners

8. Rural Development Initiatives presentation

   Update

9. Discussion and next steps for Board of County Commissioner returning to hybrid meetings

   Discussion and next steps

10. Review Cascadia Consulting Group proposal for a Green House Gas Inventory

    Review

Budget

11. North Olympic Regional Veteran's Housing Network update regarding expenditure of American Rescue Plan Act funds

    Presentation

12. Habitat for Humanity update regarding expenditure of American Rescue Plan Act funds

    Presentation

13. Agreement with Sound Law Center, LLC to provide Code Enforcement Hearing Examiner services

    Agreement

14. Update on the American Rescue Plan Act Project & Expenditure Report for 2021

    Update

15. Agreement with Port Angeles Farmer's Market for American Rescue Plan Act (ARPA) direct grant assistance

    Agreement

General Discussion/Items for Future Agendas

A. National Park update (March 7 at 10:30 a.m.)

B. Continued Work Session – Topic TBD (March 14 at 1 p.m.)

C. Department of Natural Resources joint meeting (March 21 at 1 p.m.)

D. Continued Work Session – Topic TBD (April 11 at 1 p.m.)

E. Joint Meeting with the Port of Port Angeles (April 25 at 11 a.m. at Port)

EXECUTIVE SESSION
The Board may recess into Executive Session to consider employment or dismissal of personnel, to review the performance of a public employee, to consult with legal counsel, to consider the position to be taken in collective bargaining, to consider acquisition or sale of real estate, or other matters per RCW 42.30.110

- Other items may be added at the discretion of the Board and additional Work Sessions may be scheduled if more time is needed to allow for adequate discussion.
- Written testimony presented by members of the public during the Board meeting is considered a public document and must be submitted to the Clerk of the Board.
- Copies of public documents from Board meetings are available by contacting the Public Records Department.

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda) 2 2/14/22

Department: Juvenile Services

WORK SESSION ☒ **Meeting Date: 02/14/2022**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☒ Other Discussion only

Documents exempt from public disclosure attached: ☐

Executive summary:
The Health Care Authority (HCA) has received federal funding for the provision of health care for the uninsured and underinsured individuals under 200% of the federal poverty level, regardless of immigration status. Juvenile & Family Services True Star Behavioral Health would apply those funds to help fill the revenue gap for the cost of youth receiving behavioral health services.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

No budgetary impact; revenue allocated for services

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Review and sign.

County Official signature & print name: Jody Jacobsen Jody Jacobsen

Name of Employee/Stakeholder attending meeting: Cindy Hanson

Relevant Departments: _____

Date submitted: 02/08/2022

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* Work Session/Reg Meeting - Submit 2 single sided/not stapled copies + 2 AIS and 3 originals (stapled) + AIS
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Clallam County
Grant Application Information

DEPARTMENT: **Juvenile Services**

DATE SUBMITTED TO W/S: **02/07/22**

GRANT NAME: **Uninsured Care Expansion Grant**

APPLICATION DEADLINE: **03/31/22**

ISSUING AGENCY: **Health Care Authority (HCA)**

IS THIS A RENEWAL? **No**

LENGTH OF GRANT: **06/30/24**

RENEWAL POSSIBLE? **Unknown**

TOTAL AWARD: **Unknown**

ANNUAL AMOUNT: **$27,500**

MATCH REQUIRED? **No**

MATCH AMOUNT: **NA**

DESCRIPTION OF GRANT AND PURPOSE:
The Washington State Health Care Authority (HCA) has funding available to implement and administer the program and allocate funds to eligible organizations expanding services to uninsured and underinsured clients below 200% of the federal poverty level.

EXPLAIN HOW THIS GRANT WILL BE USED FOR THE GOOD OF CLALLAM COUNTY CITIZENS:
Funding will help fill the revenue gap for the cost of youth receiving behavioral health treatment services; who meet the federal poverty level guidelines.

DOES THE GRANT ACTIVITY FURTHER THE DEPARTMENT'S MISSION OR CORE FUNCTIONS? HAS IT BEEN A PART OF LONG TERM DEPARTMENT OR COUNTY GOALS?
Yes. True Star Behavioral Health's mission and function is providing behavioral health treatment to all youth in our community; without financial barriers.

DOES THE GRANT ACTIVITY INCREASE AN EXISTING SERVICE OR ADD A NEW SERVICE? TO WHAT DEGREE? IF THE GRANT WERE NOT AVAILABLE, WOULD THE SERVICE HAVE BEEN NECESSARY?
The grant does not create a new service; it's a source of funding to access for those who meet the funding requirements.

WHAT MEASUREMENTS (PERFORMANCE MEASURES) WILL BE USED TO EVALUATE THE SUCCESS OF THE ACTIVITIES PROVIDED BY THE GRANT? WILL PERFORMANCE MEASURES BE DEVELOPED?
The type of data collection is unknown at this time, but the HCA will require data on utilization of services on an annual basis.

DOES THE GRANT ACTIVITY CREATE A NEW SERVICE OR LEVEL OF SERVICE WHICH IS EXPECTED TO BE CONTINUED FROM LOCAL FUNDING AT THE END OF THE GRANT PERIOD?
This is an existing services, no new service will be created by the grant. The funding will be applied to the cost of providing treatment services to youth.

IF MATCHING FUNDS ARE REQUIRED, WHERE WILL THEY COME FROM? DOES THE DEPARTMENT HAVE EXISTING RESOURCES TO COVER MATCH REQUIREMENTS? FROM WHERE?
NA

WILL THE ACTIVITY IN THIS GRANT HAVE IMPACTS ON OTHER DEPARTMENTS? HAS THIS BEEN

DISCUSSED? DO OTHER DEPARTMENTS HAVE SUFFICIENT RESOURCES TO DEAL WITH ADDITIONAL IMPACTS?
NA

WILL NEW POSITIONS BE ADDED? IF SO, HOW MANY AND WHAT TYPE ARE EXPECTED? ARE ALL WAGES AND BENEFITS PAID IN THE GRANT? WHAT WILL HAPPEN TO THE POSITIONS WHEN THE GRANT PERIOD ENDS?
NA

DOES YOUR DEPARTMENT HAVE SUFFICIENT RESOURCES TO ADMINISTER THE GRANT? PROVIDE FOR TIMELY REIMBURSEMENT AND ACTIVITY REPORTS?
Yes

ARE THERE IMPACTS TO THE COUNTY IF THE GRANT IS NOT RECEIVED? WHAT ARE THEY?
This grant allows youth greater access to necessary services through a new revenue source.

ARE INDIRECT COSTS ALLOWABLE ON THIS GRANT? IF SO, ARE THERE LIMITATIONS? WILL THEY BE CHARGED AND ALLOCATED AS INDIRECT?
No

ARE THERE OTHER ACTIVITIES (GRANT OR OTHERWISE) THAT ARE BUDGETED FOR THIS YEAR THAT WILL NOT BE COMPLETED IF THIS GRANT IS APPROVED?
No

WHAT BUDGET CHANGES ARE NECESSARY? INCLUDE REVENUES AND EXPENDITURES.
None required; revenue has been included.

OTHER COMMENTS
We are contracted with the Salish Behavioral Health Administrative Organization (SBH-ASO) to receive funding for the uninsured/under-insured. At this time we are required to hold a contract with ASO in order to receive funding for those who meet the requirements of this particular grant. The HCA does not require a contract with an ASO to be eligible to receive funding for the uninsured/under-insured.

ELECTED OFFICIAL/DEPARTMENT HEAD SIGNATURE

APPROVAL

Rich Sill, ADMINISTRATOR

Submit in **duplicate** to the Board of Commissioners for Work Session discussion and approval by the Administrator prior to application for any grant. The approved form must be included with the grant contract when it is submitted to the Board for approval. Refer to Administrative Policies 120 and 562.

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

3
2/14/22

Department: Superior Court

WORK SESSION ☒ **Meeting Date:** 2/14/22, 9am

REGULAR AGENDA ☒ **Meeting Date:** 2/22/22, 10 am

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract #861.22.002 (replaces 861.19.003)
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
Superior Court is asking for approval of a two-year Preventative Maintenance and Support Agreement between Justice AV Solutions (JAVS) and Clallam County Courts (Superior Court) for the period of February 1, 2022 through January 31, 2024. JAVS audio and video recording technology is used in all (7) courtrooms and (3) jails for courtroom proceedings. This contract covers any and all maintenance needed, including any problems that might need fixing or replaced.

In 2020 Superior Court was awarded a grant from the Administrative Office of the Courts for much needed upgrades to courtroom technology to assist in providing remote court and in-custody appearances due to COVID. These upgrades require an annual maintenance contract. Costs for the maintenance contract were approved and funds placed in the Superior Court 2022 budget. The courts have used this recording system for many years and we are asking that the contract renewal be approved.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
Funds have already allocated in our 2022 budget for the cost of this maintenance contract, we are asking for approval of the contract.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Please review and approve this Preventative Maintenance and Support Agreement.

County Official signature & print name: BRENT BASDEN

Name of Employee/Stakeholder attending meeting: Lacey Fors

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

j:\users\lfors\javs agenda summary 2022 contract renewal.docx

Relevant Departments: Superior Court

Date submitted: 2/07/22

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

JUSTICE AV SOLUTIONS

Classic Coverage Extended Warranty, Preventative Maintenance and Support Agreement

(861.22.002) <Replaces 861.19.003>

This Extended Warranty, Preventative Maintenance, and Support Agreement "Agreement" is entered into by and between Justice AV Solutions "JAVS" and **Clallam County Courts** Customer" located in **Port Angeles, WA** for the period of **February 1, 2022** extending through **January 31, 2024.**

WHEREAS, Customer is in possession of the JAVS recording system(s) more particularly identified in Attachment A "System":

WHEREAS, JAVS will provide the following Extended Warranty Coverage, Preventative Maintenance, Support, and Services so as to maximize the reliability of Customer's systems(s) "Services;"

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties hereby agree as follows:

A. DEFINITIONS

- *CODEC*-Technically known as the video conferencing unit (VCU), the codec compresses and decompresses data for video signals.
- *Extended Warranty*-Coverage of JAVS provided equipment to include repair or replacement for a specified period after the expiration of the original warranty.
- *Preventative Maintenance (PM)*-The scheduled cleaning and adjustment of JAVS provided systems as outlined in the respective agreement.
- *Service*-The provision for onsite technical support, user training, and servicing JAVS provided equipment as defined by the contract.
- *Standard Travel*-Travel within the contiguous 48 states and within a 150-mile radius (300 miles round trip) of closest stationed JAVS service technician.
- *Support*-Remote phone and online troubleshooting and diagnostics.
- *Travel Premium*-Travel within the contiguous 48 states more than the 150-mile radius (300 miles round trip) from the closest stationed JAVS service technician calculated as a round trip distance less standard 300 miles divided by 70 MPH times the applicable hourly rate.
- *Warranty*-Coverage of JAVS provided equipment to include repair or replacement for a period of 1 year from the date of install.

B. SERVICES

1. Help Desk Support. In the event of a System(s) malfunction or questions about system operation, the Customer is encouraged to contact the JAVS help desk by phone at 877-528-7457 or via email at helpdesk@javs.com Monday-Friday 8:00 am to 9:30 pm EST. Calls after 9:30 pm local time will normally go to voicemail and be addressed at the beginning of the next business day. JAVS trained help desk staff to provide immediate troubleshooting, training, and diagnostics on common issues that can be resolved quickly. JAVS also provides on-line PC support and training through your internet connection. If the issue requires an on-site technician, our help desk will gather the necessary contact information including the: contact's name, phone number, city, system identification number, and detailed description

of the issue. The contact information is used by JAVS to log/track issues properly, assign priority levels based on contract status, and dispatch the appropriate technician to the Customer location.

2. Response Times. In the event that a component from Attachment A requires an on-site repair to address a reported issue, JAVS will schedule a visit during regular business hours. The response time is conditional to Customer's approved room and equipment availability and the severity of the issue, which is measured in four priority levels: Urgent, High, Normal, and Supportive. Any variation from the timeframes referenced below will be discussed and mutually agreed upon by Customer and JAVS. For clarification, the priority levels are described in Attachment B.

3. Extended Warranty. **Extended warranty is available on JAVS provided and installed equipment less than 5 years old, based on the date of installation.**
JAVS will provide and provision a prolonged warranty on JAVS supplied equipment, both of JAVS manufacture and third party, outside of the manufacturer's standard warranty. JAVS will attempt to repair the faulty equipment dependent upon parts and courtroom availability. If the equipment is not repairable in the field, JAVS at its discretion, will either provide a temporary unit until the original equipment is repaired and reinstalled, or a permanent exchange will be put in service. If the covered equipment requiring repair is no longer available or deemed non-repairable, JAVS will be responsible for the replacement product and all costs associated with its replacement.

   Non-warranted equipment:

   JAVS provided and installed equipment older than 5 years old, based on the date of installation.

   JAVS will attempt to repair the faulty equipment, dependent upon courtroom availability. For non-warranted equipment, the Customer is responsible for the cost of all repair parts, including shipping. From time to time, non-warranted equipment may be deemed non-repairable. If the non-warranted equipment is not repairable in the field, the Customer is responsible for the cost of the replacement product(s). JAVS recorders older than 5 years old, are not eligible for repair involving part(s) replacement and require the purchase of new recorder at client expense.
   For replacement items purchased from JAVS, JAVS will provide labor at no charge.

   Components of Polycom Video Conferencing Codecs are included with this agreement. The Codec unit itself has optional coverage directly through Polycom and is separate from this agreement. After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.

4. On-site Warranty Support. JAVS will provide on-site warranty services, which include removing equipment and forwarding to the manufacturer for repair, installing loaner and/or new equipment as deemed necessary by JAVS, and re-installing repaired equipment; on all products listed on Attachment A.

5. Preventative Maintenance. JAVS will perform a bi-annual inspection, review, and operational test of the System and make adjustments as deemed necessary by JAVS. Preventative Maintenance includes updating any System software and firmware as required. All Preventative Maintenance will be coordinated and scheduled with a Customer appointed representative to occur during regular business

hours. JAVS will provide documentation to the Customer via a Preventative Maintenance form detailing the status of each system which includes key system information and hard drive capacity of the System. JAVS will document and test each function/mode of the entire System(s) which includes the automatic audio and video mixer/switcher, control boxes, microphones, cameras, time and date generator, monitors, streaming servers, recorders, PA processors and speakers, private mode feed muting, playback/presentation, assisted listening devices and audio/video conferencing to ensure proper creation of the audio/video record and system operation.

C. EXCLUSIONS

Notwithstanding anything to the contrary elsewhere in this Agreement, JAVS shall have no responsibility and/or liability regarding the following:

1. All video conferencing equipment, bandwidth, network stability, and call quality issues are the responsibility of the court. *
2. Normal wear and tear items such as back-up UPS batteries and projector lamps. *
3. Consumable items such as batteries, CD's, DVD's, printer paper, and print cartridges. *
4. Services, software, hardware, and Operating Systems that are no longer supported by a third party. *
5. Upgrades of Systems which would transition from analog camera systems to digital, or major software version upgrades, such as AutoLog 7 to AutoLog 8.
6. Vandalism (including inmate abuse), deliberate tampering with the System, intentional or unintentional damage caused by other contractors/staff, attempted repair and/or maintenance by any personnel not employed by JAVS. *
7. Repair or replacement of any equipment in the event of damage due to negligence or other claims covered by Customer's insurance. *
8. Customer-provided or non-JAVS certified equipment, hardware, and software. *
9. Moving of equipment. *
10. Customer requested on-site advanced training. *
11. Repairs and/or service that requires reconfiguring JAVS equipment due to changes made by Customer's third-party hardware, network, anti-virus settings, or any local IP provider connection (i.e. change of IP address or network configuration, video conferencing connection issues) *
12. Lost records or data recovery due to equipment failure, computer viruses, or Customer user error.
13. Migration of Customer recordings for archival, retention, and restoration. *
14. Shipping delays for repair, loaner or replacement parts and equipment.

*Customer approval required to perform services for the indicated Exclusions, which will be billed at current labor rates plus parts and expenses if applicable.

FEES/PAYMENTS for exclusions

A fee of $125.00 per hour (1-hour minimum) plus *Travel and expenses, will apply for each request for on-site service for services not covered by this agreement. Travel time is defined as a portal to portal.

D. TERMS

1. Effective Date. The Agreement begins **February 1, 2022** and will continue for a period of **2 years** thereafter.
2. Fees; Payments. In consideration of JAVS provision of the Services, Customer pays a fixed fee of

$96,210.00 "Fee" plus any applicable state taxes. Payment of Fee will be made within 30 days from the date of the invoice.

BREAKDOWN OF MAINTENANCE FEE
Contract Period: February 1, 2022 - January 31, 2023
MAC-00280, MAC-00279, MAC-00332

	CourtroomNumber/Location	SID#	System Description	Maintenance Fee
1	Superior Courtroom 1	SID-02062	JAVS Centro HDX Recording System	$ 6,853.00
2	Superior Courtroom 2	SID-02061	JAVS Centro HDX Recording System	$ 6,733.00
3	Superior Courtroom 3	SID-01151	JAVS Centro HDX Recording System	$ 7,012.00
4	Juvenile Courtroom	SID-01152	JAVS Centro HDX Recording System	$ 6,719.00
5	Mobile Recording System	SID-89597	Recorder Deck, Autolog, Mics *PRORATED*	$ 515.00
6	District Court Courtroom 1	SID-02914	JAVS Centro TX Recording System	$ 6,810.00
7	District Court Historic Courtr	SID-06154	JAVS Centro TX Audio Only Recording Syster	$ 6,651.00
8	(Forks) District II Court	SID-02064	Centro HDX Recording System	$ 6,683.00
			Total	$ 47,976.00

BREAKDOWN OF MAINTENANCE FEE
Contract Period: February 1, 2023 - January 31, 2024
MAC-00280, MAC-00279, MAC-00332

	CourtroomNumber/Location	SID#	System Description	Maintenance Fee
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3	Superior Courtroom 3	SID-01151	JAVS Centro HDX Recording System	$ 7,012.00
4	Juvenile Courtroom	SID-01152	JAVS Centro HDX Recording System	$ 6,719.00
5	Mobile Recording System	SID-89597	Recorder Deck, Autolog, Mics	$ 773.00
6	District Court Courtroom 1	SID-02914	JAVS Centro TX Recording System	$ 6,810.00
7	District Court Historic Courtr	SID-06154	JAVS Centro TX Audio Only Recording Syster	$ 6,651.00
8	(Forks) District II Court	SID-02064	Centro HDX Recording System	$ 6,683.00
			Total	$ 48,234.00

Note: A. JAVS reserves the right to review and recalculate fees associated with the service agreement and adjust accordingly for the next contract period. Changes in the pricing of fees reflect added coverage for new equipment and/or services not previously covered under the service agreement and/or the removal of equipment that is no longer covered. This review is performed prior to the delivery of the subsequent agreement and can affect your agreement fees for that period.

3. Billing of Excluded Services. A fee of $125.00 per hour (one-hour minimum) plus expenses will be charged for any excluded services (Includes Video Conferencing Systems, see Section C.) requested by the Customer for on-site support.

4. Refunds. Refunds of Fees payable hereunder will be limited to a pro-rated portion calculated per business day of the total amount paid for the Agreement in the event that agreed response time is not met. The

pro-rated portion of the Agreement Fees payable to Customer as a refund shall be limited to the number of days required to respond that are in excess of the agreed response period. No refund shall be payable for days that JAVS does not have access to the covered equipment. No refund shall exceed the value of the Agreement. A request for a pro-rated refund payable to Customer for a decommissioned System(s) must be received in writing.

E. NO WAIVER

WHETHER BY CHOICE OR NEGLECT JAVS FAILURE TO ENFORCE ANY TERM, EXCLUSION, OR LIMITATION HEREIN SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF JAVS RIGHT TO ENFORCE ANY TERM, EXCLUSION, OR LIMITATION CONTAINED IN THIS AGREEMENT.

F. LIMITATION OF LIABILITY

JAVS DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH IN THIS AGREEMENT OR ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST DATA OR SOFTWARE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

G. DISPUTE RESOLUTION

ANY CLAIM, DISPUTE, OR CONTROVERSY, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, INTENTIONAL TORT, AND EQUITABLE CLAIMS AGAINST JAVS arising from or relating to this Agreement, its interpretation, performance, or the breach, termination or validity thereof, the relationships which result from this Agreement, including, to the full extent permitted by applicable law, limitations of liability, indemnity, and relationships with third parties, JAVS advertising, or any related purchase or service SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY THE NATIONAL ARBITRATION FORUM (NAF) under its Code of Procedure then in effect (available via the Internet at http://www.arb-forum.com/, or via telephone at 800-474-2371).

ACCEPTED BY CUSTOMER
Clallam County Courts

Signature	
Name	BRENT BASDEN
Title	Judge
Date	2/7/2022
Phone #	
Email	

ACCEPTED BY JAVS
Justice AV Solutions

Signature	
Name	Megan Molnar
Title	Contract Administrator
Date	May 24, 2021
Phone #	502.489.5118
Email	Megan.molnar@javs.com

ACCEPTED BY CUSTOMER
Additional Court Representative (if required by court)

Signature	
Name	
Title	County Commissioner
Date	

Approved as to form only by:

Bert Dee Boughton
Civil Deputy Prosecuting Attorney
Clallam County

Customer contact for scheduling of maintenance/repair

Name	Larry Fors
Title	Court Administrator
Phone	360-417-2386
Email	LFors@co.clallam.wa.us

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

Port Angeles & Forks, WA

ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
Clallam County Superior Court								
Courtroom 1								
				JAVS HDX RECORDING SYSTEM				
50475	SID-02062	1	JAV-CENTRO-HDX	JAVS HD video switcher 8/4 in, 6/3 out (HD-SDI/HDMI)	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-CENTRO-CX	JAVS Centro CX Audio/Video Processor includes Centro Base Unit plus Centro AX software	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-AVIX-1204	AVIX Video Switching Software	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-MCU8	JAVS Master Controller	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-TSD-DCPD	DC power distribution for TSD device 9-24v DC	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-GS116LP-100NAS	Netgear 16-Port 76W PoE/PoE+ Gigabit Ethernet Unmanaged Switch	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-28-19387	AC/DC Power Supply, 1 Output, 60 W, 12 VDC, 5 A	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-AVSC-HDMI-VIDEO	HDMI to Analog Video Converter and Scaler • EDID (external display identification data) management system ensures correct content is displayed. • Supports noise reduction and video enhancement features	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-NSE20	Full-featured, 4-Channel Video Encoder	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-DRMK	Dual Rack Mount Kit	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-REC8-HD-M	JAVS HD AIO Multichannel Recorder 720P	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-BE550G	APC Back-UPS BE600M1, 600VA, 120V,1 USB charging port	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	4	JAV-JC-20HD	JAVS SDI/HD CCTV Box Color Camera	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	4	JAV-CMR410	Camera Mount 7"	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-VS-M2812-2	2.8-12mm Varifocal F1.4 CS Mount with Auto-Iris (For HD Camera)	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	3	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-AFS2	Dual Channel Advanced Feedback Suppression Processor	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-LED-1562HD	15.6" LED LCD Monitor 16:9 - 8 ms	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-HD-22	Stereo/Mono Headphones	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-CENTRO-CHA	Centro Headphone Amplifier	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-KT-107	7-Inch tabletop/in-wall Touch Panel w/ POE	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-SL-280	32-Port S1 smart controller	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-VIA-CONNECT-PRO	VIA Connect PRO - Wireless Presentation and Collaboration Solution	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-R6230	Netgear R6230 IEEE 802.11ac Ethernet Wireless Router	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-MS116-BK	Optical Mouse-MS116-Black - USB	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-KB216	USB Keyboard	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-VIA-CAST	Miracast Enabled USB Dongle for VIA Devices - Native Windows 10 and Android Support	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-PTRK-21	21 RU Portable Rolling Rack with Locking Front & Rear Doors Depth: 21.5" Height: 45.91" Width: 22.59"	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	2	JAV-JG9	JAVS Slim Line Power Strip and Conditioner	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-ED1000RTXL2U	1000 VA On-Line UPS 8 Outlets	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	4	JAV-UTR1-MP	Half Depth, single Rack space shelf	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	2	JAV-VTF1	1 Gang Single Equipment Rack Blank Perforated	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-STA-1	Dual Balanced/Unbalanced Line Amplifier -12 to 20 dB Gain Power Supply Not Included Recommended Power Supply: JAV-PS-24AS (USA) Up to 20 dB Gain in an Audio Line	2/4/2021	Yes	Yes	2/4/2026

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

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ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
50475	SID-02062	1	JAV-PS-24AS	24 Vdc Switching Power Supply, North American AC Plug, 500 mA, dc Plug	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	2/4/2021	Yes	Yes	2/4/2026
				VIDEO CONFERENCING				
50475	SID-02062	1	JAV-GROUP500-AC	RealPresence Group 500 - 720P: Group500 HD CODEC, EagleEye Acoustic Camera	2/4/2021	***Yes**	***Yes**	
				***JAVS supplied Polycom unit does not affect the price of JAVS Support Agreement. Accessories to the CODEC supplied by JAVS are included under coverage and maintenance fees. After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote. #8G193950E43FCV**				
50475	SID-02062	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	2/4/2021	Yes	Yes	2/4/2026
50475	SID-02062	1	JAV-ATTPRO-PHX	Centro PHX Attenuation Adaptor	2/22/2016	Yes	No	2/21/2021
				AUTOLOG & DIGITAL RECORDERS				
50475	SID-02062	1	JAV-SW-AL7	"AutoLog 7" Record Session Logging and Control Software	6/24/2013	Yes	NA	6/24/2018
50475	SID-02062	1	JAV-SW-S7S	"Scheduler 7" Record Session Scheduling Software	6/24/2013	Yes	NA	6/24/2018
50475	SID-02062	1	JAV-SW-P7S	"Publisher 7" Record Session Publishing Software	6/24/2013	Yes	NA	6/24/2018
50475	SID-02062	1	JAV-SW-V7P	"Viewer 7 Pro" Record Session Viewing Software	6/24/2013	Yes	NA	6/24/2018
50475	SID-02062	1	JAV-VS3100P	IP Audio/Video Encoder -Built-in Server for Case Monitoring Centralized Logging Applications	9/2/2009	Yes	No	9/2/2014
50475	SID-02062	1	JAV-CENTRO-ROC	Centro Record Output Cable	2/22/2016	Yes	No	2/21/2021
				MICROPHONES				
50475	SID-02062	6	JAV-JM14	JM14 Flex Microphone	2/22/2016	Yes	No	2/21/2021
50475	SID-02062	1	JAV-PLX-BE	FlexMicrophone Plexiglass - Flat	2/22/2016	Yes	No	2/21/2021
50475	SID-02062	4	JAV-PLX-CB	FlexMicrophone Plexiglass - C Bend	2/22/2016	Yes	No	2/21/2021
50475	SID-02062	1	JAV-ATW-1322	Wireless Microphone Bundle With 2 Handheld Microphones Includes: ATW-RC13 Rack-mount receiver chassis, ATW-T1002 x2 handheld dynamic microphone/transmitter.	3/25/2019	Yes	Yes	3/24/2024
50475	SID-02062	2	JAV-MPA-PHX	Microphone Pre-Amp Adapter with 3-Pos Phoenix connector for adding non-FlexMics to the JAVS Processor	3/25/2019	Yes	Yes	3/24/2024
				PA SYSTEM				
50475	SID-02062	1	JAV-CSA-240Z	2 Channel Amplifier 40W per Channel with 70V & 100V Speaker Outputs	9/8/2016	Yes	Yes	9/8/2021
50475	SID-02062	1	JAV-100TBP	Small Speaker, Black	2/22/2016	Yes	No	2/21/2021
50475	SID-02062	1	JAV-AT10	Wall Mount 10W Attenuator, 3db Steps.	2/22/2016	Yes	No	2/21/2021
				ASSISTED LISTENING				
50475	SID-02062	1	JAV-WIR-SYS	SoundPlus Courtroom Advantage Value System--1 WIRTX90 combination modulator and emitter system; 3 WIRRX18-2 headset type style headset receivers; 1 WIRRX22-4N body pack, 4 channel IR receiver; 1 NKL001 Neckloop; 1 HED021 Headphone; 1 CHG518 headphone charger	6/20/2017	Yes	Yes	6/20/2022
50475	SID-02062	1	JAV-CENTRO-ALA	Centro Assistive Listening Adapter	6/20/2017	Yes	Yes	6/20/2022
				POWER STRIPS				
50475	SID-02062	1	JAV-BE550G	APC Back-UPS BE600M1, 600VA, 120V, 1 USB charging Port	3/25/2019	Yes	Yes	3/24/2024
Courtroom 2								
				JAVS HDX RECORDING SYSTEM				
50475	SID-02061	1	JAV-CENTRO-TX	JAVS Centro TX Ethernet Controlled Audio/Video Processor - Base Unit with Centro TX software	4/30/2017	Yes	Yes	4/30/2022
50475	SID-02061	1	JAV-CENTRO-UTA	Centro TX to Centro AX "Software Only" Upgrade	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-CENTRO-HDX	JAVS HD video switcher 8/4 in, 6/3 out (HD-SDI/HDMI)	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-AVIX-1204	AVIX Video Switching Software	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-MCU8	JAVS Master Controller	1/29/2021	Yes	Yes	1/29/2026

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ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
50475	SID-02061	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-TSD-DCPD	DC power distribution for TSD device 9-24v DC	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-GS116LP-100NAS	Netgear 16-Port 76W PoE/PoE+ Gigabit Ethernet Unmanaged Switch	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-28-19387	AC/DC Power Supply, 1 Output, 60 W, 12 VDC, 5 A	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-AVSC-HDMI-VIDEO	HDMI to Analog Video Converter and Scaler • EDID (external display identification data) management system ensures correct content is displayed. • Supports noise reduction and video enhancement features	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-NSE	Full-featured, 4-Channel Video Encoder	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-REC8-HD-M	JAVS HD AIO Multichannel Recorder 720P	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-DRMK	Dual Rack Mount Kit	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-BE550G	APC Back-UPS BE600M1, 600VA, 120V,1 USB charging port	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	4	JAV-JC-20HD	JAVS SDI/HD CCTV Box Color Camera	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	4	JAV-CMR410	Camera Mount 7"	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-VS-M2812-2	2.8-12mm Varifocal F1.4 CS Mount with Auto-Iris (For HD Camera)	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	3	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-AFS2	Dual Channel Advanced Feedback Suppression Processor	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-CSA-240Z	2 Channel Amplifier 40W per Channel with 70V & 100V Speaker Outputs	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-LED-1562HD	15.6" LED LCD Monitor 16:9 - 8 ms	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-HD-22	Stereo/Mono Headphones	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-CENTRO-CHA	Centro Headphone Amplifier	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-KT-107	7-Inch tabletop/in-wall Touch Panel w/ POE	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-SL-280	32-Port S1 smart controller	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-VIA-CONNECT-PRO	VIA Connect PRO - Wireless Presentation and Collaboration Solution	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-R6230	Netgear R6230 IEEE 802.11ac Ethernet Wireless Router	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-MS116-BK	Optical Mouse-MS116-Black - USB	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-KB216	USB Keyboard	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-VIA-CAST	Miracast Enabled USB Dongle for VIA Devices - Native Windows 10 and Android Support	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-PTRK-21	21 RU Portable Rolling Rack with Locking Front & Rear Doors Depth: 21.5" Height: 45.91" Width: 22.59"	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	2	JAV-JG9	JAVS Slim Line Power Strip and Conditioner	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-ED1000RTXL2U	1000 VA On-Line UPS 8 Outlets	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	4	JAV-UTR1-MP	Half Depth, single Rack space shelf	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	2	JAV-VTF1	1 Gang Single Equipment Rack Blank Perforated	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	2	JAV-AV901	VSB (3) RCA Jacks to RJ45 Video +Stereo Audio Balun	1/29/2021	Yes	Yes	1/29/2026
50475	SID-02061	1	JAV-STA-1	Dual Balanced/Unbalanced Line Amplifier -12 to 20 dB Gain Power Supply Not Included Recommended Power Supply: JAV-PS-24AS (USA) Up to 20 dB Gain in an Audio Line	1/29/2021	Yes	Yes	1/29/2026
				VIDEO CONFERENCING				
50475	SID-02061	1	JAV-GROUP500-AC	RealPresence Group 500 - 720P: Group500 HD CODEC, EagleEye Acoustic Camera	1/29/2021	*Yes	*Yes	

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ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
				***JAVS supplied Polycom unit does not affect the price of JAVS Support Agreement. Accessories to the CODEC supplied by JAVS are included under coverage and maintenance fees.** **After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.** **#8G194650EA10CV**				
50475	SID-02061	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/29/2021	Yes	Yes	1/29/2026
				AUTOLOG & DIGITAL RECORDERS				
50475	SID-02061	1	JAV-SW-AL7S	"AutoLog 7" Record Session Logging and Control Software	12/26/2012	Yes	NA	12/26/2017
50475	SID-02061	1	JAV-VS7100	IP Audio/Video Encoder	12/26/2012	Yes	No	12/26/2017
50475	SID-02061	1	JAV-USB-AB	6' USB A/B Cable	12/26/2012	Yes	No	12/26/2017
50475	SID-02061	1	JAV-SW-S7S	"Scheduler 7" Record Session Scheduling Software	12/26/2012	Yes	NA	12/26/2017
50475	SID-02061	1	JAV-SW-P7S	"Publisher 7" Record Session Publishing Software	12/26/2012	Yes	NA	12/26/2017
				MICROPHONES				
50475	SID-02061	6	JAV-JM14	JAVS FlexMic w/ Multicolor LED & Touch Button	4/30/2017	Yes	Yes	4/30/2022
50475	SID-02061	3	JAV-PLX-CB	FlexMicrophone Plexiglass - C Bend	4/30/2017	Yes	Yes	4/30/2022
50475	SID-02061	3	JAV-PLX-SF	FlexMicrophone Plexiglass - Short Flat (Witness, Jury, Bench Approach)	4/30/2017	Yes	Yes	4/30/2022
				SPEAKERS				
50475	SID-02061	1	JAV-100TBP	Small Speaker, Black	9/4/2013	Yes	No	9/4/2018
50475	SID-02061	1	JAV-USB-LED	USB LED Confidence Recording Indicator	9/4/2013	Yes	No	9/4/2018
50475	SID-02061	1	JAV-MISC	Volume switch at Judge's Bench	9/4/2013	Yes	No	9/4/2018
				TELECONFERENCE				
50475	SID-02061	1	JAV-THAT2	Telephone Handset Audio Tap	12/26/2012	Yes	No	12/26/2017
50475	SID-02061	1	JAV-MPA-PHX	Microphone Pre-Amp Adapter with 3-Pos Phoenix connector for adding non-FlexMics to the JAVS Processor	4/30/2017	Yes	Yes	4/30/2022
				ASSISTED LISTENING SYSTEM				
50475	SID-02061	1	JAV-WIR-SYS	SoundPlus Courtroom Advantage Value System--1 WIRTX90 combination modulator and emitter system; 3 WIRRX18-2 headset type style headset receivers; 1 WIRRX22-4N body pack, 4 channel IR receiver; 1 NKL001 Neckloop; 1 HED021 Headphone; 1 CHG518 (more...)	4/30/2017	Yes	Yes	4/30/2022
50475	SID-02061	1	JAV-CENTRO-ALA	Centro Assistive Listening Adapter	4/30/2017	Yes	Yes	4/30/2022
Courtroom 3 Family Court								
				JAVS HDX RECORDING SYSTEM				
50475	SID-01151	1	JAV-CENTRO-TX	JAVS Centro TX Ethernet Controlled Audio/Video Processor - Base Unit with Centro TX software	4/30/2017	Yes	Yes	4/30/2022
50475	SID-01151	1	JAV-CENTRO-UTA	Centro TX to Centro AX "Software Only" Upgrade	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-CENTRO-HDX	JAVS HD video switcher 8/4 in, 6/3 out (HD-SDI/HDMI)	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-AVIX-1204	AVIX Video Switching Software	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-MCU8	JAVS Master Controller	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-TSD-DCPD	DC power distribution for TSD device 9-24v DC	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-GS116LP-100NAS	Netgear 16-Port 76W PoE/PoE+ Gigabit Ethernet Unmanaged Switch	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-28-19387	AC/DC Power Supply, 1 Output, 60 W, 12 VDC, 5 A	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-AVSC-HDMI-VIDEO	HDMI to Analog Video Converter and Scaler • EDID (external display identification data) management system ensures correct content is displayed. • Supports noise reduction and video enhancement features	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-NSE20	Full-featured, 4-Channel Video Encoder	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-REC8-HD-M	JAVS HD AIO Multichannel Recorder 720P	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-DRMK	Dual Rack Mount Kit	1/22/2021	Yes	Yes	1/22/2026

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ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
50475	SID-01151	1	JAV-BE550G	APC Back-UPS BE600M1, 600VA, 120V,1 USB charging port	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	4	JAV-JC-20HD	JAVS SDI/HD CCTV Box Color Camera	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	4	JAV-CMR410	Camera Mount 7"	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-VS-M2812-2	2.8-12mm Varifocal F1.4 CS Mount with Auto-Iris (For HD Camera)	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	3	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-AFS2	Dual Channel Advanced Feedback Suppression Processor	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-CSA-240Z	2 Channel Amplifier 40W per Channel with 70V & 100V Speaker Outputs	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-LED-1562HD	15.6" LED LCD Monitor 16:9 - 8 ms	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-HD-22	Stereo/Mono Headphones	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-CENTRO-CHA	Centro Headphone Amplifier	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-KT-107	7-Inch tabletop/in-wall Touch Panel w/ POE	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-SL-280	32-Port S1 smart controller	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-VIA-CONNECT-PRO	VIA Connect PRO - Wireless Presentation and Collaboration Solution	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-R6230	Netgear R6230 IEEE 802.11ac Ethernet Wireless Router	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-MS116-BK	Optical Mouse-MS116-Black - USB	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-KB216	USB Keyboard	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-VIA-CAST	Miracast Enabled USB Dongle for VIA Devices - Native Windows 10 and Android Support	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-PTRK-21	21 RU Portable Rolling Rack with Locking Front & Rear Doors Depth: 21.5" Height: 45.91" Width: 22.59"	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	2	JAV-JG9	JAVS Slim Line Power Strip and Conditioner	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	1	JAV-ED1000RTXL2U	1000 VA On-Line UPS 8 Outlets	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	4	JAV-UTR1-MP	Half Depth, single Rack space shelf	1/22/2021	Yes	Yes	1/22/2026
50475	SID-01151	2	JAV-VTF1	1 Gang Single Equipment Rack Blank Perforated	1/22/2021	Yes	Yes	1/22/2026
				VIDEO CONFERENCING				
50475	SID-01151	1	JAV-GROUP500-4X	Realpresence Group 500-720p. 500 HD Codec Eagle Eye IV ***JAVS supplied Polycom unit does not affect the price of JAVS Support Agreement. Accessories to the CODEC supplied by JAVS are included under coverage and maintenance fees.** **After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.** **#8G2044511004CV**	1/22/2021	*Yes	*Yes	
50475	SID-01151	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/22/2021	Yes	Yes	1/22/2026
				AUTOLOG & DIGITAL RECORDERS				
50475	SID-01151	1	JAV-SW-AL7	"AutoLog 7" Record Session Logging and Control Software	6/24/2013	Yes	NA	6/24/2018
50475	SID-01151	1	JAV-SW-V7P	"Viewer 7 Pro" Record Session Viewing Software	6/24/2013	Yes	NA	6/24/2018
50475	SID-01151	1	JAV-SW-S7S	"Scheduler 7" Record Session Scheduling Software	6/24/2013	Yes	NA	6/24/2018
50475	SID-01151	1	JAV-SW-P7S	"Publisher 7" Record Session Publishing Software	6/24/2013	Yes	NA	6/24/2018
50475	SID-01151	1	JAV-VS7100	IP Audio/Video Encoder	5/6/2011	Yes	No	5/5/2016
				PA SYSTEM				
50475	SID-01151	1	JAV-DRPA	Equalization & Loud Speaker Control System with Feedback Eliminator	5/6/2011	Yes	No	5/5/2016
50475	SID-01151	1	JAV-D45	45 Watt Power Amplifier	5/6/2011	Yes	No	5/5/2016

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

Port Angeles & Forks, WA

ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
				MICROPHONES				
50475	SID-01151	5	JAV-JM14	JAVS FlexMic with Multicolor LED and Touch Button	4/30/2017	Yes	Yes	4/30/2022
50475	SID-01151	3	JAV-PLX-CB	FlexMicrophone Plexiglass - C Bend (Judge, Left law, Right Law)	4/30/2017	Yes	Yes	4/30/2022
50475	SID-01151	2	JAV-PLX-SF	FlexMicrophone Plexiglass - Short Flat (Witness, Bench Conference)	4/30/2017	Yes	Yes	4/30/2022
50475	SID-01151	1	JAV-ATW-2120-aD	Handheld Wireless Mic system ATW-R2100 Receiver and ATW-T210 Handheld Unidirectional Dynamic Microphone/Transmitter. Includes AT8456a Quiet Flex Stand Clamp	4/30/2017	Yes	Yes	4/30/2022
50475	SID-01151	1	JAV-MPA-PHX	Microphone Pre-Amp Adapter with 3-Pos Phoenix connector for adding non-FlexMics to the JAVS Processor	4/30/2017	Yes	Yes	4/30/2022
				TELECONFERENCING SYSTEM				
50475	SID-01151	1	JAV-THAT2	Telephone Handset Audio Tap	5/6/2011	Yes	No	5/5/2016
50475	SID-01151	1	JAV-MPA-PHX	Microphone Pre-Amp Adapter with 3-Pos Phoenix connector for adding non-FlexMics to the JAVS Processor	4/30/2017	Yes	Yes	4/30/2022
				ASSISTED LISTENING SYSTEM				
50475	SID-01151	1	JAV-WIR-SYS	SoundPlus Courtroom Advantage Value System--1 WIRTX90 combination modulator and emitter system; 3 WIRRX18-2 headset type style headset receivers; 1 WIRRX22-4N body pack, 4 channel IR receiver; 1 NKL001 Neckloop; 1 HED021 Headphone; 1 CHG518 (more...)	4/30/2017	Yes	Yes	4/30/2022
50475	SID-01151	1	JAV-CENTRO-ALA	Centro Assistive Listening Adapter	4/30/2017	Yes	Yes	4/30/2022
				AUDIO FEED FOR VIDEO CONFERENCING				
50475	SID-01151	1	JAV-CENTRO-RCA	Centro RCA Output Cable (For Audio Feed from AV Out of Centro to Codec)	4/30/2017	Yes	Yes	4/30/2022
				EQUIPMENT RACK AND POWER STRIPS				
50475	SID-01151	1	JAV-LDR1418	14 RU Metal Desktop Cabinet (Black)	5/6/2011	Yes	No	5/5/2016
50475	SID-01151	1	JAV-UTR1	Half-Depth Single Rack Space Shelf	5/6/2011	Yes	No	5/5/2016
Juvenile Court								
				JAVS CENTRO TX RECORDING SYSTEM				
50475	SID-01152	1	JAV-CENTRO-TX	JAVS Centro TX Ethernet Controlled Audio/Video Processor - Base Unit with Centro TX software	4/26/2017	Yes	Yes	4/26/2022
50475	SID-01152	1	JAV-CENTRO-UTA	Centro TX to Centro AX "Software Only" Upgrade	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-CENTRO-HDX	JAVS HD video switcher 8/4 in, 6/3 out (HD-SDI/HDMI)	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-AVIX-1204	AVIX Video Switching Software	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-MCU8	JAVS Master Controller	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-TSD-DCPD	DC power distribution for TSD device 9-24v DC	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-GS116LP-100NAS	Netgear 16-Port 76W PoE/PoE+ Gigabit Ethernet Unmanaged Switch	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-28-19387	AC/DC Power Supply, 1 Output, 60 W, 12 VDC, 5 A	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-AVSC-HDMI-VIDEO	HDMI to Analog Video Converter and Scaler • EDID (external display identification data) management system ensures correct content is displayed. • Supports noise reduction and video enhancement features	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-NSE20	Full-featured, 4-Channel Video Encoder	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-REC8-HD-M	JAVS HD AIO Multichannel Recorder 720P	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-DRMK	Dual Rack Mount Kit	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-BE550G	APC Back-UPS BE600M1, 600VA, 120V,1 USB charging port	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	4	JAV-JC-20HD	JAVS SDI/HD CCTV Box Color Camera	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	4	JAV-CMR410	Camera Mount 7"	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-VS-M2812-2	2.8-12mm Varifocal F1.4 CS Mount with Auto-Iris (For HD Camera)	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	3	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-AFS2	Dual Channel Advanced Feedback Suppression Processor	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-CSA-240Z	2 Channel Amplifier 40W per Channel with 70V & 100V Speaker Outputs	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/25/2021	Yes	Yes	1/25/2026

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

Port Angeles & Forks, WA

ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
50475	SID-01152	1	JAV-LED-1562HD	15.6" LED LCD Monitor 16:9 - 8 ms	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-HD-22	Stereo/Mono Headphones	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-CENTRO-CHA	Centro Headphone Amplifier	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-KT-107	7-Inch tabletop/in-wall Touch Panel w/ POE	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-SL-280	32-Port S1 smart controller	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-VIA-CONNECT-PRO	VIA Connect PRO - Wireless Presentation and Collaboration Solution	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-R6230	Netgear R6230 IEEE 802.11ac Ethernet Wireless Router	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-MS116-BK	Optical Mouse-MS116-Black - USB	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-KB216	USB Keyboard	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-VIA-CAST	Miracast Enabled USB Dongle for VIA Devices - Native Windows 10 and Android Support	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-PTRK-21	21 RU Portable Rolling Rack with Locking Front & Rear Doors Depth: 21.5" Height: 45.91" Width: 22.59"	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	2	JAV-JG9	JAVS Slim Line Power Strip and Conditioner	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-ED1000RTXL2U	1000 VA On-Line UPS 8 Outlets	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	4	JAV-UTR1-MP	Half Depth, single Rack space shelf	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	2	JAV-VTF1	1 Gang Single Equipment Rack Blank Perforated	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	2	JAV-AV901	VSB (3) RCA Jacks to RJ45 Video +Stereo Audio Balun	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-STA-1	Dual Balanced/Unbalanced Line Amplifier -12 to 20 dB Gain Power Supply Not Included Recommended Power Supply: JAV-PS-24AS (USA) Up to 20 dB Gain in an Audio Line	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-PS-24AS	24 Vdc Switching Power Supply, North American AC Plug, 500 mA, dc Plug	1/25/2021	Yes	Yes	1/25/2026
50475	SID-01152	1	JAV-39908	5IN Wall Mount Speaker 70V-Black	7/9/2020	Yes	Yes	7/9/2025
				VIDEO CONFERENCING				
50475	SID-01152	1	JAV-GROUP500-AC	RealPresence Group 500 - 720P: Group500 HD CODEC, EagleEye Acoustic Camera	1/25/2021	*Yes	*Yes	
				***JAVS supplied Polycom unit does not affect the price of JAVS Support Agreement. Accessories to the CODEC supplied by JAVS are included under coverage and maintenance fees.** **After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.** **#8G20195104E5CV**				
50475	SID-01152	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/25/2021	Yes	Yes	1/25/2026
				AUTOLOG & DIGITAL RECORDERS				
50475	SID-01152	1	JAV-SW-AL7	"AutoLog 7" Record Session Logging and Control Software	6/25/2013	Yes	NA	6/25/2018
50475	SID-01152	1	JAV-SW-V7P	"Viewer 7 Pro" Record Session Viewing Software	6/25/2013	Yes	NA	6/25/2018
50475	SID-01152	1	JAV-SW-S7S	"Scheduler 7" Record Session Scheduling Software	6/25/2013	Yes	NA	6/25/2018
50475	SID-01152	1	JAV-SW-P7S	"Publisher 7" Record Session Publishing Software	6/25/2013	Yes	NA	6/25/2018
50475	SID-01152	1	JAV-VS7100	IP Audio/Video Encoder	5/2/2011	Yes	No	5/1/2016
				MICROPHONES				
50475	SID-01152	6	JAV-JM14	JAVS FlexMic with Multicolor LED and Touch Button	4/26/2017	Yes	Yes	4/26/2022
50475	SID-01152	4	JAV-PLX-CB	FlexMicrophone Plexiglass - C Bend (Judge, Left Law, Right Law, Parent Guardian)	4/26/2017	Yes	Yes	4/26/2022
50475	SID-01152	2	JAV-PLX-SF	FlexMicrophone Plexiglass - Short Flat (Bench Approach, Witness)	4/26/2017	Yes	Yes	4/26/2022

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

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ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
				TELECONFERENCE				
50475	SID-01152	1	JAV-THAT2	Telephone Handset Audio Tap	5/2/2011	Yes	No	5/1/2016
50475	SID-01152	1	JAV-MPA-PHX	Microphone Pre-Amp Adapter with 3-Pos Phoenix connector for adding non-FlexMics to the JAVS Processor	4/26/2017	Yes	Yes	4/26/2022
				ASSISTED LISTENING SYSTEM				
50475	SID-01152	1	JAV-WIR-SYS	SoundPlus Courtroom Advantage Value System--1 WIRTX90 combination modulator and emitter system; 3 WIRRX18-2 headset type style headset receivers; 1 WIRRX22-4N body pack, 4 channel IR receiver; 1 NKL001 Neckloop; 1 HED021 Headphone; 1 CHG518 (more...)	4/26/2017	Yes	Yes	4/26/2022
50475	SID-01152	1	JAV-CENTRO-ALA	Centro Assistive Listening Adapter	4/26/2017	Yes	Yes	4/26/2022
Clallam Co Jail				**VIDEO CONFERENCING**				
50475	SID-89598	1	JAV-VIDEOPROTECT-500	Polycom RealPresence VideoProtect 500 Includes: Group 500-720p Codec - Rmt, MicArray, EE Acoustic Camera, 1-22" LCD w/Integrated Audio, - Handset, Cable Bundle, NA Pwr Cord, (Maintenance Contract Required)	3/3/2021	**Yes	**Yes	3/3/2026
Mobile Recording System								
50475	SID-89597	1	JAV-WUSB6300	USB Wi-Fi Adapter Wireless-AC - 2.4/5 GHz - speeds of up to 867 Mbps* on the 5GHz band	3/19/2021	Yes	Yes	3/19/2026
50475	SID-89597	1	JAV-REC8-MX1	Recorder Deck Unit	3/19/2021	Yes	Yes	3/19/2026
50475	SID-89597	1	JAV-4FT-CORD	4ft 18AWG Power Cord Cable CENTRO/RECORDER/P306	3/19/2021	Yes	Yes	3/19/2026
50475	SID-89597	1	JAV-SW-AL8S	AutoLog 8 Session Logging and Control Software	3/19/2021	Yes	Yes	3/19/2026
50475	SID-89597	4	JAV-PLX-CB	FlexMic Plexiglass - C Bend	3/19/2021	Yes	Yes	3/19/2026
50475	SID-89597	4	JAV-JM14	JAVS FlexMic with Multicolor LED and Touch Button	3/19/2021	Yes	Yes	3/19/2026

Port Angeles District

District Courtroom 1

				JAVS HDX RECORDING SYSTEM				
50473	SID-02914	1	JAV-CENTRO-HDX	JAVS HD video switcher 8/4 in, 6/3 out (HD-SDI/HDMI)	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-CENTRO-UTA	Centro TX to Centro AX "Software Only" Upgrade	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-AVIX-1204	AVIX Video Switching Software	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-MCU8	JAVS Master Controller	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-TSD-DCPD	DC power distribution for TSD device 9-24v DC	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-GS116LP-100NAS	Netgear 16-Port 76W PoE/PoE+ Gigabit Ethernet Unmanaged Switch	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-28-19387	AC/DC Power Supply, 1 Output, 60 W, 12 VDC, 5 A	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-AVSC-HDMI-VIDEO	HDMI to Analog Video Converter and Scaler • EDID (external display identification data) management system ensures correct content is displayed. • Supports noise reduction and video enhancement features	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-NSE20	Full-featured, 4-Channel Video Encoder	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-REC8-HD-M	JAVS HD AIO Multichannel Recorder 720P	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-DRMK	Dual Rack Mount Kit	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-BE550G	APC Back-UPS BE600M1, 600VA, 120V,1 USB charging port	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	4	JAV-JC-20HD	JAVS SDI/HD CCTV Box Color Camera	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	4	JAV-CMR410	Camera Mount 7"	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-VS-M2812-2	2.8-12mm Varifocal F1.4 CS Mount with Auto-Iris (For HD Camera)	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	3	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	2/4/2021	Yes	Yes	2/4/2026

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

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ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
50473	SID-02914	6	JAV-JM14	JAVS FlexMic with Multicolor LED and Touch Button	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	6	JAV-PLX-CB	FlexMic Plexiglass - C Bend	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-AFS2	Dual Channel Advanced Feedback Suppression Processor	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-LED-1562HD	15.6" LED LCD Monitor 16:9 - 8 ms	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-HD-22	Stereo/Mono Headphones	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-CENTRO-CHA	Centro Headphone Amplifier	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-KT-107	7-Inch tabletop/in-wall Touch Panel w/ POE	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-SL-280	32-Port S1 smart controller	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-VIA-CONNECT-PRO	VIA Connect PRO - Wireless Presentation and Collaboration Solution	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-R6230	Netgear R6230 IEEE 802.11ac Ethernet Wireless Router	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-MS116-BK	Optical Mouse-MS116-Black - USB	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-KB216	USB Keyboard	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-VIA-CAST	Miracast Enabled USB Dongle for VIA Devices - Native Windows 10 and Android Support	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-PTRK-21	21 RU Portable Rolling Rack with Locking Front & Rear Doors Depth: 21.5" Height: 45.91" Width: 22.59"	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	2	JAV-JG9	JAVS Slim Line Power Strip and Conditioner	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-ED1000RTXL2U	1000 VA On-Line UPS 8 Outlets	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	4	JAV-UTR1-MP	Half Depth, single Rack space shelf	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	2	JAV-VTF1	1 Gang Single Equipment Rack Blank Perforated	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-LTM1U	Large Fusion™ Micro-Adjustable Tilt Wall Mount 37" - 63" Weight Capacity - 200 lbs (90.7kg)	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-LED-60	60" LED Monitor	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-CENTRO-AX	JAVS Centro AX Ethernet Controlled Audio/Video Processor - Base Unit with Centro XX software	2/4/2021	Yes	Yes	2/4/2026
50473	SID-02914	1	JAV-SW-AL7S	"AutoLog 7" Record Session Logging and Control Software	4/30/2013	Yes	NA	
50473	SID-02914	1	JAV-VS7100	IP Audio/Video Encoder	4/30/2013	Yes	No	
50473	SID-02914	1	JAV-ES550	Back-UPS ES, 550VA/300W, Input 120V/ Output 120V, Interface Port USB	4/30/2013	Yes	No	
50473	SID-02914	1	JAV-REC7-SRMK	"Recorder 7" Single Rack Mount Kit	4/30/2013	Yes	No	
50473	SID-02914	1	JAV-SW-S7S	"Scheduler 7" Record Session Scheduling Software	4/30/2013	Yes	NA	
50473	SID-02914	2	JAV-SW-P7S	"Publisher 7" Record Session Publishing Software	4/30/2013	Yes	NA	
50473	SID-02914	1	JAV-280A	80W Dual Channel Power Amplifier	4/30/2013	Yes	No	
50473	SID-02914	6	JAV-PLX	Plexiglass Microphone Mount	4/30/2013	Yes	No	
50473	SID-02914	7	JAV-MPA-PHX	Microphone Pre-Amp Adapter with 3-Pos Phoenix connector for adding Non-FlexMics to the JAVS Processor (For Wireless Lavalier Mic)	4/26/2017	Yes	Yes	4/26/2022
50473	SID-02914	1	JAV-THAT2	Telephone Handset Audio Tap	4/30/2013	Yes	No	
50473	SID-02914	1	JAV-UATT	"Actua" Line Input Adapter w/ Attenuation	4/30/2013	Yes	No	
50473	SID-02914	1	JAV-CENTRO-RCA	Centro RCA Output Cable (Required to connect external A/V Outputs)	4/26/2017	Yes	No	4/26/2022
50473	SID-02914	2	JAV-FPSG-2PORT-BR	2 Port Brown Face Plate	4/26/2017	Yes	Yes	4/26/2022
50473	SID-02914	4	JAV-ADPT-3.5MM-KS	3.5mm Keystone Adapter	4/26/2017	Yes	Yes	4/26/2022

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

Port Angeles & Forks, WA

ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
				VIDEO CONFERENCING				
50473	SID-02914	1	JAV-GROUP500-AC	RealPresence Group 500 - 720P: Group500 HD CODEC, EagleEye Acoustic Camera	2/4/2021	*Yes	*Yes	
				***JAVS supplied Polycom unit does not affect the price of JAVS Support Agreement. Accessories to the CODEC supplied by JAVS are included under coverage and maintenance fees.** **After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.#8G194250E4CDCV**				
Historic Courtroom								
				JAVS HDX RECORDING SYSTEM				
50473	SID-06154	1	JAV-CENTRO-HDX	JAVS HD video switcher 8/4 in, 6/3 out (HD-SDI/HDMI)	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-CENTRO-UTA	Centro TX to Centro AX "Software Only" Upgrade	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-CENTRO-AX	"Centro AX"- Base Unit plus Centro TX software - 8 Microphone Inputs; 1 Camera Input - 1 Audio Conference Input/Output - 2 Zoning PA Outputs; 1 Local Monitor Output; - 6 Non-Configurable A/V Outputs	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-AVIX-1204	AVIX Video Switching Software	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-MCU8	JAVS Master Controller	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-TSD-DCPD	DC power distribution for TSD device 9-24v DC	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-GS116LP-100NAS	Netgear 16-Port 76W PoE/PoE+ Gigabit Ethernet Unmanaged Switch	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-28-19387	AC/DC Power Supply, 1 Output, 60 W, 12 VDC, 5 A	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-AVSC-HDMI-VIDEO	HDMI to Analog Video Converter and Scaler • EDID (external display identification data) management system ensures correct content is displayed. • Supports noise reduction and video enhancement features	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-NSE20	Full-featured, 4-Channel Video Encoder	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-REC8-HD-M	JAVS HD AIO Multichannel Recorder 720P	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-DRMK	Dual Rack Mount Kit	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-BE550G	APC Back-UPS BE600M1, 600VA, 120V,1 USB charging port	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	4	JAV-JC-20HD	JAVS SDI/HD CCTV Box Color Camera	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	4	JAV-CMR410	Camera Mount 7"	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-VS-M2812-2	2.8-12mm Varifocal F1.4 CS Mount with Auto-Iris (For HD Camera)	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	3	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	5	JAV-JM14	JAVS FlexMic with Multicolor LED and Touch Button	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	5	JAV-PLX-CB	FlexMic Plexiglass - C Bend	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-AFS2	Dual Channel Advanced Feedback Suppression Processor	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-CSA-240Z	2 Channel Amplifier 40W per Channel with 70V & 100V Speaker Outputs	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-LED-1562HD	15.6" LED LCD Monitor 16:9 - 8 ms	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-HD-22	Stereo/Mono Headphones	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-CENTRO-CHA	Centro Headphone Amplifier	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-KT-107	7-Inch tabletop/in-wall Touch Panel w/ POE	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-SL-280	32-Port S1 smart controller	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-VIA-CONNECT-PRO	VIA Connect PRO - Wireless Presentation and Collaboration Solution	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-R6230	Netgear R6230 IEEE 802.11ac Ethernet Wireless Router	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-MS116-BK	Optical Mouse-MS116-Black - USB	1/29/2021	Yes	Yes	1/29/2026

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

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ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
50473	SID-06154	1	JAV-KB216	USB Keyboard	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-VIA-CAST	Miracast Enabled USB Dongle for VIA Devices - Native Windows 10 and Android Support	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-PTRK-21	21 RU Portable Rolling Rack with Locking Front & Rear Doors Depth: 21.5" Height: 45.91" Width: 22.59"	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	2	JAV-JG9	JAVS Slim Line Power Strip and Conditioner	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-ED1000RTXL2U	1000 VA On-Line UPS 8 Outlets	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	4	JAV-UTR1-MP	Half Depth, single Rack space shelf	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	2	JAV-VTF1	1 Gang Single Equipment Rack Blank Perforated	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-LTM1U	Large Fusion™ Micro-Adjustable Tilt Wall Mount 37" - 63" Weight Capacity - 200 lbs (90.7kg)	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-LED-60	60" LED Monitor	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	2	JAV-AV901	VSB (3) RCA Jacks to RJ45 Video +Stereo Audio Balun	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-STA-1	Dual Balanced/Unbalanced Line Amplifier -12 to 20 dB Gain Power Supply Not Included Recommended Power Supply: JAV-PS-24AS (USA) Up to 20 dB Gain in an Audio Line	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	JAV-PS-24AS	24 Vdc Switching Power Supply, North American AC Plug, 500 mA, dc Plug	1/29/2021	Yes	Yes	1/29/2026
50473	SID-06154	1	PS-1	Centro Power Supply	2/26/2015	Yes	No	
50473	SID-06154	1	JAV-SW-AL7S	"AutoLog 7" Record Session Logging and Control Software	2/26/2015	Yes	NA	
50473	SID-06154	1	JAV-SW-S7S	"Scheduler 7" Record Session Scheduling Software	2/26/2015	Yes	NA	
50473	SID-06154	1	JAV-SW-P7S	"Publisher 7" Record Session Publishing Software	2/26/2015	Yes	NA	
50473	SID-06154	1	JAV-SW-V7P	"Viewer 7 Pro" Record Session Viewing Software	2/26/2015	Yes	NA	
50473	SID-06154	1	JAV-Q7401	Axis Video Encoder with Audio	2/26/2015	Yes	No	
50473	SID-06154	2	JAV-SPK5B	Control Style Wall Mounted Speaker (Black)	2/26/2015	Yes	No	
50473	SID-06154	1	JAV-830R	Lavalier Mic with 25' Cable and Power Module	2/26/2015	Yes	No	
50473	SID-06154	1	JAV-CENTRO-MPA	Centro Microphone Pre-Amp Adapter	2/26/2015	Yes	No	
50473	SID-06154	1	JAV-PL19	19" LCD Monitor (Black) 2015	2/26/2015	Yes	No	
50473	SID-06154	1	JAV-THAT2	Telephone Handset Audio Tap	2/26/2015	Yes	No	
				VIDEO CONFERENCING				
50473	SID-06154	1	JAV-GROUP500-AC	RealPresence Group 500 - 720P: Group500 HD CODEC, EagleEye Acoustic Camera	1/29/2021	*Yes	*Yes	
				***JAVS supplied Polycom unit does not affect the price of JAVS Support Agreement. Accessories to the CODEC supplied by JAVS are included under coverage and maintenance fees. After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.#8G193950E3D6CV**				
50473	SID-06154	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/29/2021	Yes	Yes	1/29/2026

Clallam County District II Court
Forks, Washington

				JAVS HDX RECORDING SYSTEM				
50474	SID-02064	1	JAV-CENTRO-HDX	JAVS HD video switcher 8/4 in, 6/3 out (HD-SDI/HDMI)	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-AVIX-1204	AVIX Video Switching Software	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-MCU8	JAVS Master Controller	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-TSD-DCPD	DC power distribution for TSD device 9-24v DC	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-GS116LP-100NAS	Netgear 16-Port 76W PoE/PoE+ Gigabit Ethernet Unmanaged Switch	1/8/2021	Yes	Yes	1/8/2026

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

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ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
50474	SID-02064	1	JAV-28-19387	AC/DC Power Supply, 1 Output, 60 W, 12 VDC, 5 A	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-AVSC-HDMI-VIDEO	HDMI to Analog Video Converter and Scaler • EDID (external display identification data) management system ensures correct content is displayed. • Supports noise reduction and video enhancement features	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-NSE20	Full-featured, 4-Channel Video Encoder	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-REC8-HD-M	JAVS HD AIO Multichannel Recorder 720P	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-DRMK	Dual Rack Mount Kit	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-BE550G	APC Back-UPS BE600M1, 600VA, 120V,1 USB charging port	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-SW-AL7S	"AutoLog 7" Record Session Logging and Control Software	4/15/2014	Yes	No	
50474	SID-02064	1	JAV-SW-S7S	"Scheduler 7" Record Session Scheduling Software	4/15/2014	Yes	No	
50474	SID-02064	1	JAV-SW-P7S	"Publisher 7" Record Session Publishing Software	4/15/2014	Yes	No	
50474	SID-02064	1	JAV-SW-V7P	"Viewer 7 Pro" Record Session Viewing Software	4/15/2014	Yes	No	
50474	SID-02064	4	JAV-JC-20HD	JAVS SDI/HD CCTV Box Color Camera	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	4	JAV-CMR410	Camera Mount 7"	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-VS-M2812-2	2.8-12mm Varifocal F1.4 CS Mount with Auto-Iris (For HD Camera)	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	3	JAV-VS-M550-4	5-50mm Varifocal F1.6 CS Mount with Auto-Iris (For HD Camera)	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	5	JAV-JM14	JAVS FlexMic with Multicolor LED and Touch Button	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	5	JAV-PLX-CB	FlexMic Plexiglass - C Bend	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-AFS2	Dual Channel Advanced Feedback Suppression Processor	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-CSA-240Z	2 Channel Amplifier 40W per Channel with 70V & 100V Speaker Outputs	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-LED-1562HD	15.6" LED LCD Monitor 16:9 - 8 ms	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-HD-22	Stereo/Mono Headphones	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-CENTRO-CHA	Centro Headphone Amplifier	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-KT-107	7-Inch tabletop/in-wall Touch Panel w/ POE	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-SL-280	32-Port S1 smart controller	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-LTM1U	Large Fusion™ Micro-Adjustable Tilt Wall Mount 37" - 63" Weight Capacity - 200 lbs (90.7kg)	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-LED-60	60" LED Monitor	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-SK40RUSBB	(4) Outlet Surge Protector & (2) USB Outlets(3.4A) - 1080 Joule Rating	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-MC-BD	Bi-Directional SDI/HDMI with Power Supply	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-VIA-CONNECT-PRO	VIA Connect PRO - Wireless Presentation and Collaboration Solution	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-R6230	Netgear R6230 IEEE 802.11ac Ethernet Wireless Router	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-MS116-BK	Optical Mouse-MS116-Black - USB	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-KB216	USB Keyboard	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-VIA-CAST	Miracast Enabled USB Dongle for VIA Devices - Native Windows 10 and Android Support	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-BBD1694-3B	Premium Belden 1694A Digital Video BNC Cable 3 ft	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-PTRK-21	21 RU Portable Rolling Rack with Locking Front & Rear Doors Depth: 21.5" Height: 45.91" Width: 22.59"	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	2	JAV-JG9	JAVS Slim Line Power Strip and Conditioner	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-ED1000RTXL2U	1000 VA On-Line UPS 8 Outlets	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	4	JAV-UTR1-MP	Half Depth, single Rack space shelf	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	2	JAV-VTF1	1 Gang Single Equipment Rack Blank Perforated	1/8/2021	Yes	Yes	1/8/2026
50474	SID-02064	1	JAV-CENTRO-AX	"Centro AX" - Base Unit plus Centro AX software	4/15/2014	Yes	No	
50474	SID-02064	1	PS1	Centro Power Supply	4/15/2014	Yes	No	
50474	SID-02064	1	JAV-Q7401	Axis Video Encoder with Audio	4/15/2014	Yes	No	
50474	SID-02064	2	JAV-AW500	5" Two Way Loud Speaker	4/15/2014	Yes	No	
50474	SID-02064	2	JAV-TLM572	Lowell 4 Watt General Purpose Transformer 25V/70V 4-2-1-.5 Watt Taps at 8 Ohm	4/15/2014	Yes	No	
50474	SID-02064	1	JAV-THAT2	Telephone Handset Audio Tap	4/15/2014	Yes	No	$ 450.00

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

Port Angeles & Forks, WA

ACCOUNT #	SID #	QTY	ITEM #	DESCRIPTION	INSTALL DATE	SERVICE	WARRANTY	5 YEAR DATE
				VIDEO CONFERENCING				
50474	SID-02064	1	JAV-GROUP500-AC	RealPresence Group 500 - 720P: Group500 HD CODEC, EagleEye Acoustic Camera ***JAVS supplied Polycom unit does not affect the price of JAVS Support Agreement.** **After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.** **#8G201951049ACV**	1/8/2021	*Yes	*Yes	
50474	SID-02064	1	JAV-A3-PHX	Auxiliary Audio Input with Phoenix Connection	1/8/2021	Yes	Yes	1/8/2026
Forks Jail								
50474	SID-89600	1	JAV-VIDEOPROTECT-500	Polycom RealPresence VideoProtect 500 Includes: Group 500-720p Codec - Rmt, MicArray, EE Acoustic Camera, 1-22" LCD w/Integrated Audio, - Handset, Cable Bundle, NA Pwr Cord. ***JAVS supplied Polycom unit does not affect the price of JAVS Support Agreement.** **After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.** **#8G2019510471CV**	1/14/2021	*Yes	*Yes	

ATTACHMENT B

Priority Level	Example	Initial Response*	On-Site Response**
Urgent	Non-Recording System; inability to record audio; inability to record judge, witness or attorney microphone(s)	1 Business Hour	2 Business Days
High	Faulty monitor, camera, microphone (other than Urgent Level examples), or system mode not critical to recording; publishing; secondary recorder;	2 Business Hours	3 Business Days
Normal	System adjustments to microphone or PA levels, camera views and user settings;	4 Business Hours	5 Business Days
Supportive	Operational training or minor/preferred hardware or software user adjustments, video conference	8 Business Hours	Next scheduled Preventative Maintenance or other higher-level repair visit

*An "Initial Response" for the purposes of this Agreement is when a service ticket is opened and acknowledged by JAVS help desk or JAVS Safeguard Technician.

**An "On-Site Response" for the purposes of this Agreement is the time from when JAVS help desk or JAVS Safeguard Technician logs the ticket and when the JAVS Safeguard Technician arrives to Customer's agreed upon appointment for the initial on-site repair.

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

4
2/14/22

Department: Sheriff

WORK SESSION ☒ **Meeting Date: 02/14/22**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

- ☐ Call for Hearing
- ☐ Resolution
- ☐ Draft Ordinance
- ☐ Contract/Agreement/MOU - Contract #
- ☐ Proclamation
- ☐ Final Ordinance
- ☐ Budget Item
- ☒ Request for new position in EmergMngmt

Documents exempt from public disclosure attached: ☐

Executive summary:
During the last two years, the Clallam County Emergency Management Section has been under a constant state of activation. Through the pandemic, storms and even a tsunami threat, the EOC has responded to the needs of our community in emergency situations. This has forced us to place many duties that are required to a back burner, so that more responsive tasks can be completed.

As we continue our assignment in planning, outreach and response, we have found the need to have additional staff to help with support duties such as scheduling of volunteers, filing, and filling tasks that the Emergency Management Coordinators are required to do, but have found little time to do it.

Attached is a complete narrative with a request for a fully benefited part time position as an assistant to the Emergency Management Section to aid in accomplishing our mission with more efficiency.

Budgetary impact:
The impact to the FY2022 budget if the position is filled starting March 1 is an approximate amount of $38,087. This amount is based on establishing a fully benefited, part-time position at the pay rate of Range 48 in the Teamsters bargaining unit. This amount includes salary and benefit calculations.

Recommended action:
Approval by the Board to establish this new position within the Sheriff's Emergency Services budget.

County Official signature & print name: W L Benedict W.L. Benedict, Sheriff

Name of Employee/Stakeholder attending meeting: Ron Cameron, Undersheriff

Relevant Departments: Sheriff's Office

Date submitted: 02/09/22

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

CLALLAM COUNTY PERSONNEL REQUISITION FORM (PRF)

Date: 02/09/22

Department: Sheriff

Job Description Title: EmergMngmt Assistant
Classification Series: Administrative Specialist
Position Description Title: EmergMngmt Assistant

This is:
☐ **Replacement for:** _____

☒ **New Position**

If *Regular* Position:
☐ **Full Time @** ☐ **40 Hours/wk.**
☒ **Part Time @** 20 **Hours/wk.**

If *Extra Help* Position:
☐ **Extra Help**
"Extra Help Worker" means a worker who is hired from extra help funds to work 69 or fewer hours per month for a period of no more than four (4) months, and who is not benefit eligible.

If *Seasonal* Position:
☐ **Seasonal**
Seasonal Workers may work no more than 5 months (per Department of Retirement Systems' rules, labor contracts, and other regulations that affect employee benefit eligibility), and are not entitled to benefits.

Benefited: ☒ **Yes** ☐ **No**

☒ **Retirement Eligible**

☒ **Union: Teamster** ☐ **Union Exempt**

Salary Range*: 48 **Rate:** 21.876 **to** 26.654**/hourly** (please do not fill in for salaried employees)

Rate: _____ **to** _____**/monthly** (please do not fill in for hourly employees)

The below questions need to be answered and all documents must be submitted with the initial PRF for approval

☒ **Attach Copy of Schedule A** | ☐ **Position was approved by BOCC and funds are in department budget**

☐ **Other Funding Source - Explain:**_____

☒ **Attach Copy of Department Organization Chart** (with employee names, highlighting new position placement)

☒ **Job Description** | ☐ **Position Description**

Has Job Description/Position Description Changed? ☐ **Yes** ☐ **No**

Is Job Description/Position Description in CURRENT Format? ☒ **Yes** ☐ **No**

Has Job Description/Position Description been Approved by HR? ☒ **Yes** ☐ **No**

☐ **Special Instructions: (if yes, please submit on a separate sheet of paper)**

☐ **Special Questionnaire: (if yes, please submit via email in PDF format to bwenzl@co.clallam.wa.us)**

In-House ONLY Recruitment ☐ **Yes** ☐ **No**

HR Advertising: Peninsula Daily News; Gazette; Forks Forum; WorkSource; Facebook

Department Advertising: ☐ **Yes** ☐ **No**

Department Head: W J Benedict **Date:** 2.9.22

HR Director: _____ **Date:** _____

County Administrator: _____ **Date:** _____

Clallam County Sheriff's Office

WASPC Accredited Agency

223 East 4th Street, Suite 12
Port Angeles, WA 98362-3015

Administration: (360)417-2262
Fax: (360)417-2494

http://www.clallam.net/Sheriff

sheriff@co.clallam.wa.us

W. L. Benedict
Sheriff

Ron Cameron
Undersheriff

Brian King
Chief Criminal Deputy

Alice Hoffman
Chief Civil Deputy

Don Wenzl
Chief Corrections Deputy

MEMORANDUM IN SUPPORT OF AN ASSISTANT IN THE EMERGENCY MANAGEMENT SECTION

For almost 2 years, Clallam County Emergency Management has been in a constant state of emergency response and activation. The COVID pandemic has taught us new lessons in Emergency Management and the recent storms and response has given us even more challenges. Then, the management of cold weather shelters gives us even another new demand.

Even as we maneuver through these challenges, our routine responsibilities remain. Planning and organization for each of our five operational areas; Training and exercising of our volunteer staff to keep our EOC at the ready; Outreach to our citizens for messaging and preparedness; and administrative duties such as grants, budgeting and more.

Even though we have finally filled the slot that Jamye Wisecup left us, we are challenged each day in keeping up with the events that face us in the form of emergencies to manage.

We are in need of an additional person on staff. I am suggesting a part time position classified "Emergency Management Assistant". While the EM Coordinators are not supervisors or managers of people, they could use the assistant in many ways to alleviate tasks that are time burners, so that CCEM can continue to be as effective as we have been.

Here is a suggested duties list for our proposed position:

Position Summary

To assist volunteers and staff involved in County-wide emergency and disaster planning exercises, public education, and training programs within the scope of the County and community needs; in cooperation and partnership with local political subdivisions, tribes, business, industry, volunteer organizations, and state EMD, strives to provide the highest level of preparedness for people, organizations, and systems, in both the public and private sectors prior to a disaster; performs professional work in the four phases of Emergency Planning. To perform related duties as assigned.

Scope of Responsibility

The Emergency Management Assistant is a part time position, which reports directly to the Undersheriff. The hours of work may vary according to the needs of the section, requiring the Assitant to be flexible, with being on call a possibility. They will be responsible to assist Program Coordinators with office and Emergency Operations Tasks such as administrative filing, EOC scheduling and assisting in setting up message centers.

Note: This position may be designated "essential worker." Essential worker means those positions as designated by the County that respond and perform work functions during an emergency essential to the protection, health, safety, and welfare of citizens of Clallam County and to the operation of public facilities and property. The County maintains the right to recall any employee to perform essential duties during any emergency, or to restore governmental functions during extended emergencies.

Emergency Management Assistant:

This class is distinguished from the Emergency Management Program Coordinator's by the performance of more routine tasks and duties. Positions at this level function with closer direction from all that work in the EOC.

Typical Duties

1. Answer phones and interact with requests for preparedness information from the public
2. Maintain the website training calendar
3. Scheduling of public presentations on preparedness and emergency response
4. Maintain filing system for Emergency Preparedness handouts and guidelines, ensuring the materials accurately reflect current practices
5. Scheduling and contact for the EOC Team. The scheduling of monthly meetings and the call out of volunteers in response to emergency events
6. Maintain the EOC calendar in Outlook. The EOC is used by the entire courthouse as a training and meeting venue.
7. Receiving the phone and email requests for reservations and logging those on the EM calendar
8. Arranging for support needs of users of the EOC for meetings and trainings
9. Filing paperwork and forms related to the emergency management office
10. Maintaining a neat, clean and organized workspace in the EOC
11. Picking up mail and newspapers on a regular basis
12. Reviewing the news media for articles related to Emergency Management and saving copies for our files
13. Maintaining and updating of the folders on the J drive to ensure files are current and easy to find.
14. Responding to public record requests
15. Assemble the EOC Team for activations
16. Working with EM Coordinators to develop SOPs for the EOC
17. Primary communications with EOC Team
18. Tracking EOC team training (ensuring they receive the proper training for their position)

19. Working with the Volunteer coordinator to ensure new EOC team members receive the proper onboarding and background
20. Inventorying and reordering supplies and equipment for the EM Offices and EOC
21. Managing EOC Equipment (i.e. computers, monitors, copiers etc.) submitting help desk tickets for issues
22. Scheduling the EOC room for requests and Managing the EOC Calendar
23. Managing EOC entry protocols such as security and COVID reporting requirements
24. Assist with compiling materials for presentations and trainings (or delegating to volunteers)
25. Assist resources and staff involved in County-wide and Regional emergency and disaster planning, exercises, public education and training programs within the scope of the County and community needs.
26. Assist in the preparation of training materials and training courses
27. Participate in exercises and training of other community agencies as needed to improve County's emergency response and management capabilities.
28. Serve in the County's Emergency Operations Center (EOC), aiding in the county's coordination of emergencies and disasters
29. Other duties as assigned

Knowledge of:

- Emergency management coordination procedures, methods and techniques.
- Basic Incident Command System Classes (ICS 100, 200, 700, 800)
- Local emergency response capabilities and contacts to ensure appropriate and coordinated response to an emergency event.
- Team building principles and techniques.
- Applicable Federal, State and local laws, rules, regulations and policies.
- Effective teaching and training methods.
- Governmental structure and functions during an emergency situation
- Modern office procedures, methods and equipment including computers and related software.

Ability to:

Respond and perform work functions essential to the protection, health, safety and welfare of citizens of Clallam County, and the maintenance of public facilities and property.

Implement applicable Federal, State and local laws, rules

Implement local emergency planning objectives., regulations and policies in daily and emergency environments.

Make effective decisions in stressful situations.

Coordinate, work with and schedule County EOC volunteers.

Attend meetings, functions, training and/or emergency events/exercises outside normal working hours.

Operate a variety of office equipment including a computer and applicable software applications.

Respond to requests and inquiries from the general public.

Work independently in the absence of supervision.

Meet attendance standards necessary for successful job performance.

Understand and follow oral and written instructions.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain effective working relationships with those contacted in the course of work.

Physical Demands and Environment

Primarily in an office setting, however, individual may be expected to report to work and respond as Essential Personnel, and perform duties in off-site locations.

The statements contained herein reflect general details as necessary to describe the principal functions of this job, the level of knowledge and skill typically required, and the scope of responsibility, but should not be considered an all-inclusive listing of work requirements. Individuals may perform other duties as assigned including work in other functional areas to cover absences or relief, to equalize peak work periods or otherwise to balance the workload.

Current EM Staffing:

At this time, Clallam County Emergency Management is staff with two full time personnel. An Emergency Management Coordinator 1 and Emergency Management Coordinator 2 are currently assigned to conduct all emergency management responsibilities for the program. Such tasks are:

- Development and upkeep of the Comprehensive Emergency Management Plan for the County including the 15 or so emergency response functions. This requires outreach and coordination of stakeholders and leadership in each of the five operational areas to address all of our communities differing needs.
- Development and upkeep of the Hazard Mitigation Plan. This is a required county wide Plan that identifies and develops mitigation options for issues discovered that can contribute to emergencies and disasters. It requires EM staff to coordinate with all county governments and other political subdivisions as well as schools, hospital and utility districts etc. to coordinate mitigations strategies at all levels.
- Coordination with other groups to prepare and respond to emergencies of all kinds. This necessary planning can include groups such as faith based organizations and the Red Cross to aid in pre-established sheltering for emergency needs; animal groups to help care for displaced animals including pets and livestock; food banks and other resources to develop central points of distribution throughout all areas of the county
- Volunteer coordination, recruitment and management on multiple levels. There are numerous response groups within emergency management to assist in times of emergency. Radio/communications, aviation, Community Emergency Response Teams in each area, and soon to be developed a marine response group. And, the most important group are those that staff the emergency operations center which is largely by volunteers to help with planning and logistical

coordination in response to disasters. This all requires regular meeting and exercising of these groups to keep them energized and motivated to continue volunteering. These volunteers save the county many thousands of dollars in staff time.

- Public Outreach for preparedness. Clallam County Emergency Management is always working on helping our communities become aware of tools and resources to help prepare in advance of disaster situations. This includes presentations to many different groups, preparing public statements, inclusion in area events such as Home Show and County Fair, creations and coordination of information pamphlets, and working with educators to include our younger citizens in learning preparedness.
- Large scale Exercise development. Events like Active Shooter Responses and Cascadia Rising are exercise events developed and sponsored by Clallam County Emergency Management to work with all areas and agencies of our county to maximize the protection of our citizens and their property
- Work with State and Federal resources to minimize impacts of damage assessment for individuals and public entities in recovery situations after an emergency. Each year, Clallam County Emergency Management coordinates to reporting of infrastructure damage to FEMA resulting in some return in assistance saving local agencies thousands of dollars. It is quite possible that in the most recent storm events, CCEM will have contributed in aiding agencies and individuals in Clallam County with hundreds of thousands of dollars in assistance.
- Grant responsibilities. Grant monies are becoming more and more restrictive and difficult when applying. Detailed program development reporting to the State and Dept. of Homeland Security for funding of Emergency Management Programs has become labor intensive. It requires strategic planning in a world where we don't know what to expect next. As an example, as we were developing preparedness and response plans for a Cascadia event, the COVID-19 pandemic broke out. This delayed plans established for some time due to our responsibilities in the Unified Command response with the health department for almost two years. But the requirements from the previous applications were still reportable.
- Documentation and filing of plans. As with any department within the county, records management is required.

In addition, CCEM has been able to use the special assignment of a person from outside the department who is working on catastrophic planning and the development of the Continuity of Operations Plan for the Clallam County Courthouse. This hasn't diminished the need for this request for an assistant. Rather, it has highlighted it with further needs for filing and organizational tasks for these complex duties.

Consequences of request denial:

The information provided above that outlines the work conducted by our present EM staff, is a snapshot of their duties. Even the descriptions provided in the bulleted points above are high altitude views of their responsibilities in each of the mentioned tasks.

With a request denial, and this limited number of staff, CCEM will continue to work with our communities in the most efficient manner possible. Priorities are hard to set, as today's emergency may be different tomorrow. In the last few months we have been activated in the EOC for the pandemic, storms, a cold snap, and a tsunami threat. But we will make the most important issue of the day the priority.

But, even now, we are unable to participate in this year's statewide Cascadia Rising 22 exercise to the extent we had hoped. We do not have ability to lead all our volunteer groups in each of the five operational areas in exercising their expertise in responding to such a catastrophic event.

Other impacts are:

- Late submittals of required reports and plans such as the CEMP, Hazard Mitigation Plan, Stakeholder Preparedness reviews and more
- Delays in establishing necessary elements of the Emergency Operations Center upon emergency activation such as a message center
- Reduced or delayed response to public agencies and individuals in the aftermath of disasters
- Limited ability to establish public presentations and outreach, including those to special needs communities
- Reliance on other functions of the Sheriff's Office to fill gaps in responsibilities such as grant planning and programming that the current EM's are finding more difficult to find time for due to tasks in the field
- Reduced representation at region and state levels. Statewide plans are constantly being made. Training, catastrophic or simple region wide response planning; to be included in these plans, we are often required to be at the table with outside agencies so they recognize our needs. Having the part time position to alleviate some of the more office oriented tasks within CCEM from the current Coordinators, will enhance and maximize our ability to be included in these larger planning circles.
- Reliance on volunteers to fill the duties which as stated, is unpredictable.

Closing

This personnel request was considered in the summer of 2021, when budgets asks were being developed. However, at that time, paid staffing was available to CCEM in the form of COVID extra employment through the use of emergency grants which were still in play. As we neared the end of the calendar year, and beyond the window to present this request during 2021, we found that while our pandemic related duties were diminishing, our other tasks were becoming more and more involved. Added to that, was more than a single activation of the Emergency Operations Center in response to major emergencies. Some of those responses continue today.

Not all assignments for the assistant or the impacts of denial can be noted. The details and events facing emergency management cannot be forecasted. But it is known that climate change and other influences will continue to contribute to the need for Clallam County Emergency Management to respond to the needs of our community.

Respectfully submitted,

Ron Cameron, Undersheriff Date 2/9/22

Concur:

Bill Benedict, Sheriff Date 2/9/22

CLALLAM COUNTY
CCEM
EMERGENCY MANAGEMENT

Department Name: Sheriff - Emergency Services
Department Number: 00100.817.
BARS Number: 52510.10.

2022 Salary Budget Worksheet - Schedule A Version 4

2022 Proposal for 2.5 FTE's beginning 3-1-22

Employee Number	Position	Employee Name	Union Status	Hours Per Week	As of January 1 Range Step	As of January 1 Monthly Salary	Step Increase Month	Step Increase Salary	Salary Adjustment "A"	Current Adopted Salary	Future Budgeted Salary	FICA/ Medicare 0.0765	Plan	Retirement @ 0.1025	401A Match/ Contribution %	401A Match/ Contribution Expense	Employee Medical Insurance	Unemploy-ment @ 0.2%	Industrial Insurance Rate	Industrial Insurance Expense	Future Estimated Comp	Yearly COLA 2.5%	Paid Days in a Year
52510	Emergency Services																						
001373	Emergency Management Program Coord II	Anne Chastain	TU	40.00	54	4,735	1	0	0	54,027	58,459	4,472	P3	5,992	0.02	1,169	14,520	117	0.1339	280	85,009	1,421	261
002506	Emergency Management Program Coord I	Justine Chorley	TU	40.00	50	4,083	9	4,185	0	51,744	50,829	3,888	P3	5,210	0.02	1,017	14,520	102	0.1339	280	75,845	1,235	261
~~	PT - Emergency Management Assistant		TU	20.00	48	1	0	3	1,896	0	0	19,507	1,492	P3	1,999	0.02	390	14,520	39	0.1339	140	38,088	474	261
0500	Overtime										1,500	1,500	115		154						40	1,809		
0600	Extra Help										1,543	1,543	118		158						40	1,859		
	Total			100.00	FTE	2.50			0	108,814	131,838	10,086		13,513		2,576	43,560	258			779	202,610	3,130	

2023 Proposal for 2.5 FTE's

Employee Number	Position	Employee Name	Union Status	Hours Per Week	As of January 1 Range Step	As of January 1 Monthly Salary	Step Increase Month	Step Increase Salary	Salary Adjustment "A"	Current Adopted Salary	Future Budgeted Salary	FICA/ Medicare 0.0765	Plan	Retirement @ 0.1025	401A Match/ Contribution %	401A Match/ Contribution Expense	Employee Medical Insurance	Unemploy-ment @ 0.2%	Industrial Insurance Rate	Industrial Insurance Expense	Future Estimated Comp	Yearly COLA 2.5%	Paid Days in a Year
52510	Emergency Services																						
001373	Emergency Management Program Coord II	Anne Chastain	TU	40.00	54	5	4,854	1	0	0	54,027	59,928	4,585	P3	6,143	0.02	1,199	14,520	120	0.1339	280	86,773	1,456	261
002506	Emergency Management Program Coord I	Justine Chorley	TU	40.00	50	3	4,269	9	4,376	0	51,744	53,146	4,066	P3	5,447	0.02	1,063	14,520	106	0.1339	280	78,628	1,291	261
~~	PT - Emergency Management Assistant		TU	20.00	48	1	1,934	3	1,962	0	51,744	24,371	1,864	P3	2,498	0.02	487	14,520	49	0.1339	140	43,930	592	261
0500	Overtime										1,500	1,500	115		154						40	1,809		
0600	Extra Help										1,543	1,543	118		158						40	1,859		
	Total			100.00	FTE	2.50			0	108,814	140,489	10,747		14,400		2,749	43,560	275			779	212,999	3,340	

Clallam County Job Description

The job description is intended to describe the general nature and level of work being performed by the incumbent, and is not to be construed as an exclusive list of responsibilities, duties and skills required by the incumbent on this position. The job description does not imply an offer of employment, nor a contract for employment. It is subject to change at the discretion of the employer.

Job Title: Emergency Management Assistant

Salary Range: 48

Department: Sheriff's Office **Union Affiliated: Teamsters Local 589**

Reports to: Undersheriff **Pages 1-5**

Summary

The EM Assistant will assist volunteers and staff involved in County-wide emergency and disaster planning exercises, public education, and training programs, aid in the operation of the Emergency Operations Center (EOC) and message center and to perform related duties as assigned.

Scope of Responsibility

The Emergency Management Assistant is a part time position. The hours of work may vary according to the needs of the section, requiring the flexible hours, with being on call a possibility. Responsible to assist Program Coordinators with office and Emergency Operations tasks such as administrative office duties, EOC scheduling and assisting in setting up message centers.

Distinguishing Characteristics

This class is distinguished from the Emergency Management Program Coordinator positions by the performance of more routine tasks. Positions at this level function with closer direction from all that work in the EOC.

Typical Duties

- Answer phones and interact with requests for preparedness information from the public
- Maintain the EM website training calendar
- Schedule EOC for requests and manage the EOC calendar in Outlook
- Assist EM Coordinators to develop standard operating procedures for the EOC
- Manage EOC entry protocols such as security and COVID reporting requirements
- Assist with compiling materials for presentations and trainings
- Maintain filing system for Emergency Preparedness handouts and guidelines. Assist Program Coordinators to ensure the materials accurately reflect current practices
- File paperwork and forms related to the emergency management office

- Act as Lead for communications and scheduling of the EOC Team. Schedule monthly meetings and the call out of volunteers in response to emergency events. Assemble the EOC Team for activations

- Track EOC Team training and ensuring all members receive proper training for their assigned position

- Assist PM Coordinators to ensure new EOC Team members receive proper onboarding and complete the background process

- Arrange for support needs of users of the EOC for meetings and trainings

- Maintain a neat, clean, and organized workspace in the EOC

- Pick up EM mail and newspapers on a regular basis. Sort and distribute mail.

- Review news media for articles related to emergency management and maintain the EM historical file

- Maintain and update EM folders on the Sheriff's Office network drive to ensure files are current and easily retrievable

- Act as the EM Public Records Analyst to gather records at the request of the County and Sheriff's Office Public Records Officers

- Inventory and reorder supplies and equipment for the EM offices and EOC

- Manage EOC equipment (i.e. computers, monitors, copiers, etc). Submit HelpDesk requests to County IT

- Assist resources and staff involved in county-wide and regional emergency disaster planning, exercises, public education and training programs within the scope of the County and community needs

- Assist in the preparation of training materials and training courses

- Participate in exercises and training of other community agencies as needed to improve the County's emergency response and management capabilities

- Serve in the County's EOC, aiding in the County's coordination of emergencies and disasters

- Other duties as assigned

Qualifications

To perform this job successfully, an individual must be able to perform each essential function satisfactorily. The requirements listed below are representative of the knowledge, skills, and/or abilities required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Knowledge of:

Knowledge of emergency management coordination procedures, methods and techniques
Knowledge of Basic Incident Command System Classes (ICS 100, 200, 700, 800)
Knowledge of local emergency response capabilities and contacts to ensure appropriate and coordinated response to an emergency event
Knowledge of team building principles and techniques
Knowledge of applicable Federal, State and local laws, rules, regulations and policies
Knowledge of Governmental structure and functions during an emergency situation
Knowledge of modern office procedures, methods and equipment including computers and related software

Skill in:

Skill in interpersonal and human relations
Skill in organization
Skill in problem-solving
Skill in customer service, in person and via telephone (discretion, patience, etiquette, professionalism)
Skill in operation of a variety of office equipment, such as fax machine and copier
Skill in following oral and written instructions
Skill in adapting to changes in work load demand
Skill in following through on assignments
Skill in acquiring knowledge of specialized terminology relevant to position assignment
Skill in taking initiative
Skill in conducting research for a specific work assignment
Skill in working on multiple projects simultaneously
Skill in maintaining confidentiality of sensitive matters

Ability to:

Ability to respond and perform work functions essential to the protection, health, safety and welfare of citizens of Clallam County, and the maintenance of public facilities and property
Ability to implement applicable Federal, State and local laws, rules
Ability to implement local emergency planning objectives, regulations and policies in daily and emergency environments
Ability to make effective decisions in stressful situations
Ability to coordinate, work with, and schedule EOC Team volunteers
Ability to attend meetings, functions, training and/or emergency events/exercises outside normal working hours
Ability operate a variety of office equipment including a computer and applicable software applications
Ability to respond to requests and inquiries from the general public
Ability to work independently in the absence of supervision
Ability to be a self-starter with the ability to work accurately and efficiently with minimal oversight

Ability to understand and follow oral and written instructions
Ability to communicate clearly and concisely, both orally and in writing
Ability to establish and maintain effective working relationships with those contacted in the course of work
Ability to meet attendance standards necessary for successful job performance

Education and Experience Required
Requires knowledge of the field of assignment sufficient to perform thoroughly and accurately the full scope of responsibility as illustrated by examples in the above job description

Experience
Administrative/clerical experience involving heavy public contact and volunteer coordination experience

Licensing/Certification Requirements
Washington State Driver's License
U.S. citizenship (selected positions)
Pass polygraph test (selected positions)
Pass Psychological Evaluation (selected positions)
Pass Physical (selected positions)
Drug testing (selected positions)
Pass Background Check
Pass OSHA/Designated Required Training

Note: Any first aid rendered by such persons is rendered only as a collateral duty responding solely to injuries resulting from workplace incidents, generally at the location where the incident occurred.

Physical Demands and Environment
The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job.

The incumbent works primarily in an office setting, however, they will be expected to report to work and respond as Essential Personnel, perform field inspections and make presentations at off-site locations. Requires walking on various types of surfaces, including rough terrain, sitting, standing, ability to maintain balance, climb inclines, o kneel, bend, stoop, crouch, reach, push, pull and twist; requires sense of touch, finger dexterity, ability to grip with fingers and hands and lift and carry up to 20 pounds; ability to operate passenger vehicles; ability to hear voice conversations; requires far, side, night and color vision with depth perception. Flexible hours are also a requirement. This includes the possibility of shift adjustments for nights for presentations and weekends for community events.

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

High Exposure Designation
The employee assigned to this position may work within a high exposure classification as defined

under the Occupational Safety & Health Act and Washington Administrative Code governing Washington Industrial Safety & Health Act for blood borne pathogens protocols.

Essential Worker Designation

The employee assigned to this position may be designated as an "essential worker." Essential workers are required by the county to respond and perform work functions during an emergency in order to ensure the protection of the health, safety, and welfare of the citizens of Clallam County and public facilities and property located therein. The county maintains the right to recall essential workers during any emergency and/or as necessary to restore governmental functions during extended emergencies.

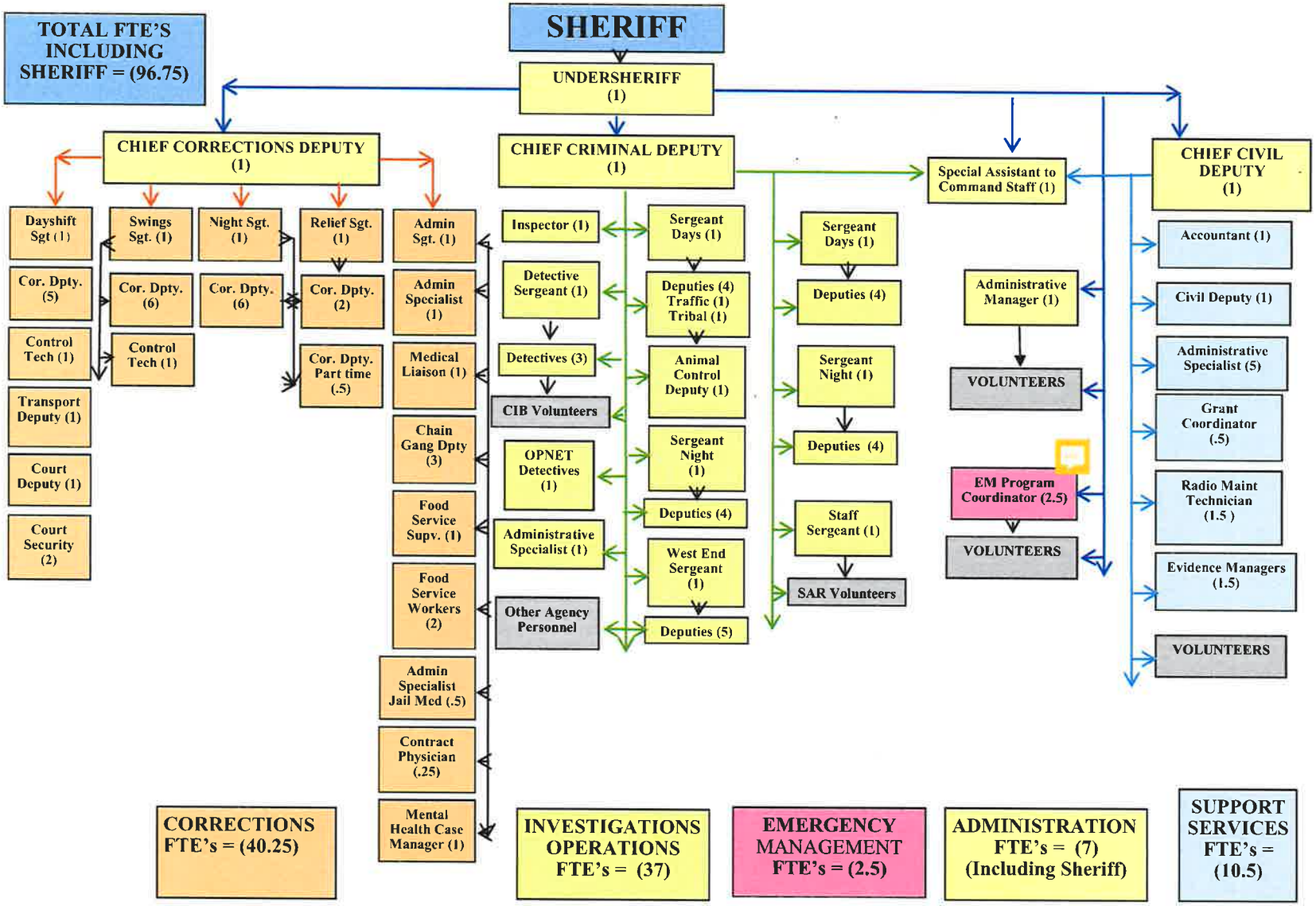
Requirement for Confidentiality

The employee assigned to this position works in the capacity of a confidential employee and is required to maintain confidentiality with regard to a broad range of matters including, but not limited to: employee performance, the management of protected health information, and matters protected by the attorney – client privilege. Any breach of this requirement of employment may result in immediate discipline, up to and including termination.

General Disclaimer

The statements contained herein reflect general details as necessary to describe the principal functions of this position, the level of knowledge and skill typically required, and the scope of responsibility, but should not be considered an all-inclusive listing of work requirements. The individual may be directed to perform other duties as assigned including work in other functional areas to cover absences or relief, to equalize peak work periods or otherwise to balance the workload.

CLALLAM COUNTY SHERIFF'S OFFICE ORGANIZATION 2021



Revised 9-21-2021

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

5
2/14/22

Department: Sheriff

WORK SESSION ☒ **Meeting Date: 02/14/22**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Resolution
☐ Draft Ordinance
☐ Contract/Agreement/MOU - Contract #
☐ Proclamation
☐ Final Ordinance
☐ Budget Item
☒ Discussion

Documents exempt from public disclosure attached: ☐

Executive summary:

Olympic Peninsula Community Clinic (OPCC) has been awarded a Medications for Opium Use Disorder (MOUD) grant from Health Care Authority (HCA) for the period 02/18/22 – 06/30/23. The Sheriff's Office will be working with OPCC to expand the Jail's medication assistance treatment program to begin offering all three types of FDA approved medications for Opioid Use Disorder. OPCC will reimburse the County for costs associated with the expansion of this program. The grant will reimburse OPCC for case management services associated with the Jail's program.

The Sheriff's Office will be working with OPCC to sign a Personal Services Agreement to establish the scope of work for this program expansion.

The Sheriff and OPCC will be discussing the details of the program and look forward to fielding any questions that may arise from this introduction.

Both agencies are excited to create such a program that should reduce overdose rates in our County and provide wrap-around and reentry services for Clallam's jail population.

County Official signature & print name: W.L. Benedict W.L. Benedict, Sheriff

Name of Employee/Stakeholder attending meeting: T.Scott Brandon - Executive Director of OPCC, Helen Kenoyer – Administrative Director, Sheriff Benedict, Sergeant Amy Bundy, and Jail representatives

Relevant Departments: Sheriff's Office

Date submitted: 02/09/22

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

6
2/14/22

Department: DCD Clallam MRC

WORK SESSION ☒ **Meeting Date: February 14, 2022**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other

Documents exempt from public disclosure attached: ☐

Executive summary: Clallam County MRC Chair Tim Cochnauer will give BOCC an update on the Clallam MRC activities.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐ **No budgetary impact.**

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

County Official signature & print name: Mary Ellen Winborn

Name of Employee/Stakeholder attending meeting: Rebecca Mahan and Tim Cochnauer

Relevant Departments: _____

Date submitted: February 9, 2022

CLALLAM COUNTY
MARINE RESOURCES COMMITTEE

SCRATCH SHEET

ACTIVITIES FOR 2021

FORAGE FISH SURVEY

Four sites: Cline Spit, Ediz Hook, East and West Elwha Beaches

Collect and process beach substrate for egg identification and numbers

KELP MONITORING

Freshwater and Clallam Bays—Species composition and surface area

TUMWATER CREEK OUTMIGRANT FISH TRAP

Lower Tumwater Creek-Identification and enumeration of fish species

PIGEON GUILLEMOT

Daily observation of nesting activities

OLYMPIA OYSTER RESTORATION

Ongoing restoration in Sequim Bay

EDUCATION AND TRAINING

Educational outreach cards, oil spill respond certification, presentations to schools

OTHER ACTIVITIES

Shellfish biotoxin at Pillar Point, Mussel biotoxin project in Port Angeles Harbor, Makah Tribe Green Crab project

ANTICIPATED AGENDA IN 2022

Continue ongoing projects listed above, educational materials, expand Green Crab Surveys, initiate derelict vessel and debris removal program, expand internship program

CLALLAM COUNTY

MARINE RESOURCES COMMITTEE

2021 ACCOMPLISHMENTS



FORAGE FISH SURVEYS

FOUR SITES:
- CLINE SPIT
- EDIZ HOOK
- ELWHA BEACH, EAST AND WEST

Sample monthly
- Forward samples to WDFW



KELP MONITORING

Freshwater and Clallam Bays
Late summer

Species composition
Surface Area

Coordination with NWSC
and Kelp Restoration
Program



TUMWATER CREEK OUT-MIGRANT TRAP

Operate April –June
In cooperation with Lower Elwha Tribe



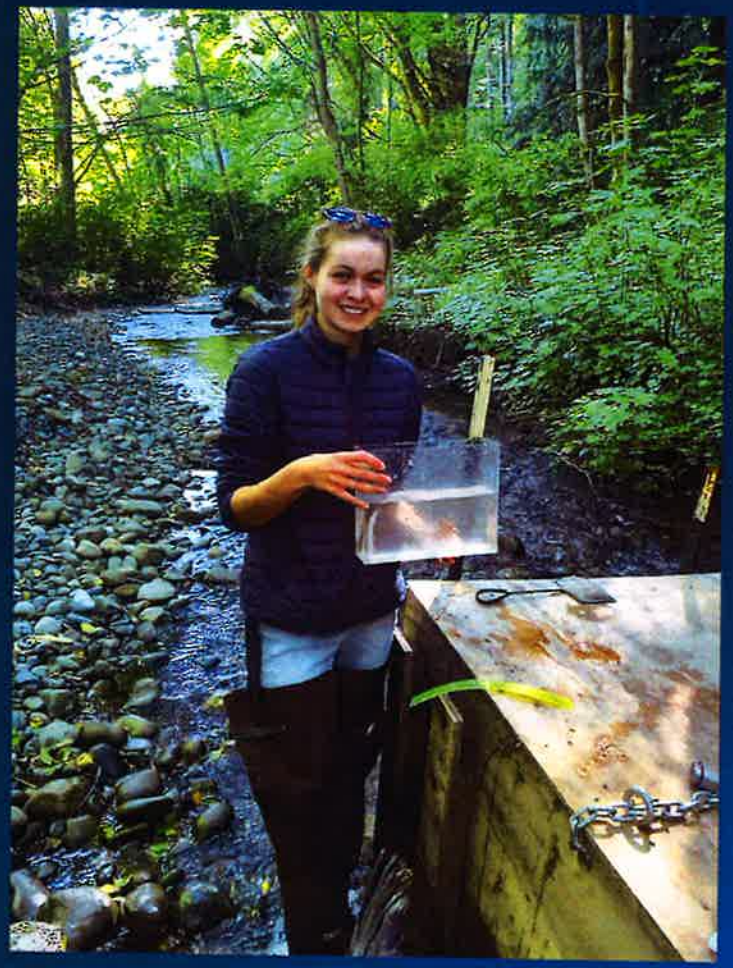








Internship Program





PIGEON GUILLEMOT

- Conduct daily surveys of nesting activities

Summer months

- In coordination with Salish Sea Guillemot Network and Aububon Society





OLYMPIA OYSTER RESTORATION

Cooperate with Jamestown Tribe
In restoration in Sequim Bay

Annual surveys

Assist Jefferson County MRC
With restoration survey in
Discovery Bay



EDUCATION AND TRAINING

- Educational Outreach Cards
- Various presentations on Climate Change
- Ten members have attended certification courses for oil spill reponse
- Presentations to Stevens Middle School and Tacoma Public Schools via Sea Grant program
- Kelp Status seminar to regional entities

OTHER ACTIVITIES

Shellfish bio-toxin sampling at Pillar Point
Monthly May-September

Coordination with County Health Department
Department of Ecology

Mussel Biotoxin Project in Port Angeles Harbor
Coordination with WFWD

Makah Tribe Green Crab project

ANTICIPATED ACTIVITIES FOR 2022

1. Continue ongoing projects
2. Initiate derelict vessel and debris removal, if funds available
3. Expand green crab surveys, if funds available
4. Expand intern program, if funds available.

CLALLAM COUNTY

MARINE RESOURCES COMMITTEE

QUICK SUMMARY

Members have contributed over 700 hours to committee's activities

QUESTIONS OR COMMENTS



AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

7
2/14/22

Department: DCD

WORK SESSION ☒ **Meeting Date: 2/14/22**

REGULAR AGENDA ☒ **Meeting Date: 2/22/22**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 334.22.002
☒ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary: Purpose: Contract between Jamestown S'Klallam Tribe and Clallam MRC to coordinate and implement the Olympia Oyster Population Surveys.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐ **Funds are already allocated.**

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?) Please approve and sign.

County Official signature & print name: Mary Ellen Winborn

Name of Employee/Stakeholder attending meeting: _Rebecca Mahan_____

Relevant Departments: _____DCD_____

Date submitted: 2/02/2022

Contract _334.22.002_____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is entered into between CLALLAM COUNTY, a political subdivision of the State of Washington, (hereinafter called "County" or "Clallam County") and

Name: Jamestown S'Klallam Tribe
Address: 1033 Old Blyn Highway
Sequim WA 98382
Phone Nº: 360-683-1109

(hereinafter called "Contractor").

This Agreement is comprised of:

☒ Attachment A - Scope of Work

☒ Attachment B – Compensation

☒ Attachment C - General Conditions

☐ Attachment D - Special Terms and Conditions

☐ Attachment E (specify) –

copies of which are attached hereto and incorporated herein by this reference as if fully set forth.

The term of this Agreement shall commence on the 1 day of January 2022 and shall, unless terminated as provided elsewhere in the Agreement, terminate on the 30 day of September 2022.

IN WITNESS WHEREOF, the parties have executed this Agreement on this day of 2022.

CONTRACTOR

W. Ron Allen

Print name: W. Ron Allen

Title: Tribal Chairman/CEO

Date: February 1, 2022

ATTEST:

Loni Gores, Clerk of the Board

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

THIS CONTRACT HAS BEEN APPROVED AS TO FORM BY THE CLALLAM COUNTY PROSECUTING ATTORNEY

Originals: BOCC
Vendor
Initiating Department
Copies: 5

SCOPE OF WORK

Jamestown S'Klallam Tribe will work with the Clallam MRC's Olympia Oyster Restoration Lead and Clallam MRC Project Coordinator to plan, coordinate and implement the Olympia Oyster Population Surveys.

Tasks and Deliverables:

- Monitor growth and survival of the Olympia oyster restoration efforts at the two locations in Sequim Bay through the performance of two population surveys.
- Collaborate with Clallam MRC Coordinator to complete the summary report. Materials provided by the biologist include:
  - Data results of survey conducted;
  - Copies of any media coverage;
  - Jpg images.

2022 Olympia Oyster Restoration Budget Breakdown	Cost
Shellfish Biologist 20 hours @ $63.70 hour	$ 1,274.00
Total:	$ 1,274.00

COMPENSATION

1. ☒a. FIXED FEE FOR SERVICE: For services rendered, the County shall pay to the Contractor a fixed fee of TWELVE HUNDRED SEVENTY FOUR DOLLARS ($1274.00) for the completed work set forth in Attachment A. Payments for completed tasks shall be made no more frequently than ☐ monthly; ☐ quarterly; ☐semi-annually; ☒annually; ☐ at completion of project; ☐ other (specify) .

Each request for payment shall be supported by an invoice specifying the tasks completed up to the request for payment and the payment amount requested. In no event shall payment be sought in an amount which represents a percentage of the fee greater than the percentage of completed tasks.

OR

☐ **b. HOURLY RATES:** For services rendered, the County shall compensate the Contractor at the following hourly rates:

Name/Position ***Hourly Rate***

Payments for completed tasks shall be made no more frequently than ☐ monthly; ☐quarterly; ☐semi-annually;
☐ annually; ☐at completion of project; ☐ other (specify) .

Each request for payment shall be supported by an invoice specifying: the name/position of the Contractor's employee if two or more are identified above; number of hours worked; completed tasks for which compensation is sought; estimated percentage of task completion; payment amount requested; other (specify) .

In no event shall Contractor be compensated in excess of DOLLARS ($) for the completed work set forth in Attachment "A."

2. AND

☒**a.** The compensation set forth herein includes, without limitation: labor, materials, equipment, travel, telephone, computer, copiers, and the like.

OR

☐ **b.** The County shall reimburse the Contractor for actual expenses incurred for travel, telephone, copiers, and computer. Reimbursement for airfare, mileage, meals and/or accommodations shall be at the same rate as that applicable to county employees traveling on county business.

OR

☐ **c.** Other (specify):

GENERAL CONDITIONS

1. Scope of Contractor's Services. The Contractor agrees to provide to the County services and any materials set forth in the project narrative identified as Attachment A during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

2. Accounting and Payment for Contractor Services. Payment to the Contractor for services rendered under this Agreement shall be as set forth in Attachment B. Unless specifically stated in Attachment B, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

   The County shall compensate the Contractor through the County voucher system for the Contractor's service pursuant to the fee schedule set forth in Attachment B.

3. Delegation and Subcontracting. Contractor's services are deemed personal and no portion of this contract may be delegated or subcontracted to any other individual, firm or entity without the express and prior written approval of the County Project Manager.

4. Independent Contractor. The Contractor's services shall be furnished by the Contractor as an independent contractor and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant.

   The Contractor acknowledges that the entire compensation for this Agreement is specified in Attachment B and the Contractor is not entitled to any county benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental or other insurance benefits, or any other rights or privileges afforded to Clallam County employees. The Contractor represents that it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract with the Internal Revenue Service on a business tax schedule, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

   In the event that either the state or federal government determines that an employer/employee or master/servant relationship exists rather than an independent contractor relationship such that Clallam County is deemed responsible for federal withholding, social security contributions, workers compensation and the like, the Contractor agrees to reimburse Clallam County for any payments made or required to be made by Clallam County. Should any payments be due to the Contractor pursuant to this Agreement, the Contractor agrees that reimbursement may be made by deducting from such future payments a pro rata share of the amount to be reimbursed.

   Notwithstanding any determination by the state or federal government that an employer/employee or master/servant relationship exists, the Contractor, its officers, employees and agents, shall not be entitled to any benefits that Clallam County provides to its employees.

5. No Guarantee of Employment. The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

6. Regulations and Requirements. This Agreement shall be subject to all federal, state, and local laws, rules, and regulations.

7. Right to Review. This contract is subject to review by any federal or state auditor. The County shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County Project Manager. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials that the County deems pertinent to the

Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Clallam County, State of Washington, upon request, during reasonable business hours.

8. Modifications. Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

9. Termination for Default. If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. Mail, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor agrees to bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

10. Termination for Public Convenience. The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion that such termination is in the interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.

11. Termination Due to Insufficient Funds. If sufficient funds for payment under this contract are not appropriated or allocated or are withdrawn, reduced, or otherwise limited, the County may terminate this contract upon five (5) days written notice to the Contractor. No penalty or expense shall accrue to the County in the event this provision applies.

12. Termination Procedure. The following provisions apply in the event that this Agreement is terminated:

(a) The Contractor shall cease to perform any services required hereunder as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination, if any.

(b) The Contractor shall provide the County with an accounting of authorized services provided through the effective date of termination.

(c) If the Agreement has been terminated for default, the County may withhold a sum from the final payment to the Contractor that the County determines necessary to protect itself against loss or liability.

13. Defense and Indemnity Agreement.

(a) The Contractor agrees to hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability,

loss, expenses, damages and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property (including loss of use thereof) or business (including economic loss), caused by or arising out of the Contractor's acts, errors or omissions in the performance of the Contract. Provided, however, that the Contractor's obligation under this provision will not extend to injury, sickness, disability, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents.

(b) With regard to any claim against the County, its officers, officials, employees and agents by any employee of the Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section will not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. It is clearly agreed and understood by the parties to the Contract that the Contractor expressly waives any immunity the Contractor might have had under such laws. By executing the Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the parties as is required by RCW 4.24.115, and that the provisions of this Section will be incorporated, as relevant, into any contract the Contractor makes with any subcontractor or agent performing work under the Contract.

(c) The Contractor's obligations under these provisions include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the Contractor, the Contractor's employees, agents or subcontractors.

14. Industrial Insurance Waiver. With respect to the performance of this Agreement and as to claims against the County, its appointed and elected officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, as now or hereafter amended, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. Along with the other provisions of this Agreement, this waiver is mutually negotiated by the parties to this Agreement.

15. Venue and Choice of Law. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action shall be in the courts of the State of Washington in and for the County of Clallam. This Agreement shall be governed by the law of the State of Washington.

16. Withholding Payment. In the event the County Project Manager determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the County Project Manager determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than ten (10) days after it determines to withhold amounts otherwise due. A determination of the County Project Manager set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provision of the Disputes clause of this Agreement. The County may act in accordance with any determination of the County Project Manager which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of good faith withholding by the County under this clause.

17. Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

18. Contractor Commitments, Warranties and Representations. Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

19. Patent/Copyright Infringement. Contractor will defend, indemnify and save harmless County, its appointed and elected officers, agents and employees from and against all loss or expense, including but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of the Contractor's alleged infringement on any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County, its appointed and elected officers, agents and employees in any action. Such defense and payments are conditioned upon the following:

(a) That Contractor shall be notified promptly in writing by County of any notice of such claim.

(b) Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

20. Disputes:

(a) General. Differences between the Contractor and the County, arising under and by virtue of the contract documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The records, orders, rulings, instructions, and decision of the County Project Manager shall be final and conclusive 30 days from the date of mailing unless the Contractor mails or otherwise furnishes to the County Administrator a written notice of appeal. The notice of appeal shall include facts, law, and argument as to why the conclusions of the County Project Manager are in error.

In connection with any appeal under this clause, the Contractor and County shall have the opportunity to submit written materials and argument and to offer documentary evidence in support of the appeal. Oral argument and live testimony will not be permitted. The decision of the County Administrator for the determination of such appeals shall be final and conclusive. Reviews of the appellate determination shall be brought in the Superior Court of Clallam County within 15 days of mailing of the written appellate determination. Pending final decision of the dispute, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

(b) Notice of Potential Claims. The Contractor shall not be entitled to additional compensation or to extension of time for (1) any act or failure to act by the County Project Manager or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall

keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

(c) Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

21. Ownership of Items Produced. All writings, programs, data, art work, music, maps, charts, tables, illustrations, records or other written, graphic, analog or digital materials prepared by the Contractor and/or its consultants or subcontractors, in connection with the performance of this Agreement shall be the sole and absolute property of the County and constitute "work made for hire" as that phrase is used in federal and/or state intellectual property laws and Contractor and/or its agents shall have no ownership or use rights in the work.

22. Recovery of Payments to Contractor. The right of the Contractor to retain monies paid to it is contingent upon satisfactory performance of this Agreement, including the satisfactory completion of the project described in the Scope of Work (Attachment A). In the event that the Contractor fails, for any reason, to perform obligations required of it by this Agreement, the Contractor may, at the County Project Manager's sole discretion, be required to repay to the County all monies disbursed to the Contractor for those parts of the project that are rendered worthless in the opinion of the County Project Manager by such failure to perform.

Interest shall accrue at the rate of 12 percent (12%) per annum from the time the County Project Manager demands repayment of funds.

23. Project Approval. The extent and character of all work and services to be performed under this Agreement by the Contractor shall be subject to the review and approval of the County Project Manager. For purposes of this Agreement, the County Project Manager is:

Name: Rebecca Mahan

Title: MRC Coordinator/Habitat Biologist

Address: 223 East 4th Street, Suite 5

Telephone: 360.417.2322

E-mail: rparadis@co.clallam.wa.us

Fax: 360.417.2443

In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the County Project Manager as to the extent and character of the work to be done shall govern subject to the Contractor's right to appeal that decision as provided herein.

24. Non-Discrimination. The Contractor shall not discriminate against any person on the basis of race, creed, political ideology, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.

25. Subcontractors. In the event that the Contractor employs the use of any subcontractors, the contract between the Contractor and the subcontractor shall provide that the subcontractor is bound by the terms of this Agreement between the County and the Contractor. The Contractor shall insure that in all subcontracts entered into, Clallam County is named as an express third-party beneficiary of such contracts with full rights as such.

26. No Third Party Beneficiaries. This agreement is intended for the benefit of only the County and Contractor. This agreement does not confer any benefits, rights, or privileges upon any third party.

27. Standard of Care. The Contractor shall perform its duties hereunder in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession as the Contractor currently practicing under similar circumstances. The Contractor shall, without additional compensation, correct those services not meeting such a standard.

28. Time is of the Essence. Time is of the essence in the performance of this contract unless a more specific time period is set forth in either the Special Terms and Conditions or Scope of Work.

29. Notice. Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, any notices shall be given by the Contractor to the County Project Manager. Notice to the Contractor for all purposes under this Agreement shall be given to the person executing the Agreement on behalf of the Contractor at the address identified on the signature page.

30. Severability. If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

31. Precedence. In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

    (a) Applicable federal, state, and local statutes, ordinances, and regulations;

    (b) Scope of Work (Attachment A) and Compensation (Attachment B);

    (c) Special Terms and Conditions (Attachment D); and

    (d) General Conditions (Attachment C).

32. Waiver. Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

33. Attorney Fees. In the event that litigation must be brought to enforce the terms of this agreement, the prevailing party shall be entitled to be paid reasonable attorney fees.

34. Construction. This agreement has been mutually reviewed and negotiated by the parties and should be given a fair and reasonable interpretation and should not be construed less favorably against either party.

35. Survival. Without being exclusive, Paragraphs 4, 7, 13-19, 21-22 and 31-35 of these General Conditions shall survive any termination, expiration, or determination of invalidity of this Agreement in whole or in part. Any other Paragraphs of this Agreement which, by their sense and context, are intended to survive shall also survive.

36. Entire Agreement. This written contract represents the entire Agreement between the parties and supersedes any prior statements, discussions or understandings between the parties except as provided herein.

SPECIAL TERMS AND CONDITIONS

☒ 1. Reporting. The Contractor shall submit written progress reports to the County Project Manager as set forth below:

- ☐ With each request for payment.
- ☐ Monthly.
- ☐ Quarterly.
- ☐ Semi-annually.
- ☒ Annually.
- ☐ Project completion.
- ☐ Other (specify):

Progress reports shall include, at a minimum, the following:

Reports shall include any problems, delays or adverse conditions which will materially affect the Contractor's ability to meet project objectives or time schedules together with a statement of action taken or proposed to resolve the situation. Reports shall also include recommendations for changes to the Scope of Work, if any. Payments may be withheld if reports are not submitted.

☐ 2. Insurance. The Contractor shall maintain in full force and effect during the term of this Agreement, and until final acceptance of the work, public liability and property damage insurance with companies or through sources approved by the state insurance commissioner pursuant to RCW Title 48, as now or hereafter amended. The County, its appointed and elected officials, agents and employees, shall be specifically named as additional insureds in a policy with the same company which insures the Contractor or by endorsement to an existing policy or with a separate carrier approved pursuant to RCW Title 48, as now or hereafter amended, and the following coverages shall be provided:

☐	COMMERCIAL GENERAL LIABILITY:		
	Bodily Injury, including death	$	per occurrence
		$	aggregate
	Property damage	$	per occurrence
		$	aggregate
☐	ERRORS AND OMISSIONS or PROFESSIONAL LIABILITY with an Extended Reporting Period Endorsement (two year tail)	$	per occurrence
☐	WORKERS COMPENSATION:	Statutory amount	

☐ AUTOMOBILE: coverage on owned, non-owned, rented and hired vehicles

Bodily injury, liability, including death	$	per occurrence
	$	aggregate
Property damage liability	$	per occurrence
	$	aggregate

☐ BUSINESS AUTOMOBILE LIABILITY: $ per occurrence

If the Errors and Omissions or Professional Liability insurance obtained is an occurrence policy as opposed to a claims-made policy, the Extended Reporting Period Endorsement is not required.

Any such policy of insurance the Contractor is required to obtain and maintain pursuant to this Agreement shall be primary over any third party liability coverage provided to Clallam County by and through its membership in the Washington Counties Risk Pool or WCRP. The third party liability coverage provided by the WCRP to Clallam County shall be non-contributory with respect to any policy of insurance the Contractor is required to obtain and maintain pursuant to this Agreement. The County shall have no obligation to report occurrences unless a claim or lawsuit is filed with it and the County has no obligation to pay any insurance premiums.

Evidence of primary insurance coverage shall be submitted to the County Project Manager within 20 days of the execution of the Agreement. The Agreement shall be void ab initio if the proof of coverage is not timely supplied.

If the proof of insurance or certificate of coverage indicating the County is an "additional insured" to a policy obtained by the Consultant in order to comply with this agreement refers to an endorsement (by number, abbreviation or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Consultant to obtain the full text of that endorsement and forward that full text to the County within 30 days of the execution of this Agreement.

The coverage limits identified herein shall not limit the potential liability of the Contractor and the Contractor's duty to defend, indemnify, and hold harmless shall apply to any liability beyond the scope of insurance coverage.

☐ 3. Liquidated Damages. For delays in timely completion of the work to be done or missed milestones of the work in progress, the Contractor shall be assessed Dollars ($) per day as liquidated damages and not as a penalty because the County finds it impractical to calculate the actual cost of delays. Liquidated damages will not be assessed for any days for which an extension of time has been granted. No deduction or payment of liquidated damages will, in any degree, release the Contractor from further obligations and liabilities to complete the entire project.

☐ 4. Other (specify):.

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

8
2/14/22

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-14-22**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other - Presentation

Documents exempt from public disclosure attached: ☐

Executive summary:
Rural Development Initiatives, the lead Pacific Northwest rural development hub, has catalyzed and supported locally led action through direct community work, peer learning opportunities, and events for 29 years. RDI is a national leader in rural leadership development, dedicated to local economic resiliency and recovery, and we advocate for rural representation and increased resources through our policy services. Our rural leadership programs are focused on working hand-in-hand with communities to strengthen rural people, places, and economies in the Pacific Northwest.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Presentation regarding Rural Development Initiatives.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners and Christine Gilmore – Rural Development Initiatives, Inc.

Relevant Departments: Board of Commissioners

Date submitted: 2-8-22

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

9
2/14/22

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-14-22**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
The Commissioners would like to return to hybrid (in-person with a permanent virtual option) in conjunction with the March 11 recension of the restaurant vaccination mandate and in expectation of a continued improvement of public health conditions in our county. The purpose of today's conversation will be to affirm March 14 as our first hybrid meeting, to discuss the remaining safety precautions that will be in place to support a safe meeting environment and to discuss any concerns or ideas that the Commissioners and/or BOCC staff might have.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Discussion.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: Board of Commissioners

Date submitted: 2-8-22

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

1D
2/14/22

Department: BOCC

WORK SESSION ☒ **Meeting Date: February 14, 2022**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other

Documents exempt from public disclosure attached: ☐

Executive summary:

At the January 3, 2022 Work Session, the Board of County Commissioners authorized solicitation of informal proposals for a Clallam County Green House Gas Inventory. Proposals were solicited from several consultants and the attached proposal was received from Cascadia Consulting Group.

The Climate Advisory Group reviewed the attached proposal and recommends that the Board of County Commissioners contract with Cascadia Consulting Group to complete a Greenhouse Gas Inventory.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

The Greenhouse Gas Inventory has a cost of $55,000.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Contract with Cascadia Consulting Group to perform a Greenhouse Gas Inventory.

County Official signature & print name: Clea Rome Clea Rome by Elizabeth Stanley

Name of Employee/Stakeholder attending meeting: Clea Rome, Cathy Lear, Elizabeth Stanley

Relevant Departments: BOCC
Date submitted: 2/9/2022

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Agenda Item Summary
Revised: 3-04-2019

Questions? Call Loni Gores, Clerk of the Board, ext 2256

Greenhouse Gas Inventory

PROPOSAL SUBMITTED TO CLALLAM COUNTY

BY CASCADIA CONSULTING GROUP

JANUARY 26, 2022

Introduction

Pacific Northwest Climate Planning Clients

Counties
- King
- Pierce
- Snohomish
- Kitsap
- Thurston
- Whatcom

Cities
- Burien
- Issaquah
- Bellevue
- Redmond
- Shoreline
- Kenmore
- Seattle
- Tacoma
- Bainbridge Island
- Renton
- Everett
- Edmonds
- Port Angeles
- Vancouver, WA
- Ashland, OR

Tribes
- Makah
- Port Gamble S'Klallam
- Puyallup
- Yakama
- Grand Ronde

Other Public Agencies
- WA DNR & DFW
- Sound Transit
- Port of Seattle
- Oregon DEQ

Since its founding in 1993, Cascadia Consulting Group has worked with public, corporate, nonprofit, and Tribal clients to advance projects that benefit their communities and the environment. Cascadia's expertise includes strategic planning, analysis, and management of projects focused on climate change mitigation and resilience, energy efficiency and renewable energy, recycling and materials management, and resource conservation. Through effective engagement, research and analysis, evaluation, and reporting, we empower our clients—and the communities they represent—to reach sustainability goals. Our relevant work has included leading dozens of emissions inventories, developing climate plans for communities throughout the Northwest, and managing sustainability programs for local jurisdictions, state agencies, Tribes, institutions, and private corporations nationwide. Cascadia is a Seattle-based, certified women-owned corporation with approximately 70 staff members.

Cascadia brings together a unique combination of leading-edge expertise managing comprehensive greenhouse gas analysis efforts and extensive experience working closely with county-level governments on climate analysis and planning processes. We provide an in-depth understanding of local and global climate science, fact-based analysis and prioritization, and clear and engaging communications to bring the results of our analyses to the forefront. Specifically, our team offers:

- **Synergy with other regional climate action and resilience efforts across Clallam County and the North Olympic Peninsula.** Cascadia has supported multiple clients across Clallam County—including the City of Port Angeles, the Makah Tribe, and the North Olympic Resource Conservation and Development Council (NODC)—on greenhouse gas inventories, carbon neutrality strategies, and climate resiliency plans. Our prior and current work across the County will ensure that Clallam County's GHG inventory and associated CAP complements and aligns with regional efforts. Furthermore, our work with Clallam County through NODC, knowledge of local data sources, and understanding of the local context will deliver significant cost efficiencies on this project.
- **Cutting edge knowledge and fresh perspectives.** We complement our extensive local experience with best practices developed through our leadership on some of the most advanced and innovative emissions analyses in the country—including a toolkit for estimating consumption-based emissions, multiple wedge analyses and online dashboards, and knowledge of innovative tools such as ICLEI's contribution analysis tool. We will bring this unrivalled experience to Clallam County, delivering a comprehensive emissions inventory that reflects the latest best practices and sets a clear and compelling course for climate action.
- **Quality you can trust.** All Cascadia products undergo a rigorous quality control process—including review of written work by our internal Editorial Board and review of quantitative analysis by our Quality Control Team—before submittal to clients. These layers of review ensure that our products are polished, our analysis is accurate, our recommendations are clear, and our reporting is direct and easy to understand.

The following sections of our proposal introduce our team, highlight our relevant qualifications, and lay out our approach, timeline, and budget for this project. We are pleased to provide additional information on request.

Proposed Approach

Kick-off Meeting & Project Management

We believe a solid house is built on a strong foundation, and we will strive to set the project up for success through proactive planning at the outset. We will convene an **initial kick-off meeting** to introduce our project team, clarify project goals and deliverables, and make key decisions regarding the inventory's methodology, scope, and boundaries. The meeting will help us confirm key project elements and roles, build a shared understanding of the project's process and milestones, and get to know each other. We will document the results in a final **project work plan and schedule** using the platform (e.g., Smartsheet, Excel) of the client team's preference.

We will also review our data collection process and available data sources for the inventory, identifying potential gaps and focus areas. In cases where data availability may be limited, we will discuss alternative approaches and corresponding tradeoffs to arrive at the most defensible and informative analysis for the County. Finally, we will use this meeting to clarify Clallam County's longer-term goals and vision for its climate action and resiliency planning process to ensure the GHG inventory lays a solid foundation for future climate change resiliency planning efforts and sets the County up for **not just tracking emissions, but successfully mitigating them**.

Once the project is underway, Cascadia will continue to coordinate with the County's project manager and the County's Climate Advisory Committee, including holding brief **biweekly check-in calls** (we are happy to adjust this frequency to meet the client team's needs.) Using Deltek Vision project management software, we will provide monthly invoices and progress reports that cover budget, timeline, and deliverables. Our project manager will also use Deltek Vision's real-time budget updates to identify and proactively elevate potential scope or budget issues, before they become problems that could affect the project's success.

Deliverables:

- Final **Project Workplan** that details project schedule, client/consultant/working groups roles and responsibilities, and key project details (the Clallam County Climate Advisory Group's perspective, intent, in-scope boundaries, etc.)
- **Monthly check-in meetings** with client liaison, with agendas and meeting notes throughout project lifecycle
- Participation in **monthly steering committee meetings**
- Monthly **invoices and progress reports**

Greenhouse Gas Emissions Inventory

GHG inventories set the stage for developing high-impact climate strategies and serve as the key indicator for monitoring and assessing progress over time. In addition to a **communitywide GHG inventory**, we could also support the County in completing a **government operations GHG inventory** to demonstrate the County's commitment to "walking the talk" and leading by example to track and reduce emissions.

During the initial project kick-off meeting, we will present **options, tradeoffs, and our recommendations** for the inventory methodology, scope, boundaries, and data management (e.g., software platforms, file storage, etc.). Our preliminary proposed approach is outlined below, but we are flexible and can tailor our approach as needed.

Boundaries, Sources, and Sectors

At a minimum, we recommend completing a communitywide **geographic ("territorial") inventory** which estimates emissions released within the County's boundaries and due to community activities (e.g., energy consumption, waste disposal). If desired, we could also prepare a **consumption-based inventory** which estimates emissions associated with the goods and services consumed within the community. See *"Optional Task: Consumption-Based Inventory"* callout box below for details.

To the extent possible (based on data availability and specificity), Cascadia proposes quantifying all of the **communitywide emissions** in the **"base sources"** column in the table below and as many **"additional sources"** as possible, depending on available data, budget, and the County's interest. Completing an inventory using just the "base sources" will satisfy protocol requirements and best practices and align with other local jurisdictions.

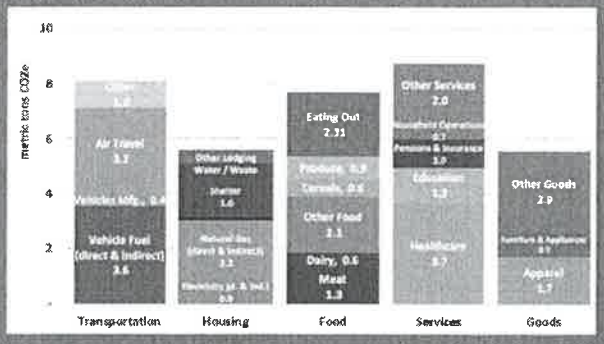
Table 1. Typical emissions sources quantified for a communitywide geographic GHG inventory.

Sector	Base Sources	Additional Sources
Transportation	• On-road personal vehicle transportation • Off-road vehicles and equipment	• Public transit
Buildings & Energy	• Residential, commercial, and industrial electricity, propane, and/or natural gas consumption	• Transportation and distribution losses of electricity, propane, and natural gas • Refrigerants • Fuel oil consumption • Industrial process emissions
Solid Waste	• Landfill waste generation, collection, and disposal	• Compost waste generation, collection, and disposal
Water	• Wastewater treatment	• Energy consumption from potable water conveyance, if provider is located outside of county
Agriculture & Forestry	• Livestock and soil management • Forest carbon sequestration	• N/A

For the **government operations inventory**, we will quantify emissions from County activities, including energy use in municipal buildings, emissions from the County's vehicle fleet, employee commuting and business travel, and County generation and management of community wastewater and solid waste.

Consumption-Based Inventory

While a traditional geographic based inventory captures the emissions over which local governments typically have the most influence, consumption-based inventories recognize that a **community's full carbon footprint extends beyond its jurisdictional borders**. For a typical North American city, consumption-based emissions (from the production, transportation, use, and disposal of goods and services consumed by a community) are 50-60% higher than geographic emissions.



If the County is interested in completing a consumption-based inventory, Cascadia proposes partnering with EcoDataLab and using their advanced methodology, which draws on best-in-class research and technology and is

currently being applied to four other counties in Washington. EcoDataLab's founder and Chief Science Officer, Dr. Chris Jones, is the Director of the CoolClimate Network at UC Berkeley, and a leading expert in carbon footprint analysis with over 15 years researching and developing tools for consumption-based emissions inventories.

Inventory Methodology

We will prepare the communitywide GHG inventory in accordance with the *U.S. Community Protocol for Accounting and Reporting of Greenhouse Gas Emissions (USCP)* and the *Global Protocol for Community-Scale Greenhouse Gas Emissions (GPC).*[1] We will prepare the government operations GHG inventory *Local Government Operations Protocol for the Quantification and Reporting of Greenhouse Gas Emissions Inventories (LGOP)*. These protocols, which several other jurisdictions in Washington have also followed, provide standardized calculation methods that support the **complete, transparent, and accurate reporting** of emissions.

Data Collection

Cascadia will develop a comprehensive **data collection checklist** (in Excel) tailored to the requirements and organization of the USCP and LGOP to ensure that (1) the inventories align with these standards, and (2) the County can easily report its emissions in a format that is comparable to other jurisdictions.

We prioritize a high level of record keeping and organization in data collection so that the inventory will be **easily replicable by County staff in the future**. For example, we typically begin each of our Excel workbooks with a hyperlinked table of contents to facilitate navigation and understanding of individual inventory components and datasets.

The checklist will outline specific data needs along with a brief description of the item, source for the information, whether it is Scope 1, 2 or 3, and point of contact for data collection. The checklist will also allow the County to **monitor data collection at any point in the project**, including which sources have been collected or are outstanding and who is responsible for delivering that data.

We anticipate that **Cascadia will lead data collection** and submit clear and timely requests to County staff when their support is needed to gather internal data or submit data requests to outside entities (we have found that some data sources, such as private utilities, are more responsive to requests from government staff than from hired consultants). Using **lessons learned** and our **familiarity with local data sources** from our recent Port Angeles GHG inventory and ongoing work with the NODC, we will facilitate an intuitive and smooth process and provide **data collection templates** to ensure we receive the correct inputs and minimize back-and-forth.

During the project kick-off meeting, we will review our data collection process and available data sources for the inventory, identifying potential gaps and focus areas. In cases where data availability may be limited, we will discuss alternative approaches and corresponding tradeoffs to arrive at the most defensible and informative analysis for the County.

Data Analysis and Management

With the data collected and organized, Cascadia will conduct a protocol-compliant inventory in one of the following formats, depending on the County's preference:

[1] The USCP is based on U.S. best practices and available data sources that may not be applicable or in use outside the U.S. As such, some of the requirements and optional guidance in the USCP differ from the *Global Protocol for Community-Scale Greenhouse Gas Emissions* (GPC). The USCP provides information on how to perform the calculations, whereas the GPC sets standards for disclosure. The methodologies in these protocols are compatible and the two standards can be used concurrently.

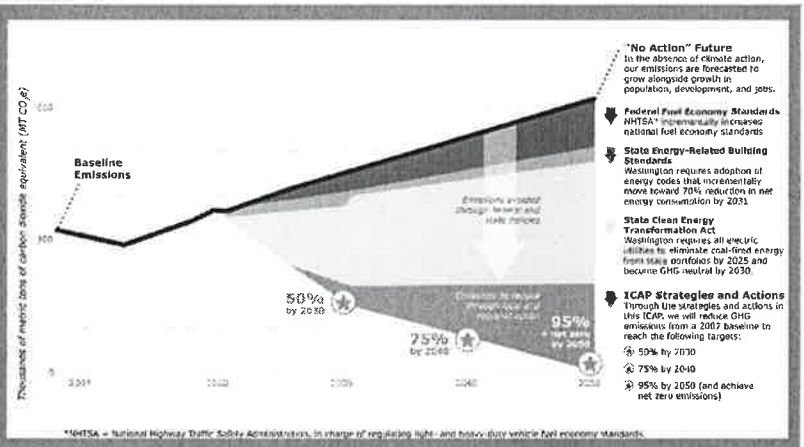
Table 2. Data management platform considerations.

ICLEI ClearPath Online Platform	EPA Local GHG Inventory Tool (or comparable Excel-based tool)
• $1,200 annual subscription fee (discounts available for multi-year membership). Membership comes with ~10 hours of annual support from ICLEI and various user guides, trainings, etc. • If membership lapses, County still has read-only and download access to data. • Updated regularly to ensure compliance with latest version of USCP and GPC. • Additional modules (reporting, planning, forecasting, etc.) may be useful for County's climate action planning.	• Leverage an existing (free) inventory tool (e.g., the EPA's Local GHG Inventory Tool which comes with detailed user guides). • EPA tool has modules for communitywide and government emissions and aligns with GPC. • Produces relatively simplified inventory.

Leveraging one of the existing standardized inventory platforms described above, we can maximize our consulting budget by focusing on providing strategic guidance, data entry and analysis, and quality control—while ensuring that the resulting inventory meets reporting standards and best practices.

GHG Forecasting

If desired, Cascadia can use the geographic, communitywide GHG inventory results to develop a "wedge analysis" that models future GHG emissions, reductions, and targets. A wedge analysis helps **illustrate the impacts that various policies and climate actions could have on reducing the County's future emissions**.



The wedge analysis would include a "business-as-usual" (BAU; no action future) scenario and "adjusted-business-as-usual" (ABAU; reductions from state and federal policies) scenario alongside proposed emissions reduction targets to show the remaining scale of emissions to be reduced through the implementation of the Climate Action Plan. We could additionally model the estimated emissions reduction impacts of up to five high-priority CAP actions.

Deliverables:

- **Data collection checklist** and templates
- **Populated data collection templates**
- **Completed GHG inventory**, provided in the County's chosen data management platform:
  - Completed Excel workbook that includes raw data and final emissions calculations
    OR
  - Completed ClearPath data entry (data inputs and outputs can be exported out of the system)
- **Consumption Inventory** (includes two-year dashboard subscription and standard report).

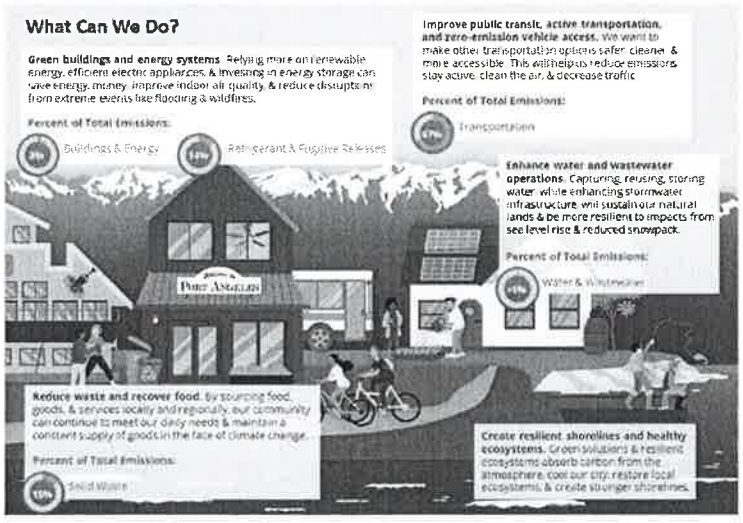
- **Wedge analysis** including BAU and ABAU scenarios, emissions reduction targets, and up to five high-priority CAP actions.

GHG Inventory Report and Communication Collateral

We propose preparing a concise final report that includes:

- **Introduction** to the project that provides the local and jurisdictional context of Clallam County and frames the GHG inventory as part of the larger climate planning process conducted by the County.
- **Methodology** of the GHG inventory, including data sources and inventory methods and assumptions.
- **GHG inventory results** using accessible visuals for the County's Scope 1, 2, and 3 emissions.
- **High-level recommendations** for initial strategies that Clallam County can consider including in the County's future climate resiliency and adaptation planning to achieve its GHG emissions reduction goals. We will ensure that these high-level recommendations are forward-looking to help the County save time and money in future planning phases.
- **Appendix** that includes data collection sources and information contacts to ensure the replicability of this inventory by the County in future years.

To maximize efficiency at this stage, we will strive to **develop content for this deliverable that we can easily integrate into a Climate Action Plan**, especially if the County decides to invest in the optional Climate Action Plan task below. We have found that developing this interim deliverable as a "plug and play" for the CAP will not only save time and budget, but also break up the planning process into manageable pieces that build upon one another. Further, it helps our Graphics Team streamline the development of the styles, fonts, colors, custom graphics, and themes early in the CAP process—getting ahead of "crunch time" at the finish line and allowing ample opportunity for the County to approve designs and styles.

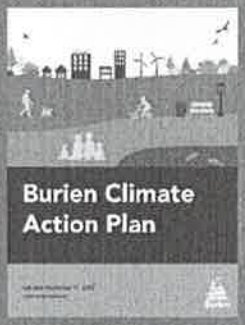


We will also develop a **visually appealing infographic summary** to accompany the full report. (See example at right.) This infographic and short summary document are used to share the results of the inventory with the community; this approach helps break down the complexity of the GHG analysis process and results into clear, grounded, and meaningful takeaways for the community. To create the infographic, our team will work with Cascadia's internal Graphics Team to transfer key data points and visuals like charts and graphs into an attractive and user-friendly format. We will work with the County to determine the **appropriate features and visual profile of the infographic**—for example, using a specific font or color scheme to maintain visual consistency with other County communications. We are happy to provide further work samples demonstrating our graphic design and document formatting skill on request.

Full Climate Action Plan Development with Strategies and Actions

As an optional task, Cascadia can help Clallam County develop a [illegible] that encompasses the GHG inventory in this proposal and the technical services to develop strategies and actions provided through the North Olympic Resource Conservation & Development Council (NODC). In preparing a Climate Action Plan for the County, we can leverage these multiple efforts to set the County up to adopt and implement its Climate Action Plan by October 2022.

We pride ourselves on creating plans that are not only accurate and actionable, but [illegible], too. Cascadia has an [illegible] that crafts visually appealing products, scaled to the needs of each client. We will work with the County to select a package of Word- and/or Adobe-based document design and production services, infographic development, and compelling data displays, as available budget and needs allow. Our standards are upheld with rigorous quality control processes that involve editorial board review and senior-level oversight of all written work products and deliverables.



To that end, we envision producing an accessible and user-friendly Climate Action Plan with concise text and a focus on graphs and other visual aids—providing a snapshot of the process, the importance of taking action, and a roadmap that includes specific targets, actions, and timelines that the County and the broader community can use and reference to inspire and guide action.



At a minimum, we typically support CAPs that include the following sections:

- [illegible], including key takeaways and graphics highlighting the plan's vision, goals, strategies, and actions.
- [illegible], including a discussion of the context and value of the plan and an overview of the planning process. Specific sub-sections will include a list of Clallam County's past climate-related activities, metrics, and achievements; and a summary of historic GHG emissions and projected climate impacts and vulnerabilities.
- [illegible], framing the plan by introducing the County's vision for the future, sharing top community priorities, and identifying emissions-reduction targets and other goals and how they relate to current County plans or regulations.
- [illegible], describing each overarching strategy and including both near-term (next two years) and longer-term (next five years) actions. The goal will be to provide enough context and description for each action that County staff and other stakeholders can clearly understand the action's steps and what success would look like.
- [illegible], laying out a clear action plan for achieving climate goals and set metrics for tracking progress along the way.

Deliverables:

- **GHG Inventory Report**, including draft, one round of revisions, and final (~10 pages)
- **Infographic** (1-2 pages) summarizing process and key findings
- Detailed list of **data sources and contact information**, provided as appendix to the final report
- **Climate Action Pla**n Development
  - Draft Climate Action Plan for City, stakeholder, and/or public review
  - Final climate action plan

Our Team

Our proposed team for this project includes nationally recognized leaders in climate planning with decades of collective experience in emissions inventories, GHG target setting, and mitigation strategy development. We pride ourselves on being at the cutting edge of the field, with recent experience working directly with ICLEI on inventory development, leading a team that pioneered a new method of calculating consumption-based emissions, and working with Washington's most populous county to update and improve its government operations and communitywide inventories. Our staff have led dozens of inventories and have intimate familiarity with emissions data sources, standardized emissions factors, and analysis methodologies.

Our core team members are introduced below. In addition to the core staff named below, Cascadia also offers a deep bench of support staff who will support the project on an as-needed basis. We are pleased to provide additional information, including full resumes and introductions to our support team members, on request.



Angela Pietschmann | Project Manager & Inventory Lead

Since 2018, Angela has led and supported climate action planning and greenhouse gas analysis projects, varying in scope and complexity from small-town CAPs to comprehensive plans for major cities and regional governments. A skilled writer with an accounting background, Angela is adept at straddling the quantitative and qualitative sides of climate planning, with experience spanning from emissions analyses to final CAP writing. Angela currently supports the Puget Sound Regional Emissions Analysis with GHG inventory preparation and analysis in Power BI. She is also managing the City of Kenmore's first CAP and completed the city's baseline greenhouse gas inventories in 2020. Angela serves in an advisory role (providing technical analysis and guidance on greenhouse gas inventories, analyses, and forecasts) for Seattle Public Utilities, City of Renton, City of Shoreline, and the Jamestown S'Klallam Tribe. Previously, Angela managed Issaquah's Climate Action Plan, led Whatcom County's community and municipal GHG inventories, and supported a Carbon Neutrality Plan for the Washington Department of Natural Resources. In addition to her climate planning work, Angela is a skilled facilitator and process manager who has helped coordinate complex, multi-stakeholder planning efforts, including the State of Washington's Orca Task Force and other high-profile natural resource management processes. Angela has a M.P.A. from the University of Washington and a B.S. in Accounting from Penn State University.



Hailey Weinberg | Data Analyst

Hailey provides expertise in greenhouse gas accounting and climate action planning for public-sector and institutional clients. She has supported the four-county Puget Sound Regional Emissions Analysis, Renton's Clean Economy Strategy, and greenhouse gas inventories for the City of Shoreline and the Washington Department of Fish and Wildlife. Before joining Cascadia, Hailey was a Corporate Climate Accountability Researcher for the U.S. Partnership for Education for Sustainable Development. Her experience includes working for Northern Arizona University on the Social Cost of Carbon Proposal and presenting GHG reduction policies to University officials. Hailey also worked for 350 Madison, where she led a three-person team to create an action plan focused on energy efficiency and low-income housing. Hailey has a B.S. in Environmental Science from San Diego State University and a M.S. in Climate Sciences & Solutions from Northern Arizona University.



Mike Chang | Climate Resilience Advisor

Mike is a national leader in equitable climate action who brings expertise in community engagement and facilitation, strategic planning, climate vulnerability assessments, and climate action planning. He has led multiple climate adaptation and mitigation planning projects, including a Climate Change and Health Adaptation Plan for the Tulalip Tribes, a regional Climate Action Plan for the North Olympic Peninsula in partnership with multiple local government entities, and the inaugural Climate Action Plan for the City of Burien. He brings deep expertise in climate vulnerability assessments and adaptation planning—including completing a Climate Integration Protocol for the Puget Sound Partnership and a climate change and health assessment in partnership with the Stillaguamish Tribe. Mike previously worked as the climate adaptation specialist for the Makah Tribe, where he led the Tribe's Climate Planning Work Group and coordinated community workshops with the tribal community to solicit input on climate resilience planning. Mike was a coauthor for the 4th National Climate Assessment, a contributor to the Tribal Climate Adaptation Guidebook, a member of the Community Engagement Committee of Washington's Environmental Justice Task Force, and the co-chair of the National Adaptation Forum's Equity & Justice Working Group. Mike is also currently the lead author for the 5th National Climate Assessment, upcoming in 2023. Mike holds a Master of Marine Affairs from the University of Washington and a B.S. in Ecology & Evolutionary Biology from Yale University.



Mary Ann Rozance | NODC Liaison

Mary Ann provides facilitation and climate resilience expertise for climate and sustainability projects across the country. She brings experience researching, developing, and planning approaches to address complex and interconnected climate vulnerabilities. Before joining Cascadia, Mary Ann was a Postdoctoral Fellow with the Climate Impacts Group and the Northwest Climate Adaptation Science Center at the University of Washington where she led collaborative efforts with scientists, managers, and community members from university, federal, state, tribal, and other organizations to advance climate resilience science and action. She received a Ph.D. in Urban Studies from Portland State University, where she was also a National Science Foundation Fellow, researching adaptation and resilience strategies for addressing impacts from sea level rise in Miami-Dade County, Florida. She also holds a M.S. in Forest Resources and a B.S. from the University of British Columbia. She has supported climate and sustainability projects across a wide range of contexts and has published her work in peer-reviewed publications and reports.



Andrea Martin | Principal-in-Charge

Andrea has 13 years of experience supporting local governments on climate and sustainability initiatives, with a focus on clients in the Puget Sound region. With a strong background in greenhouse gas accounting, climate policy, and cost-benefit analysis, Andrea specializes in leading large, multi-stakeholder analytical and planning processes to guide local climate action. Her work includes leading GHG analyses for clients including King, Pierce, Snohomish, Kitsap, Thurston, and Whatcom counties in Washington, a variety of state and regional agencies, and over a dozen cities throughout the Western United States. Andrea's experience leading climate action planning processes—which tend to be multi-stakeholder, public-facing efforts that include technical GHG analysis, community engagement, and customized strategy prioritization processes—have given her a unique

perspective on how to make GHG modeling and data relatable and actionable. Andrea is a member of the committee charged with updating the U.S. Community Protocol for GHG emissions analysis.

Andrea is committed to centering equity in her work. She is currently leading an equity and co-benefits evaluation for OR DEQ to inform development of their statewide cap-and-reduce program, as well as an inclusive engagement process for San Francisco's draft CAP. Andrea holds a Master of Environmental Management degree from Duke University and a B.S. in Biology from the University of North Carolina at Chapel Hill.



Keiko Betcher | Graphic Design Lead

Keiko joined Cascadia in 2021 and uses her graphic design skills to craft appealing outreach materials and other collateral that clearly communicate client messages to the public. Keiko works across a broad range of topic areas, providing visual storytelling and helping to weave public participation into everything from climate action plans to transportation programs. Over the past year, she has supported nearly ten climate planning projects, including CAPs for Issaquah and Kenmore. She is fluent in a range of communications styles and formats, with experience ranging from writing educational public-facing newsletters and creating custom posters to supporting in-person engagement events and creating open-house graphics. She is passionate about using graphic design and creative communications methods to distill complex technical information into clear and concise messages that streamline decision-making and catalyze stakeholder action. Prior to her time at Cascadia, Keiko worked for Conservation Northwest as a Communications and Outreach Associate.

Background & Relevant Experience

Cascadia's expertise cuts across **all aspects of greenhouse gas tracking and climate planning**, including data gathering and vetting, emissions analysis using multiple platforms and standards, goal setting, and prioritization of emissions-reduction measures—and we have extensive experience applying these skills to help local governments, Tribes, and other agencies throughout the Northwest accurately measure and track Scope I, II, and III emissions. Through effective research and analysis, decision-support tools, workshops and trainings, program evaluation, and reporting, we empower our clients to direct their own progress toward their ambitious sustainability goals.

We pride ourselves on staying at the cutting edge of the emissions forecasting and analysis field, with a proven track record of innovation including leading a Department of Energy-funded project to attribute shares of community-wide emissions to specific policies and actions. We have performed dozens of **greenhouse gas inventories** for a range of public and private-sector clients, including recent completion of community-scale GHG inventories for Kitsap, Snohomish, King, and Pierce counties in Washington State and an ongoing project to create a full suite of advanced inventories and advanced analysis tools for King County and its partner jurisdictions. Importantly, our experience in climate action planning—not just GHG emissions analysis—means we know how to present inventory results to seamlessly feed into climate mitigation efforts down the road. In addition to our full inventory services, we also support clients in **keeping inventories updated over time** through trainings and documentation that help them manage periodic updates in-house.

We have included descriptions of recent relevant GHG analysis and climate planning projects below. We're happy to provide extensive additional documentation of our relevant experience, including additional project highlights, work samples, and references, upon request.

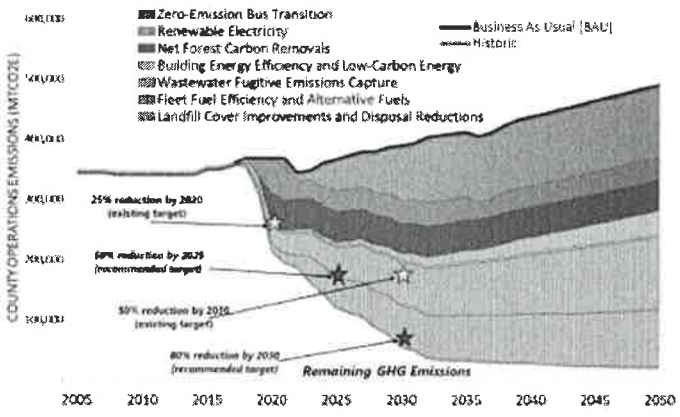
Regional Climate Planning | North Olympic Resource Conservation & Development Council, WA | 2021-Present

Cascadia is currently working with the North Olympic Resource Conservation and Development Council (NODC) on regional climate change planning for the North Olympic Peninsula. As part of this project, Cascadia is leading and facilitating **three regional climate change planning meetings** for local governments, Tribal governments, state and federal agencies, and other institutions across the North Olympic Peninsula to identify regional climate change priorities and to build capacity for jurisdictions to collaboratively implement climate change preparedness actions. Additionally, Cascadia is developing a **virtual climate action implementation toolkit**—including regulation and code templates, education materials, and additional resources—that will assist local governments to implement climate actions within their respective jurisdictions. Finally, Cascadia is providing **climate change technical assistance** for Clallam County, the cities of Port Townsend and Port Angeles, and the Jamestown S'Klallam Tribe through this contract. This technical assistance includes conducting GHG inventories, developing carbon neutrality strategies and actions, assessing sea level risk impacts to municipal assets, coordinating an electric vehicle feasibility assessment, and developing an implementation plan for climate action.

GHG Inventory Review & Carbon Neutral Implementation Planning | King County, WA | 2016, 2018, 2021-Present

In 2016, Cascadia led a comprehensive review of King County Department of Natural Resources and Parks' greenhouse gas accounting methodology. The project included a review of the department's current practices and the development of a draft report that recommended changes to the department's approaches and methodologies for **measuring progress towards carbon neutrality**, including recommendations for methodologies around carbon sequestration of County parks and managed lands.

Building on this foundational project, in 2018 Cascadia prepared a greenhouse gas emissions model and wedge analysis for the County in support of its **Carbon Neutral Implementation Plan**. The project included workshops to gather input from County staff, analysis of various GHG reduction pathways, and an evaluation of co-benefits of potential reduction strategies. Outputs from the process included a customized, user-friendly Excel-based model that quantifies the relative contributions of several climate action strategies towards achieving King County agency goals.



Puget Sound Regional Emissions Analysis | King County & Partner Agencies | 2021-Present

Cascadia is working with the County and a group of partner agencies at the municipal and regional levels to update geographic and consumption-based emissions inventories—both at the countywide scale and internal County operations. This multifaceted emissions analysis project includes **updated "geographic-plus" countywide inventories** for King, Pierce, Snohomish, and Kitsap counties, **contribution analyses** that attribute proportions of overall emissions to different activity types, **government operations inventories**, and extensive research and tool

development to support **GHG analyses for all cities within King County**. We are also leading the development of cutting-edge consumption-based inventories, which quantify emissions from goods and services consumed in region regardless of where the emissions themselves were produced. Building on the suite of baseline emissions, our team will create wedge analyses that identify pathways for King County and the City of Seattle to meet ambitious GHG-reduction targets. Finally, Cascadia is leading stakeholder engagement and producing extensive documentation of the project's methodology and results, including **infographics and other graphic design pieces** that highlight key takeaways for audiences throughout the region.

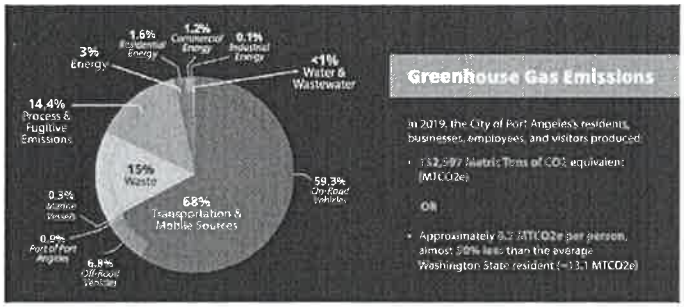
In 2017, Cascadia laid the foundation for this project, **updating the Puget Sound Clean Air Agency's four-county emissions inventory** to provide 2015 emissions data for King, Snohomish, Kitsap, and Pierce counties. This update required compiling, standardizing, and streamlining data from multiple jurisdictions to create an accurate, standardized inventory. The inventory followed the U.S. Community Protocol and included emissions sources generated beyond the county's borders but related to activities within the county, such as resident air travel and electricity generated elsewhere that is used in the county. As part of this work, Cascadia reviewed the agency's past inventory methodology, collected and analyzed emissions data from a variety of public agencies and independent organizations, and produced a final inventory report with accompanying computational workbooks.

GHG Inventory and Climate Vulnerability Assessment | Whatcom County, WA

Cascadia prepared **comprehensive community-wide and government operations GHG inventories** for Whatcom County in accordance with the U.S. Community Protocol and Local Government Operations Protocol, respectively. The inventories were calculated using ICLEI's ClearPath software and Cascadia developed a companion workbook and report to equip the County to perform future inventories. The report highlighted Whatcom's greatest sources of GHG emissions and areas of highest emissions-reduction opportunity. In addition, Cascadia prepared a series of climate vulnerability factsheets, summarizing the County's key climate vulnerabilities across focus areas (transportation, ecosystems and species, freshwater, and land use and agriculture) and giving government staff and community members alike a clear view of potential climate impacts; this vulnerability assessment helped motivate decisive mitigation and resilience actions. The inventories and vulnerability assessment laid the foundation for Whatcom County's 2021 Climate Action Plan update.

GHG Inventory and Climate Resiliency Plan | Port Angeles, WA | 2020-Present

Cascadia is currently leading the **GHG emissions inventory**, public engagement process, and the development of a Climate Resiliency Plan for the City of Port Angeles. In addition to conducting the GHG emissions inventory, Cascadia created **visually accessible and appealing infographics** to communicate the GHG inventory findings to help the City and its residents prioritize high-impact strategies to achieve its GHG emission reduction goals.



Sustainability Plan | Washington Department of Fish and Wildlife | 2021-Present

Cascadia is currently leading the **GHG inventory modeling** for the Department's Sustainability Plan, which will outline a path for achieving the state-mandated target of zero net emissions by 2050 and reducing other

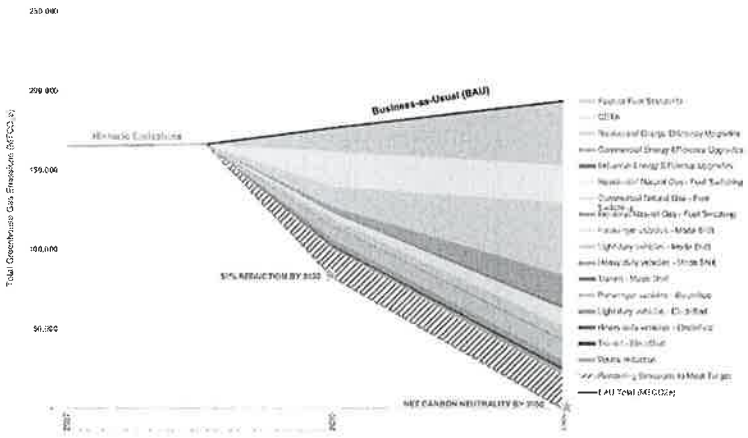
environmental impacts. Our team first reviewed the Department's previous GHG inventories to identify and address gaps in data collection and analysis; we then built a comprehensive Excel workbook analyzing a baseline year of GHG emissions and **forecasting how these emissions will change in the future**. The Department will use this workbook, as well as an accompanying memo detailing its development and findings, to complete all future GHG inventories. From here, we will help use the workbook to model the impact and cost of potential GHG reduction strategies to include in the final plan. The final workbook will also include a visual wedge analysis detailing the forecasted emissions and the impact from the selected reduction strategies.

Climate Action Plan | Issaquah, WA | 2021

Cascadia recently completed Issaquah's first Climate Action Plan (CAP). Our team **forecasted and modeled Issaquah's GHG emissions through 2050** to help the City right-size emissions reduction targets and understand the impacts of state/federal climate policies. Cascadia used this analysis to develop a package of climate mitigation strategies and actions to include in the CAP, alongside **adaptation-focused actions** to address Issaquah's local climate impacts. To vet these recommended strategies/actions, our team conducted extensive outreach, engaging City staff, decision-making boards and commissions, City Council, and the community at 15 individual touchpoints over the course of the CAP development process.

GHG Emissions Inventory & Climate Action Plan | Burien, WA | 2020-2021

Cascadia led the **GHG emissions inventory**, stakeholder engagement process, and development of the Climate Action Plan for the City of Burien's inaugural Climate Action Plan. Cascadia used the **U.S. Community Protocol** to assess the community-wide emissions inventory for 2019 by using verified local data such as vehicle miles traveled, electricity and natural gas consumption, and tons of garbage disposed of at the landfill. Cascadia used the results of the GHG Inventory to recommend approximately 50 ambitious and low-hanging fruit actions for the City of Burien to consider implementing in their Climate Action Plan. In addition to the GHG Inventory and plan development, Cascadia led Vietnamese and Spanish engagement – which includes translating key materials into these languages and hosting in-language workshops – throughout the planning phase to ensure that the planning process was inclusive and equitable.

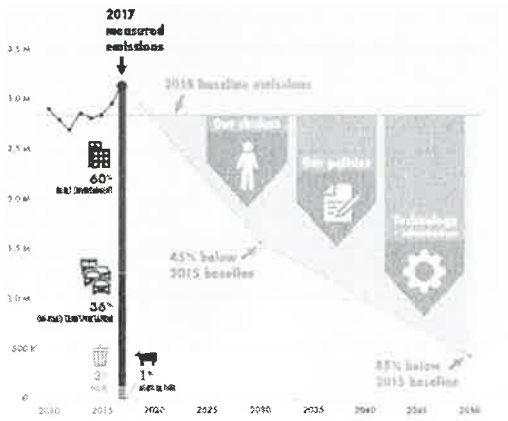


Carbon Footprint and Mitigation Plan | Makah Tribe | 2018

Cascadia recently led an analysis and planning process for the Makah Tribe as part of its Climate Change Program. Our work included conducting an energy audit and carbon footprint analysis of all Tribe-owned buildings and infrastructure. Building on this assessment, we developed a list of mitigation options focused on balancing immediate improvements with bolder, more ambitious long-term options for reducing emissions and energy use—all with a lens of cost-effectiveness, feasibility, and alignment with Tribal priorities. Cascadia created a final plan and presented the results to Makah leadership at a workshop.

Climate Mitigation Plan | Thurston Regional Planning Council | 2019-2020

Cascadia recently completed a new Climate Mitigation Plan for Thurston County. Our role included reviewing an emissions inventory conducted by the Thurston Climate Action Team, analyzing emissions sources and trends, and managing a strategy development and prioritization process that included evaluation of quantitative emissions reduction benefits and qualitative co-benefits in areas such as quality of life and public health. As part of this process, we conducted a "wedge analysis" to illustrate the gap between business-as-usual emission levels and the County's mitigation goals—and developed packages of climate actions to bridge the gap. Building on this assessment, our team worked with the Thurston Regional Planning Council and a stakeholder committee to refine these actions and add implementation strategies, and produced a final Climate Mitigation Plan. We also supported the project with a comprehensive public engagement campaign.



Timeline

Below is our proposed timeline for this project. If needed, we can adjust this timeline based on the County's preferences and capacity. We have included the additional months of September and October 2022 to align with the NODC Regional Climate Planning Project timeline.

Task and Deliverables	Feb '22	Mar '22	Apr '22	May '22	Jun '22	July '22	Aug '22
1. Kick-off Meeting and Project Management							
Kickoff meeting, Project Workplan	●						
Biweekly check-in calls, invoicing	●	●	●	●	●	●	●
2. Greenhouse Gas Inventory							
Data collection checklist and templates	●	●					
Data collection		●	●				
Geographic inventory (communitywide and gov. ops.)			●	●			
Optional: Consumption Inventory		●	●	●			
Optional: Forecasting & Wedge Analysis				●	●		
3. GHG Inventory Report and Communication Collateral							
Final report, including methodology, results, and recommendations			●	●	●		
Infographic summarizing process and key findings					●	●	
Detailed list of data sources and contacts				●	●		
Optional: Full Climate Action Plan		●	●	●	●	●	●

Budget

We propose a budget of **$55,000** for this project (including tasks originally proposed as "optional").

Task	Cost
1. Kick-off Meeting and Project Management	$ 5,500
2. GHG Inventory	$ 30,000
3. Report and Communications Collateral	$ 20,000
TOTAL	**$ 55,000**

The table below includes fully burdened hourly rates for our core team members.

Staff	Role	Hourly Rate
Angela Pietschmann	Project Manager & Inventory Lead	REDACTED
Hailey Weinberg	Data Analyst	REDACTED
Mike Chang	Climate Resilience Advisor	REDACTED
Mary Ann Rozance	NODC Liaison	REDACTED
Andrea Martin	Principal-in-Charge	REDACTED
Keiko Betcher	Graphic Designer	REDACTED

CASCADIA CONSULTING GROUP

Draft

AGREEMENT BETWEEN

Cascadia Consulting Group, Inc.
and
Clallam County

This Agreement is made this XXX day of February 2022, between Cascadia Consulting Group, Inc., ("Cascadia"), a Washington Corporation, and Clallam County, ("Client"), a Washington State County, to perform the Work identified herein in accordance with the terms of this Contract and any other documents referenced herein.

Cascadia and Client agree as follows:

1. **Scope of Work**
Cascadia agrees to perform the services described in Attachment A, incorporated herein by reference (collectively the "Work").

2. **Compensation**
Client agrees to pay for the Work provided by Cascadia in accordance with Attachment A. In return for the payment of the compensation set forth in Attachment A, Cascadia agrees to furnish and pay for all materials, labor, equipment, and taxes which it incurs in providing the services hereunder.

Cascadia will submit an invoice to Client each month for work performed. Client agrees to pay Cascadia within 30 calendar days after receipt of invoice from Cascadia. Any late payment shall bear interest at the rate of one percent per month.

3. **Schedule**
Work shall commence upon execution of this Agreement. All work shall be completed by the date(s) set forth in Attachment A unless delays are caused by Client or are a result of a force majeure under Section 18.

4. **Changes**
Any changes to the scope of the Work described in Attachment A, or the manner in which the Work is to be performed, shall be made only by mutual agreement, and shall be in writing.

5. **Insurance**
Prior to starting work, Cascadia shall obtain and maintain in force, worker's compensation, as required by state law, automobile liability insurance on a per occurrence basis having an aggregate of not less than $1,000,000, and comprehensive general liability insurance on a per occurrence basis having an aggregate of not less than $1,000,000. Upon request, Cascadia will provide Client with an appropriate certificate of insurance reflecting the above coverages.

6. **Representations and Warranties.**
(a) By Both Parties. Each party represents and warrants that (a) the person who signs this Agreement on its behalf has the right, power and authority to sign the Agreement, and to contractually bind the signing party, (b) this Agreement is the valid, legal, and binding

obligation of such party, enforceable against such party in accordance with its terms; and (c) it has no agreement or understanding with any third party that will conflict with its performance under this Agreement.

(b) By Client. Client represents and warrants that the Work it requests Cascadia to perform will not be unlawful under the laws of the jurisdiction(s) in which such Work is performed.

(c) By Cascadia. Cascadia represents and warrants that it will perform the Work (i) in good faith, (ii) in a professional manner and (iii) with reasonable diligence, skill and care.

(d) Limitations on Warranties. The warranties set forth in this Section 6 are the sole and exclusive warranty given by Cascadia arising out of or relating to this Agreement. Cascadia disclaims all other warranties, either express, implied or statutory, including, without limitation, warranties of merchantability and fitness for a particular purpose. Client's exclusive remedy for any breach of the warranty set forth in Section 6(b) will be for Cascadia, upon receipt of written notice, to use diligent efforts to cure such breach at no additional cost to Client, or, failing any such cure in a reasonable period of time, return of professional fees and expenses paid to Cascadia hereunder with respect to the Work giving rise to such breach.

7. Indemnity

To the fullest extent permitted by law, Cascadia shall indemnify and hold harmless Client and its agents and employees from and against any and all claims, damages, losses or expenses, including reasonable attorneys' fees, on account of bodily injury, personal injury (including death), or injury to property sustained by any third person or persons, to the extent caused by the negligent act or omission of Cascadia or any of its agents, employees or subcontractors.

Client shall indemnify and hold Cascadia harmless from any and all claims, damages, losses and expenses (including, but not limited to, reasonable attorney's fees and legal costs) caused by any negligent act or omission of Client, or any of its agents or employees.

Any indemnity hereunder is conditioned upon the indemnified party providing to the indemnifying party prompt written notice of any claim or action requiring indemnification, and the indemnifying party shall have the right, at its expense, to take over the defense of such claim or action.

8. Equal Opportunity

Cascadia shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental, or physical handicap, unless based on a bona fide occupational qualification. Cascadia shall comply with all equal opportunity or affirmative action requirements or plans as may be required by law.

9. Limitation of Liability

NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL (INCLUDING, WITHOUT LIMITATION, LOST PROFITS), INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES

ARISING OUT OF OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CASCADIA'S TOTAL LIABILITY FOR DAMAGES ARISING OUT OF ANY CAUSE WHATSOEVER RELATED TO THIS AGREEMENT (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE) WILL BE LIMITED TO THE TOTAL PRICE FOR THE WORK PROVIDED BY CASCADIA UNDER THIS AGREEMENT GIVING RISE TO THE LIABILITY.

10. Assignment

Cascadia shall not transfer or assign any interest in this Agreement without prior written consent of Client, which consent shall not be unreasonably withheld. Any such transfer or assignment without Client's consent shall be void and of no legal effect.

11. Termination

Either party may terminate this Agreement upon written notice to the other party:

(a) In the event of a material breach of any term, condition or covenant by the other party which remains uncured after five (5) days written notice thereof to the other party; or

(b) For any reason or no reason upon fifteen (15) days prior written notice; or

(c) In the event that the other party has any proceedings instituted by or against it seeking relief, reorganization or arrangement under any laws relating to insolvency, or any assignment for the benefit of creditors, or the appointment of a receiver, liquidator or trustee of any of its property or assets, or the liquidation, dissolution or winding up of its business.

If this Agreement is terminated, Client shall pay Cascadia for all Work performed up to the date of termination, including all non-cancelable costs incurred by Cascadia prior to termination but paid after the termination date. Client shall pay for all the work actually performed in accordance with this Agreement, even if the parties' original payment schedule spreads-out payments for certain Work or defers payments for certain work until the completion of such Work. If payments are unit or milestone based, and the Agreement is terminated after costs have been incurred toward achieving portions of one or more incomplete units or milestones, Client will pay a prorated portion of such fees based on the actual Work performed toward those incomplete units or milestones up to the date of termination, in addition to paying for completed units or milestones.

In the event of termination or expiration of this Agreement, those provisions which by their nature or effect are required or intended to be observed, kept or performed after termination including, without limitation, provisions related to payment, ownership of Deliverables, indemnification, confidentiality, and dispute resolution, will survive termination and remain binding upon the parties.

12. Confidentiality

This Section 12 sets forth the terms and conditions which will apply to any "Confidential Information" (as hereinafter defined) which may be disclosed by either party ("Discloser") to the

other party ("Recipient") with respect to Discloser's products, services, technologies, or other aspects of the business of Discloser which are confidential or proprietary in nature. As used in this Agreement, "Confidential Information" means all information which Discloser discloses to Recipient that is identified as being proprietary or confidential and all information which, by the nature of the circumstances surrounding the disclosure, reasonably ought to be treated as proprietary and confidential. Confidential Information may include information originally disclosed to the Discloser by third parties. A party's obligations under this Agreement shall not apply to Confidential Information that (i) is or becomes generally available through no breach of an obligation of confidentiality; (ii) is already in the possession of the Recipient at the time of disclosure by the Discloser as shown by competent evidence; (iii) is obtained by the Recipient from a third party without breach of an obligation of confidentially; or (iv) is independently developed by the Recipient without use of or reference to the disclosing party's Confidential Information, as shown by competent evidence.

Non-use and Nondisclosure. Recipient will not use Confidential Information of Discloser for any purpose except to engage in a business relationship between the parties. Recipient will not disclose the Discloser's Confidential Information except to those employees or contractors of Recipient who are required to have the information in order to engage in a business relationship with the other party or those persons or entities who have entered into a non-disclosure agreement with Recipient with terms at least as restrictive as those contained in this Agreement. Recipient may disclose the Discloser's Confidential Information if required by law so long as the Recipient gives the Discloser prompt written notice of the requirement prior to the disclosure and assistance in obtaining an order protecting the information from public disclosure. Neither party will reverse engineer, disassemble, or decompile any prototypes, software, or other items that are Confidential Information provided by the other party.

Maintenance of Confidentiality. Each party will take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the other party's Confidential Information. Without limiting the foregoing, each party will take at least those measures that it takes to protect its own confidential information of like nature.

Ownership; Remedies. Each party shall each at all times remain the sole owner of its respective Confidential Information and any improvements thereof. Except as set forth in Section 13 herein, nothing in this Agreement is intended to grant either party any rights under any patent, copyright, other intellectual property right or Confidential Information of the other party. Each party acknowledges that any violation or threatened violation of Section 12 of this Agreement may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all other remedies provided under the Agreement or available at law.

Obligations on Termination. Upon termination of this Agreement, each party will promptly return all Confidential Information received by such party to the other party (provided, however, that either party may retain Confidential Information to the extent required to do so by applicable laws or regulations, and nothing herein shall require a party to delete Confidential Information from its computer systems' historical back-up media, provided that in each case such Confidential Information shall remain subject to the terms of this Agreement and

applicable laws and regulations). The parties' obligations of confidentiality shall survive termination of the Agreement and notwithstanding the return of any Confidential Information.

13. Materials and Work Product.

(a) All materials provided by Cascadia to Client for the performance of Work, including, without limitation any Confidential Information of Cascadia, along with any concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates, and general purpose consulting tools created by, acquired by, or otherwise employed or modified by Cascadia (collectively, the "Cascadia Materials"), will remain the sole property of Cascadia, will be used only in furtherance of the Work in accordance with this Agreement and will not be used or delivered to or for the benefit of any third party without the prior written consent of Cascadia, and will be used in compliance with all applicable laws, rules and regulations. Client will not reverse engineer, disassemble, or decompile any prototypes, software, or other items that are Cascadia Materials.

(b) Upon full and final payment to Cascadia of all fees due hereunder, the tangible items specified as deliverables or work product in Attachment A (the "Deliverables") will become the property of Client. If any Cascadia Materials are contained in any Deliverables, Cascadia hereby grants to Client a non-exclusive, royalty-free, worldwide, nontransferable license to use for Client's internal business purposes any Cascadia Materials contained in any Deliverables or to fulfill the purpose set forth in Attachment A.

(c) Client acknowledges and agrees that any advice, recommendations, information, Deliverables or other work product provided to Client by Cascadia in connection with the Work are intended for Client's sole benefit, and Cascadia does not authorize any other party to rely upon such advice, recommendations, information, Deliverables or other work product and any such reliance shall be at such party's sole risk.

14. Entire Agreement/Relationship of the Parties.

This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any and all prior and contemporaneous agreements, memorandum, arrangements and understandings, both written and oral, between the parties with respect to the subject matter. The parties are independent contractors, and this Agreement will not be construed to create a joint venture, partnership, or the relationship of principal and agent between the parties, nor to impose upon either party any obligations for any losses, debts or other obligations incurred by the other party.

15. Arbitration.

This Agreement shall be construed and enforced according to the laws of the State of Washington. Should any dispute occur between the parties arising out of or related to this Agreement, or their rights and responsibilities hereunder that cannot be resolved through good faith negotiations, the matter shall be settled and determined by arbitration under the then current Commercial Arbitration Rules of the American Arbitration Association. The decision and award of the arbitrator shall be final and binding, and the award rendered may be entered in any court having jurisdiction thereof. The arbitration shall be held in, and the award shall be

deemed to be made in, King County, Washington. The prevailing party shall be entitled to recover its costs and reasonable attorney's fees from the non-prevailing party.

16. Amendments; Waivers.

This Agreement may only be amended pursuant to a written agreement executed by the parties, and no waiver of compliance with any provision or condition of this Agreement shall be effective unless evidenced by a written instrument executed by the party against whom such waiver is to be effected. No waiver of any term or provision of this Agreement shall be construed as a further or continuing waiver of such term or provision or any other term or provision. The failure of any party to insist upon strict performance of any of the covenants and agreements herein contained, or to exercise any option or right herein conferred, in any one or more instances, shall not be construed to be a waiver or relinquishment of any such option or right, or of any other covenants or agreements.

17. Severability.

If any provision or any part of any provision of this Agreement is held to be illegal, void or unenforceable for any reason whatsoever, then such provision shall be stricken and of no force and effect. However, unless such stricken provision goes to the essence of the consideration bargained for by a party, the remaining provisions of this Agreement shall continue in full force and effect and, to the extent required, shall be modified to preserve their validity. Upon such determination that any term or other provision or any part of any provision is void or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that performance contemplated hereby is fulfilled to the fullest extent possible.

18. Force Majeure.

Except for the duty to make payments hereunder when due, if either party is prevented from carrying out its obligations under this Agreement by fire, flood, epidemic, pandemic, quarantine restrictions, act of God, terrorism, war (declared or undeclared), boycott, lock out, war, labor or civil disturbance, public disaster, or any other cause beyond such party's reasonable control, then such party's performance shall be excused during the period of such events and for a reasonable period of recovery thereafter, and the time for performance of such obligations shall be automatically extended for a period of time equal to the duration of such events; provided, however, that the party claiming force majeure shall promptly notify the other party of the existence of such force majeure, shall use all commercially reasonable efforts to avoid or remedy such force majeure and shall continue performance hereunder with the utmost dispatch whenever such force majeure is avoided and remedied. When such circumstances arise, the parties shall discuss what, if any, modification of the terms of this Agreement may be required in order to arrive at an equitable solution.

19. Construction.
Where the context so requires, all references in this Agreement to the singular shall be deemed to include the plural and vice versa.

20. Signature.
At the sole discretion of Cascadia, Cascadia may consent to the Client's signature on this Agreement being by email, fax, photocopy, pdf or other electronic means, in which case such Client signature will be deemed an original signature for all purposes.

22. Notices.
All notices, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given to a party if delivered in person or sent by overnight delivery to the parties at the following address (or at such other address for a party as shall be specified by a like notice) on the day of the delivery, or if by facsimile, upon confirmation of receipt:

If to Cascadia Consulting:
Cascadia Consulting Group, Inc.
Attn: Angela Pietschmann
1109 First Avenue, Suite 400
Seattle, WA 98101
If by facsimile: (206) 343-9819

If to Client:
Company Name: _____
Attn: _____
Address: _____
_____
If by facsimile: _____

The parties have executed this Agreement by their duly authorized representatives.

CASCADIA CONSULTING GROUP, INC.	**CLALLAM COUNTY**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

DRAFT

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

11
2/14/22

Department: Finance

WORK SESSION ☒ **Meeting Date: February 14, 2022**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other - NORVHN Presentation

Documents exempt from public disclosure attached: ☐

Executive summary:
On August 31, 2021 Clallam County and North Olympic Regional Veteran's Housing Network signed an agreement to disburse $59,903 of ARPA funds to support completion of the Hobucket House affordable housing project for homeless, disabled Veteran's in Clallam County. These funds would be used for affordable housing expenses incurred from March 1, 2020 thru December 31, 2024 for the Hobucket House being built in Forks, WA for homeless, disabled Veteran's with incomes of 50% County AMI or less.

As of December 31, 2021 North Olympic Regional Veteran's Housing Network has expended all funds for the completion of the Hobucket House in Forks, Washington. Cheri Tinker, Executive Director, will present to the Board an updated summary of how funds were expended and the benefit of the expenditure to the homeless, disabled Veteran's in Clallam County.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
None

County Official signature & print name: Chelsea Millar Chelsea Millar

Name of Employee/Stakeholder attending meeting: Chelsea Millar

Relevant Departments: Finance/BOCC

Date submitted: 2/9/2022

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

NORVHN Presentation 2.14.22
Revised: 3-04-2019

Questions? Call Loni Gores, Clerk of the Board, ext 2256



NORTH OLYMPIC REGIONAL VETERAN'S HOUSING NETWORK

501C3 NON-PROFIT

FEDERAL ID: 91-2046528

Serving the Homeless Veterans
of Clallam & Jefferson Counties
Since 2011

NORVHN'S PROJECTS

SARGE'S PLACE

12 bed shelter plus three 2-bedroom apartments located in Forks

THE OUTPOST

Four 2-bedroom permanent supportive apartments located in Port Angeles.

CAMP SOL DUC

Two 1-bedroom permanent supportive housing apartments located in Forks.

THE ATTIC

Secondhand store located in Forks

SARGE'S FARMSTAND

Forks seasonal produce store

HOBUCKET HOUSE

7-bedroom group home for disabled Veterans located in Forks



Hobucket House Delivery

- Stick built modular house constructed in Auburn, transported to Forks and placed on our existing foundation
- House will require 6 more weeks to finish with move in approx. April 2022

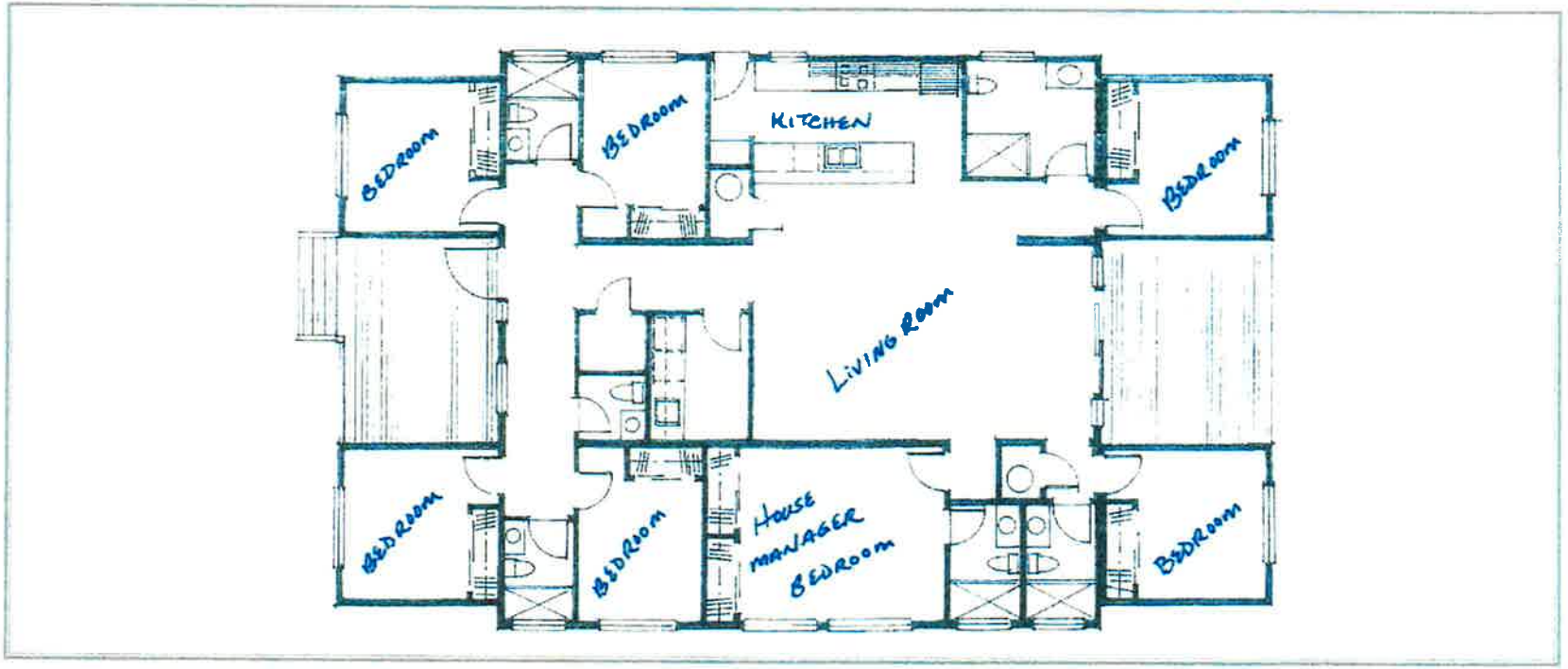
Hobucket House Nitty Gritty….







- Named after one of NORVHN's founding members Jimmy Hobucket: VFW Service Officer, Vietnam Veteran and Quileute Warrior
- $1,100,000 project with $876,293 from WA Dept of Commerce Modular Housing Trust Fund
- 7 Bedroom, 6 bath with communal living room, kitchen, pantry, & laundry with two covered decks
- 3,600 sq ft
- Rent will be approx. 30% of income with all utilities and amenities included
- Renters will be 30% AMI (around $1250 a month or less)
- Comes with live-in house manager with external Case Management & Therapist coverage



Interior Layout

LONG TERM GOALS FOR
NORTH OLYMPIC REGIONAL VETERAN'S HOUSING NETWORK



Creation of a 7-bedroom group home in Sequim to be named after a Sequim Veteran. $900,000 Senator Murray appropriation is currently in committee and $20,000 secured from Clallam County Homelessness 2060 Grant

Expansion of "The Attic" our secondhand store located in Forks to include a food truck, coffee bar and coffee roastery to craft financial stability for our non-profit

8-plex of 1-bedroom apartments to replace our existing mobile home located at 260 Sol Duc Way in Forks

CRAFTING CHANGE ONE LIFE AT A TIME



Contact Info

- Email: info@SargesVeteranSupport.com
- Phone: 360.374.5252
- Website: www.SargesVeteranSupport.com
- Facebook: www.Facebook.com/SargesPlaceVeteranHousing
- Instagram: www.Instagram.com/Sarges_Veteran_Support/
- Etsy Shop: www.etsy.com/shop/TheAtticInForks

United Way
Community Partner

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

12
2/14/22

Department: Finance

WORK SESSION ☒ **Meeting Date: February 14, 2022**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other - Habitat for Humanity Presentation

Documents exempt from public disclosure attached: ☐

Executive summary:
On August 17, 2021 Clallam County and Habitat for Humanity signed an agreement between Clallam County and Habitat for Humanity to disburse $100,000 of County ARPA funds to be used for affordable housing construction costs, including contractor, subcontractor and building material expenses incurred by Habitat for Humanity from March 1, 2021 thru December 31, 2024. These funds would be for current build affordable housing unit projects, or for restarted affordable housing projects that were previously placed on hold due to high construction material or contractor/subcontractor costs encountered during the COVID-19 public health emergency. Such funds were to only be used in support of funding affordable housing units built in Clallam County for low income households with incomes of 30-80% of County AMI.

As of December 31, 2021 Habitat for Humanity of Clallam County has expended all funds for affordable housing construction costs. Colleen Robinson, CEO of Habitat for Humanity of Clallam County will present to the Board an updated summary of how funds were expended and the positive benefit to support affordable housing units for low income households in Clallam County.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
None

County Official signature & print name: Chelsea Millar Chelsea Millar

Name of Employee/Stakeholder attending meeting: Chelsea Millar

Relevant Departments: Finance/BOCC

Date submitted: 2/9/2022

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

Habitat for Humanity of Clallam County

Clallam County ARPA Funds



Presented by **Colleen Robinson**
CEO of Habitat for Humanity
of Clallam County

Habitat for Humanity® of Clallam County

HABITAT CLALLAM - SOFIA... FAMILY PARTNER JOURNEY

1

SEPT 15 ~ OCT 15, 2020

Homeowner application open
17 completed applications received

2

NOV 18, 2020

5 - qualifying applications presented to Habitat Clallam Board of Directors
2 Family partners selected

3

DEC 2020

Family notified

JAN 2021

Ground Work Begins

FEB ~ MAR 2021

Foundation work continues

4

APRIL 17, 2021

Ribbon Cutting for Foundation completion

APRIL ~ JUNE 2021

Decking, wall building continues

5

JULY 9, 2021

Sofia Wall Raising

JULY 2021 FEB 2022

Housing Construction continues

6

FEB 2022

Hopeful to receive final occupancy permit

MAR 2022

USDA 502 Home Loan Closing?





HABITAT CLALLAM - HILARY...
FAMILY PARTNER JOURNEY

1

SEPT 15 ~ OCT 15, 2020

Homeowner application open
17 completed applications received

2

NOV 18, 2020

5 - qualifying applications presented to Habitat Clallam Board of Directors
2 Family partners selected

3

DEC 2020

Family notified

JAN 2021

Ground Work Begins

FEB ~ MAR 2021

Foundation work continues

4

APRIL 17, 2021

Ribbon Cutting for Foundation completion

MAY 2021

Habitat Board of Directors voted to pause the build due to spiraling cost of construction materials



5

SEPT 2021

Habitat Clallam receives $100,000 of ARPA Funds from Clallam County & restarts construction

OCT 2, 2021

Hilary Wall Raising

6

OCT 2021
FEB 2022

Housing Construction continues

JUNE 2022

USDA 502 Home Loan Closing?

Habitat for Humanity® of Clallam County



Sofia's Wall Raising July 9, 2021

Habitat Clallam Build Class 2021

6-students participated in our 2021 Residential Construction Class, they enjoyed working along side Sofia and getting to know our family partner.



Sofia's Home as of Friday, Oct 4, 2022





Hilary's Wall Raising ~ Oct 2, 2021



At our Wall Raising Ceremonies attendees are invited to write words of encouragements on the studs!



Hilary's Home as of Friday, Oct 4, 2022





Habitat for Humanity of Clallam County



Questions?

Contact Me!

Colleen Robinson

Chief Executive Officer

360-460-5560

colleen@habitatclallam.org

www.habitatclallam.org

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

13
2/14/22

Department: BOCC/Finance

WORK SESSION ☒ **Meeting Date: 2/14/2022**

REGULAR AGENDA ☒ **Meeting Date: 2/22/2022**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 361.22.001
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
Personal Services Agreement with Sound Law Center to provide Code Enforcement Hearing Examiner services.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Funding for this contract is already included in the 2022 Budget.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Please review and approve the contract.

County Official signature & print name: _____ Debi Cook

Name of Employee/Stakeholder attending meeting: Debi Cook

Relevant Departments: BOCC, Finance, DCD

Date submitted: 2/03/2022

PERSONAL SERVICES AGREEMENT

Contract Number: 361.22.001

THIS AGREEMENT is entered into between CLALLAM COUNTY, a political subdivision of the State of Washington, (hereinafter called "County" or "Clallam County") and

Name: Sound Law Center, LLC; Attn: Andrew Reeves, Managing Attorney
Address: 4500 Ninth Ave NE, Suite 300
Seattle, WA 98105
Telephone: 206.233.1908

(hereinafter called "Contractor").

This Agreement is comprised of:

☒ Attachment A – Scope of Work

☒ Attachment B – Compensation

☒ Attachment C – General Conditions

☒ Attachment D – Special Terms and Conditions

☐ Attachment E – (specify)

copies of which are attached hereto and incorporated herein by this reference as if fully set forth.

The term of this Agreement shall commence on the 1st day of January 2022 and shall, unless terminated as provided elsewhere in the Agreement, terminate on the 31st day of December 2022.

IN WITNESS WHEREOF, the parties have executed this Agreement on this day of 2022

SOUND LAW CENTER

Print name: Andrew Reeves

Title: Managing Attorney

Date: February 2, 2022

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

ATTEST:

Loni Gores, Clerk of the Board

THIS CONTRACT HAS BEEN APPROVED AS TO FORM BY THE CLALLAM COUNTY PROSECUTING ATTORNEY

Originals: BOCC
Vendor
Copies: 5

SCOPE OF WORK

With this Contract the County hires Sound Law Center, LLC ("Sound Law") for an additional task: to serve as the County's final decision-maker with respect to so-called "administrative hearings held pursuant to Chapter 20.33 of the County Code, which establishes an expedited process for the resolution of "civil code violations" occurring on real property located in unincorporated Clallam County. With this Contract, "Sound Law" is scheduled on an as needed basis, with at least one hearing day each month and no more than ten matters per day. Typical "civil code violations" are: a)illegal handling and storage of solid waste (garbage) at a location not licensed as a solid waste transfer station site, b) contaminated properties from illegal drug manufacturing or storage, c) excessive number of junk vehicles, and d) violations of the County's development regulations (building, land use and environmental). To fulfill this Scope of Work Sound Law must:

1. Hold an administrative hearing and issue orders and/or decisions in accordance with applicable land use laws and regulations, County Ordinances, and Administrative Policies as assigned by the County's Department of Community Development on all civil code violations or claims within the jurisdiction of the hearing examiner. A decision shall include any written determination including a decision of a motion for reconsideration.

2. Issue a written order or decision within 15 working days of the close of the record for each code enforcement matter. The Hearing Examiner is also required to respond to all requests for reconsideration. Hearings are considered "complete" for purposes of payment as set forth in Attachment B (1) when a final determination (either an order or decision) has been issued for each code enforcement matter.

3. Procure and maintain, prior to and during the term of this Agreement, all their expense, comprehensive automobile liability insurance at statutorily required limits, and workers compensation coverage, if applicable, as required by the State of Washington for the duration of the contract.

4. Identify all Conflict of Interest issues applicable to the Hearing Examiner, who shall immediately notify the Department of Community Development and the County Administrator in writing when a conflict determination has been made so that another Contract Hearing Examiner can be appointed in a timely manner.

5. Prepare an annual report for the Board of County Commissioners, detailing opinion types, costs, and methods to improve the Hearing Examiner system at $150/hour not to exceed $1,500.

COMPENSATION

1. ☒ **a. FIXED FEE FOR SERVICE:** For services rendered, the County shall pay to the Contractor a fixed fee of TWO THOUSAND, TWO HUNDRED and FIFTY DOLLARS AND NO CENTS ($2,250.00) for the completed work on all land use applications as set forth in Attachment "A." Payments for completed tasks shall be made no more frequently than ☒ monthly; ☐ quarterly; ☐semi-annually; ☐annually; ☐ at completion of project; ☐ other (specify) .

Each request for payment shall be supported by an invoice specifying the tasks completed up to the request for payment and the payment amount requested. In no event shall payment be sought in an amount which represents a percentage of the fee greater than the percentage of completed tasks.

AND

☒ **b. HOURLY RATES:** For services rendered on all administrative appeal hearings and decisions or non-quasi-judicial tasks as set forth in Attachment "A" the County shall compensate the Contractor at the following hourly rates:

Name/Position	***Hourly Rate***
Sound Law Center	$150/hour

Payments for completed tasks shall be made no more frequently than ☒ monthly; ☐quarterly; ☐semi-annually; ☐ annually; ☐at completion of project; ☐ other (specify) .

Each request for payment shall be supported by an invoice specifying: the name/position of the Contractor's employee if two or more are identified above; number of hours worked; completed tasks for which compensation is sought; estimated percentage of task completion; and payment amount requested.

2. AND

☒ **a.** The compensation set forth herein includes, without limitation: labor, materials, equipment, travel, telephone, computer, copiers, and the like.

OR

☐ **b.** The County shall reimburse the Contractor for actual expenses incurred for travel, telephone, copiers and computer. Reimbursement for airfare, mileage, meals, and/or accommodations shall be at the same rate as that applicable to county employees traveling on county business.

OR

☐ **c.** Other (specify):

3. The County shall remit payment to the Contractor within 30 days of receiving the Contractor's monthly invoice.

GENERAL CONDITIONS

1. Scope of Contractor's Services. The Contractor agrees to provide to the County services and any materials set forth in the project narrative identified as Attachment A during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

2. Accounting and Payment for Contractor Services. Payment to the Contractor for services rendered under this Agreement shall be as set forth in Attachment B. Unless specifically stated in Attachment B, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

   The County shall compensate the Contractor through the County voucher system for the Contractor's service pursuant to the fee schedule set forth in Attachment B.

3. Delegation and Subcontracting. Contractor's services are deemed personal and no portion of this contract may be delegated or subcontracted to any other individual, firm, or entity without the express and prior written approval of the County Project Manager.

4. Independent Contractor. The Contractor's services shall be furnished by the Contractor as an independent contractor and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant.

   The Contractor acknowledges that the entire compensation for this Agreement is specified in Attachment B and the Contractor is not entitled to any county benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental or other insurance benefits, or any other rights or privileges afforded to Clallam County employees. The Contractor represents that it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract with the Internal Revenue Service on a business tax schedule, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

   In the event that either the state or federal government determines that an employer/employee or master/servant relationship exists rather than an independent contractor relationship such that Clallam County is deemed responsible for federal withholding, social security contributions, workers compensation and the like, the Contractor agrees to reimburse Clallam County for any payments made or required to be made by Clallam County. Should any payments be due to the Contractor pursuant to this Agreement, the Contractor agrees that reimbursement may be made by deducting from such future payments a pro rata share of the amount to be reimbursed.

   Notwithstanding any determination by the state or federal government that an employer/employee or master/servant relationship exists, the Contractor, its officers, employees and agents, shall not be entitled to any benefits that Clallam County provides to its employees.

5. No Guarantee of Employment. The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

6. Regulations and Requirements. This Agreement shall be subject to all federal, state, and local laws, rules, and regulations.

7. Right to Review. This contract is subject to review by any federal or state auditor. The County shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County Project Manager. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials that the County deems pertinent to the

Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Clallam County, State of Washington, upon request, during reasonable business hours.

8. Modifications. Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

9. Termination for Default. If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. Mail, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor agrees to bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

10. Termination for Reasonable Cause. The County may terminate the contract in whole or in part for reasonable cause whenever the County determines, in its sole discretion that such termination is in the interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or reasonable cause, shall not constitute a breach of contract by the County.

11. Termination Due to Insufficient Funds. If sufficient funds for payment under this contract are not appropriated or allocated or are withdrawn, reduced, or otherwise limited, the County may terminate this contract upon five (5) days written notice to the Contractor. No penalty or expense shall accrue to the County in the event this provision applies.

12. Termination Procedure. The following provisions apply in the event that this Agreement is terminated:

(a) The Contractor shall cease to perform any services required hereunder as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination, if any.

(b) The Contractor shall provide the County with an accounting of authorized services provided through the effective date of termination.

(c) If the Agreement has been terminated for default, the County may withhold a sum from the final payment to the Contractor that the County determines necessary to protect itself against loss or liability.

13. Defense and Indemnity Agreement. The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elected officers, agents and employees, from and against all loss or expense, including but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or

appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, his/her subcontractors, its successor or assigns, or its or their agent, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

14. Industrial Insurance Waiver. With respect to the performance of this Agreement and as to claims against the County, its appointed and elected officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, as now or hereafter amended, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. Along with the other provisions of this Agreement, this waiver is mutually negotiated by the parties to this Agreement.

15. Venue and Choice of Law. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action shall be in the courts of the State of Washington in and for the County of Clallam. This Agreement shall be governed by the law of the State of Washington.

16. Withholding Payment. In the event the County Project Manager determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the County Project Manager determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than10 days after it determines to withhold amounts otherwise due. A determination of the County Project Manager set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provision of the Disputes clause of this Agreement. The County may act in accordance with any determination of the County Project Manager which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of good faith withholding by the County under this clause.

17. Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available bylaw.

18. Contractor Commitments, Warranties and Representations. Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

19. Patent/Copyright Infringement. Contractor will defend, indemnify and save harmless County, its appointed and elected officers, agents and employees from and against all loss or expense, including

but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of the Contractor's alleged infringement on any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County, its appointed and elected officers, agents and employees in any action. Such defense and payments are conditioned upon the following:

(a) That Contractor shall be notified promptly in writing by County of any notice of such claim.

(b) Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

20. Disputes:

(a) General. Differences between the Contractor and the County, arising under and by virtue of the contract documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The records, orders, rulings, instructions, and decision of the County Project Manager shall be final and conclusive 30 days from the date of mailing unless the Contractor mails or otherwise furnishes to the County Administrator a written notice of appeal. The notice of appeal shall include facts, law, and argument as to why the conclusions of the County Project Manager are in error.

In connection with any appeal under this clause, the Contractor and County shall have the opportunity to submit written materials and argument and to offer documentary evidence in support of the appeal. Oral argument and live testimony will not be permitted. The decision of the County Administrator for the determination of such appeals shall be final and conclusive. Reviews of the appellate determination shall be brought in the Superior Court of Clallam County within 15 days of mailing of the written appellate determination. Pending final decision of the dispute, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

(b) Notice of Potential Claims. The Contractor shall not be entitled to additional compensation or to extension of time for (1) any act or failure to act by the County Project Manager or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

(c) Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

21. Ownership of Items Produced. All writings, programs, data, art work, music, maps, charts, tables, illustrations, records or other written, graphic, analog or digital materials prepared by the Contractor and/or its consultants or subcontractors, in connection with the performance of this Agreement shall be the sole and absolute property of the County and constitute "work made for hire" as that phrase is used in federal and/or state intellectual property laws and Contractor and/or its agents shall have no ownership or use rights in the work.

22. Recovery of Payments to Contractor. The right of the Contractor to retain monies paid to it is contingent upon satisfactory performance of this Agreement, including the satisfactory completion of the project described in the Scope of Work (Attachment A). In the event that the Contractor fails, for any reason, to perform obligations required of it by this Agreement, the Contractor may, at the County Project Manager's sole discretion, be required to repay to the County all monies disbursed to the Contractor for those parts of the project that are rendered worthless in the opinion of the County Project Manager by such failure to perform.

    Interest shall accrue at the rate of 12 percent (12%) per annum from the time the County Project Manager demands repayment of funds.

23. Project Approval. The extent and character of all work and services to be performed under this Agreement by the Contractor shall be subject to the review and approval of the County Project Manager. For purposes of this Agreement, the County Project Manager is:

    Name: Rich Sill

    Title: County Administrator

    Address: 223 East 4th Street, Suite 4, Port Angeles, WA 98362

    Telephone: 360.417.2242

    E-mail: rsill@co.clallam.wa.us

    Fax: 360-417-2493

    In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the County Project Manager as to the extent and character of the work to be done shall govern subject to the Contractor's right to appeal that decision as provided herein.

24. Non-Discrimination. The Contractor shall not discriminate against any person on the basis of race, creed, political ideology, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.

25. Subcontractors. In the event that the Contractor employs the use of any subcontractors, the contract between the Contractor and the subcontractor shall provide that the subcontractor is bound by the terms of this Agreement between the County and the Contractor. The Contractor shall insure that in all subcontracts entered into, Clallam County is named as an express third-party beneficiary of such contracts with full rights as such.

26. Third Party Beneficiaries. This agreement is intended for the benefit of the County and Contractor and not for the benefit of any third parties.

27. Standard of Care. The Contractor shall perform its duties hereunder in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession as Contractor currently practicing under similar circumstances. The Contractor shall, without additional compensation, correct those services not meeting such a standard.

28. Time is of the Essence. Time is of the essence in the performance of this contract unless a more specific time period is set forth in either the Special Terms and Conditions or Scope of Work.

29. Notice. Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, any notices shall be given by the Contractor to the County Project Manager. Notice to the Contractor for all purposes under this Agreement shall be given to the

person executing the Agreement on behalf of the Contractor at the address identified on the signature page.

30. Severability. If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

31. Precedence. In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

(a) Applicable federal, state and local statutes, ordinances and regulations;

(b) Scope of Work (Attachment A) and Compensation (Attachment B);

(c) Special Terms and Conditions (Attachment D); and

(d) General Conditions (Attachment C).

32. Waiver. Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

33. Attorney Fees. In the event that litigation must be brought to enforce the terms of this agreement, the prevailing party shall be entitled to be paid reasonable attorney fees.

34. Construction. This agreement has been mutually reviewed and negotiated by the parties and should be given a fair and reasonable interpretation and should not be construed less favorably against either party.

35. Survival. Without being exclusive, Paragraphs 4, 7, 13-19, 21-22 and 31-35 of these General Conditions shall survive any termination, expiration or determination of invalidity of this Agreement in whole or in part. Any other Paragraphs of this Agreement which, by their sense and context, are intended to survive shall also survive.

36. Entire Agreement. This written contract represents the entire Agreement between the parties and supersedes any prior statements, discussions or understandings between the parties except as provided herein.

SPECIAL TERMS AND CONDITIONS

☒ 1. Reporting. The Contractor shall submit written progress reports to the County Project Manager as set forth below:

- ☐ With each request for payment.
- ☐ Monthly.
- ☐ Quarterly.
- ☐ Semi-annually.
- ☒ Annually.
- ☐ Project completion.
- ☐ Other (specify):

Progress reports shall include, at a minimum, the following:

Reports shall include any problems, delays, or adverse conditions that will materially affect the Contractor's ability to meet project objectives or time schedules together with a statement of action taken or proposed to resolve the situation. Reports shall also include recommendations for changes to the Scope of Work, if any. Payments may be withheld if reports are not submitted.

☒ 2. Insurance. The Contractor shall maintain in full force and effect during the term of this Agreement, and until final acceptance of the work, public liability and property damage insurance with companies or through sources approved by the state insurance commissioner pursuant to RCW Title 48, as now or hereafter amended. The County, its appointed and elected officials, agents and employees, shall be specifically named as additional insureds in a policy with the same company which insures the Contractor or by endorsement to an existing policy or with a separate carrier approved pursuant to RCW Title 48, as now or hereafter amended, and the following coverages shall be provided:

☒	COMMERCIAL GENERAL LIABILITY:		
	Bodily injury, including death.	$1,000,000	per occurrence
		$1,000,000	aggregate
	Property damage	$100,000	per occurrence
		$300,000	aggregate
☒	ERRORS AND OMISSIONS or PROFESSIONAL LIABILITY with an Extended Reporting Period Endorsement (two year tail).	$1,000,000	per occurrence
☒	WORKERS COMPENSATION:	Statutory amount	

☒	AUTOMOBILE: coverage on owned, non-owned, rented and hired vehicles		
	Bodily injury, liability, including death	$250,000	per occurrence
		$500,000	aggregate
	Property damage liability	$100,000	per occurrence
		$300,000	aggregate
☐	BUSINESS AUTOMOBILE LIABILITY:	$	per occurrence

If the Errors and Omissions or Professional Liability insurance obtained is an occurrence policy as opposed to a claims-made policy, the Extended Reporting Period Endorsement is not required.

Any such insurance carried by the Contractor shall be primary over any insurance carried by Clallam County and the Contractor shall ensure that such insurances is primary. The County shall have no obligation to report occurrences unless a claim or lawsuit is filed with it and the County has no obligation to pay any insurance premiums.

Evidence of primary insurance coverage shall be submitted to the County Project Manager within twenty (20) days of the execution of the Agreement. The Agreement shall be void ab initio if the proof of coverage is not timely supplied.

The coverage limits identified herein shall not limit the potential liability of the Contractor and the Contractor's duty to defend, indemnify and hold harmless shall apply to any liability beyond the scope of insurance coverage.

☒ 3. Liquidated Damages. Not applicable.

☐ 4. Other (specify):.

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

14
2/14/22

Department: Finance

WORK SESSION ☒ **Meeting Date:** **02/14/2022**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other Monthly Review

Documents exempt from public disclosure attached: ☐

OVERVIEW OF ARPA PROJECT AND EXPENDITURE REPORT FOR 2021, STATUS UPDATE OF ARPA FUNDING OBLIGATIONS/COMMITMENTS/REMAINING UNALLOCATED FUNDS, AND REVIEW OF KEY NEW PROVISIONS OF THE ARPA FINAL RULE ISSUED RECENTLY

ARPA BACKGROUND

By way of review, in May 2021, the County was awarded $15,020,640 of federal stimulus funding ("ARPA Funds") from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds ("SLFRF") under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act ("ARPA Act"). The County received the first half of these funds on May 28, 2021, with the 2nd half of these funds expected to be disbursed to the County by the US Treasury by May 2022.

As outlined in the ARPA Interim Final Rule and FAQ guidance provided by the U.S. Treasury back in May 2021, ARPA Funds can be utilized in support of the following purposes:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;

(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency;

(4) To make necessary investments in water, sewer, or broadband infrastructure; and

(5) To address the disparate impact of COVID-19 on certain populations and geographics, additional eligible services may include:

a. Addressing health disparities and the social determinants of health, including community health workers, public benefits navigators, remediation of lead paint or other lead hazards, and community violence intervention programs;

b. Building stronger neighborhoods and communities, including supportive housing and other services for individuals experiencing housing or food insecurity, development of affordable housing, and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity;

c. Addressing educational disparities exacerbated by COVID-19, including: early learning services, increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, and supports for students' social, emotional, and mental health needs; and

d. Promoting healthy childhood environments, including: child care, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth

During the July 6, 2021 Continued Work Session with BOCC, the BOCC identified eight priority areas that they indicated support for allocating ARPA Funds to, including:

- Local Small Business and Non Profit Economic Assistance;
- Assistance to Businesses and Non Profits that provide Child Care Services;
- Mental/Behavioral Health;
- Food Security Support to Local Food Banks;
- Affordable Housing/Homelessness Support;
- Residential and Commercial Utility Relief;
- Local Water Systems Infrastructure; and
- Broadband

OVERVIEW OF CLALLAM COUNTY'S SLFRF PROJECT & EXPENDITURE REPORT RECENTLY SUBMITTED TO THE US TREASURY FOR THE PERIOD COVERING MARCH 2021-DECEMBER 2021

As required under the compliance reporting requirements under the ARPA Act, the County was required to submit its first Project & Expenditure Report to the US Treasury outlining the ARPA-funded projects the County entered into, the amount of ARPA fund obligations made, and the expenditures incurred to date of such funds for the period March 2021 through December 31, 2021. In addition to requiring the County to disclose each of the projects for which ARPA funds were obligated and/or expended, the County was also required to indicate:

- The ARPA eligible expenditure category the project was covered under,
- Provide a description of each project,
- Provide a list of subrecipients that received the awarded funds,
- Indicate the type of subaward made (i.e. subaward, reimbursable grant, direct payment, etc),
- Provide a list and details of each expenditure made under each of those subawards greater than $50,000 during the reporting period, and
- Report the aggregate amount expended for awards less than $50k.

Enclosed is a copy of Clallam County SLFRF Project and Expenditure report as filed with the US Treasury on January 31, 2022. As outlined in this report, **the County had entered into ARPA-funded contractual obligations totaling $6,153,401 (representing 41% of total ARPA funds awarded to the County), of which $3,616,410.87 had been disbursed as of December 31, 2021.**

While covered in much more detail in the report itself, a summary table is included below of the projects for which ARPA funds have been formally obligated and expended by Clallam County during the period March 2021-December 2021:

Project Expenditure Category Group	Project Expenditure Category	Project Name	Total Obligations	Total Expenditures Thru 12/31/2021	Project Description
2. - Negative Economic Impacts	2.2 Household Assistance: Rent, Mortgage, and Utility Aid	**Clallam County PUD Residential and Commercial Utility Assistance**	$ 350,000.00	$ 197,882.64	Via a Subrecipient Agreement entered into with Clallam County PUD, provision of utility payment assistance to residents, small businesses, and nonprofits experiencing severe financial hardship due to job loss, layoff, reduction of work hours, reduced revenues or other negative economic impacts or circumstances resulting from the COVID-19 emergency needed to avoid utility disconnect that would endanger the health and well-being of such impacted residents, and impair the ability of businesses to continue to operate. **To date, 183 households and small businesses had received ARPA-funded utility payment assistance.**
2. - Negative Economic Impacts	2.9 Small Business Economic Assistance	**Clallam Economic Development Council - Lifeboat3--Small Businesses**	$ 2,338,000.00	$ 1,943,060.27	Via Subrecipient Agreement entered into with Clallam Economic Development Council to provide small business relief. $2,500,000 allocated to eligible small businesses and nonprofits located in Clallam County (of which $2,338,000 has been obligated to date to small businesses) whose operations and financial condition were adversely impacted by the COVID-19 public health emergency, including a reduction in revenues, increase in operating costs related to implementing COVID-19 prevention or mitigation tactics or due to other operating cost increases experienced during the pandemic, business disruption or closure, event cancellation, and/or other similar circumstances during the pandemic that created a financial hardship. **Under the EDC Lifeboat 3 grant program funded by these ARPA funds, a total of 128 small businesses in Clallam County received assistance through December 31, 2021.**
2. - Negative Economic Impacts	2.10 Aid to Nonprofit Organizations	**Clallam Economic Development Council - Lifeboat 3 Economic Assistance--NonProfits**	$ 162,000.00	$ 162,000.00	Via Subrecipient Agreement entered into with Clallam Economic Development Council to provide small business relief. $2,500,000 allocated to eligible small businesses and nonprofits located in Clallam County (of which $162,000 has been obligated to date to nonprofits)whose operations and financial condition were adversely impacted by the COVID-19 public health emergency, including a reduction in revenues, increase in operating costs related to implementing COVID-19 prevention or mitigation tactics or due to other operating cost increases experienced during the pandemic, business disruption or closure, event cancellation, and/or other similar circumstances during the pandemic that created a financial hardship. **Under the EDC Lifeboat 3 grant program funded by these ARPA funds, a total of 20 non-profits in Clallam County had received assistance through December 31, 2021.**

Project Expenditure Category Group	Project Expenditure Category	Project Name	Total Obligations	Total Expenditures Thru 12/31/2021	Project Description
3. Negative Economic Impacts--Services to Disporportionately Impacted Communities	3.6 Healthy Childhood Environments: Child Care	**Clallam Economic Development Council--Lifeboat 3 Economic Assistance--Childcare**	$ 500,000.00	$ -	Via Subrecipient Agreement entered into with Clallam Economic Development Council to provide small business relief. $500,000 is to be allocated specifically to small businesses, nonprofits and special districts that provide child care services in Clallam County. **(NOTE: WHILE NO FUNDS WERE EXPENDED AS OF 12/31/2021, THE COUNTY DID SUBSEQUENTLY RELEASE A TOTAL OF $469,064.00 OF ARPA FUNDS TO A TOTAL OF 23 CHILDCARE ORGANIZATIONS IN FEBRUARY 2022, INCLUDING 16 SMALL BUSINESSES, 6 NONPROFITS, AND 1 SPECIAL DISTRICT)**
3. Negative Economic Impacts--Services to Disporportionately Impacted Communities	3.10 Housing Support: Affordable Housing	**Peninsula Housing Authority**	$ 210,000.00	$ 210,000.00	Via a Subrecipient Agreement entered into with Peninsula Housing Authority to cover any gaps in funding for six affordable home projects currently on hold and other similar affordable housing projects located in Clallam County that low income families are participating in building through its Mutual Self-Help Program and that qualify for assistance under its Down Payment Assistance Program. As funds are needed to address immediate cash flow of the Mutual Self-Help program which relies on available funding through the Subrecipient's Down Payment Assistance program to cover home build funding gaps once USDA loan funds are exhausted.
3. Negative Economic Impacts--Services to Disporportionately Impacted Communities	3.10 Housing Support: Affordable Housing	**Peninsula Behavioral Health - All View Motel Affordable Housing Project**	$ 727,411.00	$ 727,411.00	Via a Direct Grant Agreement entered into with Peninsula Behavioral Health to support its purchase of the All View Motel for conversion into a supportive affordable housing project of 27 units to house up to 41 individuals or families with serious mental health needs and/or significant substance use disorders that are in need of permanent stable housing with onsite services to be owned, operated and staffed by Peninsula Behavioral Health.
3. Negative Economic Impacts--Services to Disporportionately Impacted Communities	3.10 Housing Support: Affordable Housing	**Habitat for Humanity**	$ 100,000.00	$ 100,000.00	Via a Subrecipient Agreement to be disbursed to Clallam County Habitat for Humanity to support the completion of affordable housing projects in Clallam County for low income households with incomes of 30-80% of Clallam County's AMI. Such funding is needed to address immediate cash flow constraints that are hindering Habitat for Humanity's ability to cover funding gaps in planned affordable housing projects due to increased building material costs. These funds will be used for affordable housing construction costs, including contractor and subcontractor and building material expenses for current build affordable housing unit projects, or for restarted affordable housing projects that were previously placed on hold due to high construction material or contractor/subcontractor costs encountered during the COVID pandemic. **A total of 2 affordable housing projects in Port Angeles were completed by the end of 2021 utilizing the ARPA funds provided.**
2 - Negative Economic Impacts	2.1 Household Assistance: Food Programs	**Clallam Bay - Sekiu New Hope Food Bank**	$ 250,000.00	$ 194,921.96	Via a Direct Grant Agreement entered into with The Cornerstone PEC of Clallam Bay-Sekiu, a non-profit organization that operates a food bank serving residents of Clallam Bay-Sekiu and surrounding areas within Clallam County who are experiencing food insecurity during the COVID-19 public health emergency. Their current food bank facility (a 30+ year-old single-wide mobile home of approximately 720 square feet) has, due to the building's age and construction quality, fallen into a state of severe disrepair, and as a result of pest infestation, electrical wiring problems and other issues is no longer safe or viable for the Recipient to continue operating as a food bank. In addition to the inadequacy of the Recipient's current facility from a food storage capacity and operating safety perspective, the Recipient's current facility is located approximately 3 miles outside of Clallam Bay, which greatly hinders its ability to service the food security needs of low income residents in the area, many of which lack a means of transportation to access the Recipient's facilities. In order to address its facility deficiencies, the Recipient has identified an approximate 1,300 square foot replacement building located at 33 Bogachiel St, Clallam Bay, WA, at the center of Clallam Bay that is within close proximity of several local organizations that support the needs of the community including the Lions Club, health clinic, community center, and local church. This agreement is to support the recipient's purchase and renovation of the new facility for the food bank in Clallam Bay.
3. Negative Economic Impacts--Services to Disporportionately Impacted Communities	3.11 Housing Support: Services for Unhoused Persons	**North Olympic Regional Veteran's Housing Network--Hobucket House**	$ 59,903.00	$ 59,903.00	Via a Direct Grant Agreement entered into with North Olympic Veteran's Housing Network to be disbursed to the Recipient to support completion of the Recipient's "Hobucket House" affordable housing group home project for homeless, disabled Veterans in Clallam County using federal ARPA funding. Funding is needed to address immediate cash flow constraints that are hindering the Recipient's ability to cover funding gaps in this planned affordable housing group home project located in Forks, WA due to increased building material costs resulting from the supply chain disruptions created during the COVID-19 public health emergency.

Project Expenditure Category Group	Project Expenditure Category	Project Name	Total Obligations	Total Expenditures Thru 12/31/2021	Project Description
2, - Negative Economic Impacts	2. 11 Aid to Tourism, Travel, or Hospitality	**Black Ball Transportation Inc Economic Assistance Grant**	$ 1,250,000.00	$ -	Via a Direct Grant Agreement entered into with Black Ball Transportation, Inc. to support the preservation of the Recipient's private marine transportation activities and jobs associated with such activities that were severely negatively impacted by the closure of the United States- Canada border during the COVID-19 pandemic by providing ARPA-funded economic support assistance.
1,- Public Health	1.1 COVID-19 Vaccination	**COVID-19 Vaccination Marketing Campaign**	$ 21,000.00	$ 20,017.00	COVID-19 vaccination marketing campaign for Clallam County to provide information about COVID-19 through a Clallam County Cares website that provides the community with COVID-19 information, vaccine locator, and Clallam County Statistics.
3. Negative Economic Impacts--Services to Disporportionately Impacted Communities	3.6 Healthy Childhood Environments: Child Care	**Child Care Recruitment Job Fair**	$ 1,215.00	$ 1,215.00	Sponsorship funding for a recruitment fair to encourage participants to consider a career in childcare and early childhood education and accept job openings currently available in most childcare centers and facilities across the county. Current staffing shortage has depressed child care slots by over 25% in a context of an already severe shortage of slots available. Funds were used for advertising in the local paper; Peninsula Daily News, 3 times and a City Banner (cost and installation).
1.- Public Health	1.7 Capital Investments or Physical Plant Changes to Public Facilities	**Tek84 Full Body Scanner for County Jail**	$ 183,872.00	$ -	Via an Agreement/Purchase Order with Tek84, project is for the purchase of the Tek84 Intercept Full Body Scanner System. This system consists of a thermal body scanner that will be employed in scanning all incoming inmates to the County jail, minimizing the amount of time and physical proximity needed to conduct a search for contraband, resulting in reduced risk of potential COVID-19 exposure to Jail staff during the processing of incoming inmates.
			$ 6,153,401.00	**$ 3,616,410.87**	

ARPA FUNDS COMMITTED AND UNCOMMITTED FUNDS REMAINING

In addition to the funds formally obligated via agreement as reported to the US Treasury thru December 31, 2021, the BOCC has approved additional ARPA obligations in 2022 as well as has indicated support for committing ARPA towards additional eligible purposes for which the County has not yet formally entered into agreements to fund. The breakdown of these additional obligations and commitments, and how much in remaining unallocated ARPA funds remain are as follows:

2022 OBLIGATED ARPA FUNDS

Project Expenditure Category Group	Project Expenditure Category	Project Name	Total Obligations	Total Expenditures Thru 01/31/2022	Project Description
2 - Negative Economic Impacts	2.1 Household Assistance: Food Programs	**Port Angeles Food Bank**	$ 1,348,000.00	$ -	Via a Direct Assistance Agreement entered into on 2/1/2022, $1.3 million of ARPA funds committed to assisting PA Food in renovations of its new facility, including construction of (i) a 2,000 sq ft food pantry market; (ii) a 1,800 sq ft commercial processing kitchen; (iii) a 2,000 sq ft training and workspace room for co-locating additional social services; and (iv) a 4,000 sq ft of infrastructure improvements needed to create suitable administration and operations space, all of which were deemed necessary and proportionate to the need for enabling PA Food Bank to meet the growing need for food assistance during the COVID 19 pandemic and to support the additional demands placed on it since becoming the RDO for County food assistance. The remaining $48k of funds shall be used to fund staff retention costs.
2 - Negative Economic Impacts	2.1 Household Assistance: Food Programs	**Forks Community Food Bank**	$ 105,000.00	$ -	Via a Direct Assistance Agreement entered into on 2/1/2022, $105,000 of ARPA funds were committed to support (i) the acquisition of a walk-in freezer for the food bank to meet the additional cold storage needs of the food bank to meet need for increased food assistance needs of the community during the COVID pandemic; and (ii) $70,000 to fund the salary and benefit costs of transitioning a volunteer executive director position into a paid full-time staff position due to the increased demands placed on this role and the food bank during the COVID-19 pandemic.

Project Expenditure Category Group	Project Expenditure Category	Project Name	Total Obligations	Total Expenditures Thru 01/31/2022	Project Description
2 - Negative Economic Impacts	2.1 Household Assistance: Food Programs	**Sequim Open Aire Market**	$ 4,500.00	$ -	Via a Direct Assistance Agreement entered into on 2/1/2022, $4,500 of ARPA funds were committed to support (i) the market's one-to-one matching ability for eligible food purchases under the SNAP Market Match Program and (ii) matching costs incurred to support the Low-Income Seniors Farmer's Market Nutrition Program and the Women Infants and Children Farmer's Market Nutrition Program to provide improved access to fresh, healthy and locally grown fruits and vegetables to low-income seniors and WIC recipients.
2 - Negative Economic Impacts	2.1 Household Assistance: Food Programs	**Olympic Peninsula Betterment Association**	$ 18,000.00	$ -	Via a Direct Assistance Agreement entered into on 2/1/2022, $18,000 of ARPA funds were committed to the Association's "Feed the 5000" community meal service that assists residents of the City of Forks and surrounding areas experiencing food insecurity during the COVID-19 public health emergency by provision of a free meal each Tuesday, with funding needed to support the 300% increase in number of individuals seeking the weekly meal during COVID and the resulting increase in food and supplies costs. Funds may be used to reimburse for costs related to (i) the purchase and storage of food, (ii) the preparation of meals to include cookware and carts, (iii)the on-site meal service, to include cutlery, plates and seating, (iv) personal protection and sanitation materials, and (v) packaging materials related to the delivery of meals.

TOTAL ADDITIONAL OBLIGATIONS **$ 1,475,500.00**

OTHER COMMITMENTS (BUT NOT FORMALLY OBLIGATED YET)

Project Expenditure Category Group	Project Expenditure Category	Project Name	Total Obligations	Total Expenditures Thru 01/31/2022	Project Description
2 - Negative Economic Impacts	2.1 Household Assistance: Food Programs	**Sequim Food Bank**	$ 185,950.00		Request for funding to include (i) $150,000 for the design, permitting and other pre-construction costs relating to SFB's need to build additional food storage facilities on its adjoining property to support the transition of certain of its buildings back to use for distribution and administration purposes and provide a more sustainable operation to meet the food security needs of the community during the COVID public health emergency; and (ii) $35,950 to be used to additional staff needs and retention incurred during the COVID public health emergency. Proposed agreement expected to be submitted to BOCC for approval in February 2022.
2 - Negative Economic Impacts	2.1 Household Assistance: Food Programs	**Port Angeles Farmer's Market**	$ 6,500.00		$6,500 of ARPA funds requested to support (i) the market's one-to-one matching ability for eligible food purchases under the SNAP Market Match Program and (ii) matching costs incurred to support the Low-Income Seniors Farmer's Market Nutrition Program and the Women Infants and Children Farmer's Market Nutrition Program to provide improved access to fresh, healthy and locally grown fruits and vegetables to low-income seniors and WIC recipients. Proposed agreement expected to be submitted to BOCC for approval in February 2022.
Water & Sewer Infrastructure	Local Water Systems	**TBD**	$ 150,000.00		BOCC had previously indicated support of up to $150k to support local water systems infrastructure, to the extent allowed for under the ARPA water infrastructure guidelines.
2 - Negative Economic Impacts	2.14 Rehiring Public Sector Staff	**County Need--Prosecuting Attorney Additional Staffing--Case Back Log**	$ 799,500.00		Pursuant to US Treasury FAQ 2.19 under the SFLRF guidance, costs incurred to address COVID-related backlog in court cases may be funded through ARPA funds. BOCC approved a placeholder to address COVID court case backlogs for additional hiring of staff in PA Office over a 2 year period.
2 - Negative Economic Impacts	2.14 Rehiring Public Sector Staff	**County Need--Clallam Public Defender--Addltl Funding for Case Back Log**	$ 400,000.00		Pursuant to US Treasury FAQ 2.19 under the SFLRF guidance, costs incurred to address COVID-related backlog in court cases may be funded through ARPA funds. BOCC approved a placeholder to address COVID court case backlogs for additional hiring of staff in Clallam Public Defender's office over a 2 year period.
Public Health	1.7 Capital Investments or Physical Plant Changes to Public Facilities	**County Need--BiPolar Ionization HVAC Filtering System**	$ 250,000.00		Air purification equipment approved for Courthouse as part of the 2022 Capital Budget to help prevent spread of COVID.

Project Expenditure Category Group	Project Expenditure Category	Project Name	Total Obligations	Total Expenditures Thru 01/31/2022	Project Description
Public Health	1.7 Capital Investments or Physical Plant Changes to Public Facilities	**County Need--BOCC Meeting Room Technology Project to Improve COVID Virtual Meeting Capabilities**	$ 134,000.00		This IT capital project is designed to to support the need for improved virtual public meeting capabilities of the County during the COVID public health emergency. ARPA funding was approved by BOCC in the 12/6/2021 work session and will be incorporated into 2022 amended budget as a debatable emergency to be adopted in February 2022.
Revenue Loss	Provision of Government Services	**Broadband Grant Local Match**	$ 2,000,000.00		Represents 10% local match placeholder for the $20 million grant recently awarded to the County. Note: In order for ARPA funds to be used as local match funds for a federal grant, the funds must be utilized out of the County's "Lost Revenue" category under ARPA, which under the Final Rule allows the County to designate up to $10 million of its ARPA award as "lost revenue".
TOTAL--OTHER ARPA COMMITMENTS			**$ 3,925,950.00**		
LESS--ANTICIPATED RETURN OF ARPA FUNDS	3.10 Housing Support: Affordable Housing	**Peninsula Behavioral Health - All View Motel Affordable Housing Project**	$ (389,911.00)		Under the ARPA Grant agreement with Peninsula Behavioral Health for the All-View Motel mental health affordable housing project, PBH is required to reimburse the County a total of $389,911 in ARPA funds received in the event PBH is subsequently awarded funds under its Department of Commerce Housing Trust Fund grant application. As PBH was recently notified that such grant funding was awarded to them, these ARPA funds will be returned to the County and will be available to be used for other ARPA-eligible projects.
TOTAL ARPA OBLIGATIONS (2021/2022) AND COMMITMENTS, NET OF RETURN OF ARPA FUNDS			**$ 11,164,940.00**		
TOTAL ARPA FUNDS AWARDED TO CLALLAM COUNTY			**$ 15,020,640.00**		
TOTAL REMAINING UNALLOCATED ARPA FUNDS			**$ 3,855,700.00**		

QUICK UPDATE--REGARDING BLACK BALL DOC PRIVATE MARINE TRANSPORT ARPA GRANT

While not tied directly to the County's administration of its own US Treasury-awarded ARPA funds discussed thus far, the County's progress in administering the $5 million WA State Department of Commerce Private Marine Transport ARPA grant that the County as grant subrecipient has awarded to Black Ball Transport, Inc warrants a quick review.

As of December 31, 2021, **the County has disbursed to Black Ball total funds of $3,967,309 of the $5 million DOC Private Marine Transport grant**. In early February 2022, the DOC released **an additional $536,657** to the County which is expected to be disbursed to Black Ball by mid-February. The County has received a reimbursement request from Black Ball for the remaining funds under this grant totaling $496,034, which is expected to be fully disbursed to it by late February/early March upon the County and DOC completing their reviews. It is worth noting that while the County has directed considerable internal staff resources to the administration of this grant, the County waived assessing an indirect administrative charge against these grant funds in order to maximize the amount of assistance flowing to Black Ball given the severe economic impact that the COVID-related US/Canada border closure had on its operations.

FINAL RULE OVERVIEW

On January 6, 2022, the US Treasury issued the Final Rule relating to the ARPA SFLRF program. Taking effect on April 1, 2022, this Final Rule represents the finalized authoritative guidance on how ARPA funds can be spent by counties, cities, states, and tribal organizations and replaces the Interim Final Rule that was issued in May 2021 when the program was first rolled out. In addition to carrying over the guidance included in the Interim Final, the Final Rule provided additional clarity on allowed-for uses that were not clearly addressed in the Interim Final Rule, as well as provided additional flexibility on certain uses based on feedback the US Treasury received during the open comment period last year.

Attached for the BOCC's reference is copy of the Overview of the Final Rule which provides a comprehensive review of the major changes made in the Final Rule and a review of key provisions of the program. Some of the more noteworthy changes include:

- **Lost Revenue Standard Allowance**—likely the most significant change of the Final Rule, governments may now claim a standard allowance **up to $10 million** of their total ARPA award received to be treated as lost revenue which can then be used to fund the provision of government services under the ARPA final rule. It should be noted that this allowance does not change the total amount of ARPA funds awarded to a local government, but simply allows the recipient the flexibility of allocating a greater portion of its ARPA funds to the lost revenue category that can then be used more broadly in support of its provision of government services (see below). The addition of this lost revenue standard allowance is significant to the County for the following reasons:

    - Clallam County under the prior Interim Final Rule could not claim lost revenue under the original revenue loss calculation methodology issued by Treasury;

    - Using ARPA funds claimed under the "revenue loss" category of eligible uses provides the maximum flexibility in how those funds can be utilized, as again they can be used to support the provision of government services, which essentially includes any service a government traditionally provides, including such services as:

        - Construction of schools and hospitals;
        - Road building and maintenance, and other infrastructure;
        - Health services;
        - General government administration, staff, and administrative facilities;
        - Environmental remediation;
        - Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)

    - The only **specific uses not allowed** for under the lost revenue category would include (i) contributing to "rainy day funds" (i.e. reserves), (ii) debt service costs, (iii) extraordinary pension contributions, (iv) settlement agreements, judgment, consent

decree or judicially confirmed debt, (v) activity that conflicts with the purpose of the ARPA Act (i.e. uses that conflict with COVID-19 mitigation practices), and (vi) violations of ARPA award terms and conditions or conflict of interest federal rules.

- One unique feature of using ARPA funds claimed under the "revenue loss" category is the ability to use such funds to fund the local match portion on any federal grant-funded projects. This is not the case with any of the other ARPA eligible use categories, and is of particular help when evaluating potential sources of funding for other federal-grant projects that require a local match of funding from the County (including for example broadband, roads, and other public works infrastructure projects).

- Clallam County will need to determine ideally before the next reporting deadline (April 30th) whether it will elect to claim the lost revenue standard allowance or default to the standard revenue loss formula (which for Clallam would mean no revenue loss being claimed under the ARPA funds awarded to it)—once this election is made, it is irrevocable.

- **Public Health and Economic Impacts Usages Expanded to Include Capital Expenditures**—in addition to supporting programs and services costs, the Final Rule has modified the allowed usages of funds to include capital expenditures that support an eligible COVID-19 public health or economic response, including construction of affordable housing, childcare facilities, schools, hospitals, and other allowed capital projects. Capital expenditures must be related and reasonably proportional to the pandemic impact identified and reasonably designed to benefit the impacted population or class. In addition, for those capital expenditures of $1 million or greater, a written justification is required to be prepared describing the harm/need to be addressed, why the capital expenditure is appropriate to address that harm/need, and why the capital outlay is the best option of at least two alternative courses of action to address the harm/need (further guidance regarding capital expenditures is covered in more detail in pages 30-31 of the attached "Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule");

- **Additional Flexibility for Water, Sewer & Broadband Infrastructure Projects**—the Final Rule significantly broadens eligible broadband infrastructure investments to address challenges with broadband access (including allowing local governments to fund high-speed broadband infrastructure), and expanded the types of water and sewer infrastructure projects beyond just those eligible under the EPA's Clean Water State Revolving Fund ("CWSRF") and EPA's Drinking Water State Revolving Fund ("DWSRF"), including a wide set of lead remediation, storm water infrastructure, and aid for private wells and septic units.

  - One additional side note on Water/Sewer infrastructure projects is the Final Rule's removal of the disallowance set by the EPA's CWSRF and DWSRF of projects whose primary purpose is to serve future population growth, so long as such projects can be justified as being **"necessary"** and **"sustainable"** (see page 38 of the attached

"Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule" for examples of the additional eligible water/sewer projects permitted under the Final Rule and the criteria for satisfying the "necessary" and "sustainable" conditions for such projects to be eligible for ARPA funding).

- **Provided Additional Clarity and Expanded Types of Assistance Programs that can be provided to Impacted Households and Communities**—including economic support for food assistance and food banks, emergency housing assistance, job search and training assistance, childcare and early learning services, and many others (see page 18 of the attached "Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule" for a more expansive list);

FINAL TAKE-AWAYS REGARDING THE FINAL RULE

A few final take-aways in reviewing the Final Rule that are worth noting include:

- All of the ARPA-funded projects undertaken to-date by the County appear to be in compliance with the Final Rule and the additional clarity it has provided on eligible uses;

- While the Final Rule does not take effect until April 1, 2022 (meaning the interim final rule guidance remains in effect until such time), the US Treasury has indicated that local governments may choose to adopt the Final Rule's additional flexibilities and simplifications immediately in advance of the effective date, and has further indicated that it will not take any enforcement action in applying interim final rule guidance to the extent the use of funds is ultimately in compliance with the requirements of the Final Rule, regardless of when the funds were used.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Purpose of this presentation to update the BOCC on the ARPA Project & Expenditure Report Recently Submitted to the US Treasury as required under the ARPA reporting requirements, review the status of the ARPA Fund in terms of obligations and commitments made to date, and to provide a review of the new Final Rule guidance released by the US Treasury in how ARPA funds can be utilized. Further discussions will be needed to determine how the County will utilize the remaining unallocated ARPA funds available.

County Official signature & print name:  Mark Lane_____

Name of Employee/Stakeholder attending meeting: _____Mark Lane _____

Relevant Departments: ____Finance, BOCC _____

Date submitted: February 7, 2022

SLFRF Compliance Report - SLT-2139 - P&E Report - 2021
Report Period : March - December 2021

Recipient Profile

Recipient Information

Recipient DUNS	075739235
Recipient DUNS (+4)	
Recipient TIN	916001298
Recipient Legal Entity Name	Clallam County, Washington
Recipient Type	
FAIN	
CFDA No./Assistance Listing	
Recipient Address	223 EAST FOURTH STREET, SUITE 4
Recipient Address 2	
Recipient Address 3	
Recipient City	PORT ANGELES
Recipient State/Territory	WA
Recipient Zip5	98362-3015
Recipient Zip+4	
Recipient Reporting Tier	Tier 2. Metropolitan cities and counties with a population below 250,000 residents which received more than $10 million in SLFRF funding
Discrepancies Explanation	
Is the Recipient Registered in SAM.Gov?	Yes

Project Overview

Project Name: Clallam County PUD Residential and Commercial Utility Assistance

Project Identification Number	19961.21.001
Project Expenditure Category	2-Negative Economic Impacts
Project Expenditure Subcategory	2.2-Household Assistance: Rent, Mortgage, and Utility Aid
Total Obligations	$350,000.00
Total Expenditures	$197,882.64
Project Description	Via a Subrecipient Agreement entered into with Clallam County PUD, provision of utility payment assistance to residents, small businesses, and nonprofits experiencing severe financial hardship due to job loss, layoff, reduction of work hours, reduced revenues or other negative economic impacts or circumstances resulting from the COVID-19 emergency needed to avoid utility disconnect that would endanger the health and well-being of such impacted residents, and impair the ability of businesses to continue to operate.

Project Name: Clallam Economic Development Council--Lifeboat3--Small Businesses

Project Identification Number	19961.21.002.1
Project Expenditure Category	2-Negative Economic Impacts
Project Expenditure Subcategory	2.9-Small Business Economic Assistance (General)
Total Obligations	$2,338,000.00
Total Expenditures	$1,943,060.27
Project Description	Via Subrecipient Agreement entered into with Clallam Economic Development Council to provide small business relief. A total $2,500,000 allocated to eligible small businesses and nonprofits located in Clallam County (with $2,338,000 obligated to date to small businesses) whose operations and financial condition were adversely impacted by the COVID-19 public health emergency, including a reduction in revenues, increase in operating costs related to implementing COVID-19 prevention or mitigation tactics or due to other operating cost increases experienced during the pandemic, business disruption or closure, event cancellation, and/or other similar circumstances during the pandemic that created a financial hardship.

Project Name: Clallam Economic Development Council--Lifeboat 3 Economic Assistance--NonProfits

Project Identification Number	19961.21.002.2
Project Expenditure Category	2-Negative Economic Impacts
Project Expenditure Subcategory	2.10-Aid to nonprofit organizations
Total Obligations	$162,000.00
Total Expenditures	$162,000.00

Project Description	Via Subrecipient Agreement entered into with Clallam Economic Development Council to provide small business relief. $2,500,000 allocated to eligible small businesses and nonprofits located in Clallam County (with $162,000 to date obligated to nonprofits) whose operations and financial condition were adversely impacted by the COVID-19 public health emergency, including a reduction in revenues, increase in operating costs related to implementing COVID-19 prevention or mitigation tactics or due to other operating cost increases experienced during the pandemic, business disruption or closure, event cancellation, and/or other similar circumstances during the pandemic that created a financial hardship.

Project Name: Clallam Economic Development Council--Lifeboat 3 Economic Assistance--Childcare

Project Identification Number	19961.21.002.3
Project Expenditure Category	3-Services to Disproportionately Impacted Communities
Project Expenditure Subcategory	3.6-Healthy Childhood Environments: Child Care
Total Obligations	$500,000.00
Total Expenditures	$0.00
Project Description	Via Subrecipient Agreement entered into with Clallam Economic Development Council, purpose of project is to provide $500,000 to be allocated specifically to small businesses, nonprofits and special districts that provide child care services in Clallam County who were negatively impacted by the COVID-19 pandemic either through lower revenues caused by COVID restricted class sizes, increased staffing and other program costs to accommodate greater demand for childcare services during COVID due to school closures, and additional COVID mitigation costs.

Project Name: Clallam Bay-Sekiu New Hope Food Bank

Project Identification Number	19961.21.006
Project Expenditure Category	2-Negative Economic Impacts
Project Expenditure Subcategory	2.1-Household Assistance: Food Programs
Total Obligations	$250,000.00
Total Expenditures	$194,921.96
Project Description	Via a Direct Grant Agreement entered into with The Cornerstone PEC of Clallam Bay-Sekiu, a non-profit organization that operates a food bank serving residents of Clallam Bay-Sekiu and surrounding areas within Clallam County who are experiencing food insecurity during the COVID-19 public health emergency. Their current food bank facility (a 30+ year-old single-wide mobile home of approximately 720 square feet) has, due to the building's age and construction quality, fallen into a state of severe disrepair, and as a result of pest infestation, electrical wiring problems and other issues is no longer safe or viable for the Recipient to continue operating as a food bank. In addition to the inadequacy of the Recipient's current facility from a food storage capacity and operating safety perspective, the Recipient's current facility is located approximately 3 miles

	outside of Clallam Bay, which greatly hinders its ability to service the food security needs of low income residents in the area, many of which lack a means of transportation to access the Recipient's facilities. In order to address its facility deficiencies, the Recipient has identified an approximate 1,300 square foot replacement building located at 33 Bogachiel St, Clallam Bay, WA, at the center of Clallam Bay that is within close proximity of several local organizations that support the needs of the community including the Lions Club, health clinic, community center, and local church. This agreement is to support the recipient's purchase and renovation of the new facility for the food bank in Clallam Bay.

Project Name: Peninsula Housing Authority

Project Identification Number	19961.21.008
Project Expenditure Category	3-Services to Disproportionately Impacted Communities
Project Expenditure Subcategory	3.10-Housing Support: Affordable Housing
Total Obligations	$210,000.00
Total Expenditures	$210,000.00
Project Description	Via a Subrecipient Agreement entered into with Peninsula Housing Authority to cover any gaps in funding for six affordable home projects currently on hold and other similar affordable housing projects located in Clallam County that low income families are participating in building through its Mutual Self-Help Program and that qualify for assistance under its Down Payment Assistance Program. Funds are needed to address immediate cash flow needs of the Mutual Self-Help program which relies on available funding through the Subrecipient's Down Payment Assistance program to cover home build funding gaps once USDA loan funds are exhausted.

Project Name: Peninsula Behavioral Health--All View Motel Affordable Housing Project

Project Identification Number	19961.21.007
Project Expenditure Category	3-Services to Disproportionately Impacted Communities
Project Expenditure Subcategory	3.10-Housing Support: Affordable Housing
Total Obligations	$727,411.00
Total Expenditures	$727,411.00
Project Description	Via a Direct Grant Agreement entered into with Peninsula Behavioral Health to support its purchase of the All View Motel for conversion into a supportive affordable housing project of 27 units to house up to 41 individuals or families with serious mental health needs and/or significant substance use disorders that are in need of permanent stable housing with onsite services to be owned, operated and staffed by Peninsula Behavioral Health.

Project Name: Habitat for Humanity

Project Identification Number	19961.21.003

Project Expenditure Category	3-Services to Disproportionately Impacted Communities
Project Expenditure Subcategory	3.10-Housing Support: Affordable Housing
Total Obligations	$100,000.00
Total Expenditures	$100,000.00
Project Description	Via a Subrecipient Agreement to be disbursed to Clallam County Habitat for Humanity to support the completion of affordable housing projects in Clallam County for low income households with incomes of 30-80% of Clallam County's AMI. Such funding is needed to address immediate cash flow constraints that are hindering Habitat for Humanity's ability to cover funding gaps in planned affordable housing projects due to increased building material costs. These funds will be used for affordable housing construction costs, including contractor and subcontractor and building material expenses for current build affordable housing unit projects, or for restarted affordable housing projects that were previously placed on hold due to high construction material or contractor/subcontractor costs encountered during the COVID pandemic.

Project Name: North Olympic Regional Veteran's Housing Network--Hobucket House

Project Identification Number	19961.21.004
Project Expenditure Category	3-Services to Disproportionately Impacted Communities
Project Expenditure Subcategory	3.11-Housing Support: Services for Unhoused persons
Total Obligations	$59,903.00
Total Expenditures	$59,903.00
Project Description	Via a Direct Grant Agreement entered into with North Olympic Veteran's Housing Network to be disbursed to the Recipient to support completion of the Recipient's "Hobucket House" affordable housing group home project for homeless, disabled Veterans in Clallam County using federal ARPA funding. Funding is needed to address immediate cash flow constraints that are hindering the Recipient's ability to cover funding gaps in this planned affordable housing group home project located in Forks, WA due to increased building material costs resulting from the supply chain disruptions created during the COVID-19 public health emergency.

Project Name: Black Ball Transportation Inc Economic Assistance Grant

Project Identification Number	19961.21.011
Project Expenditure Category	2-Negative Economic Impacts
Project Expenditure Subcategory	2.11-Aid to Tourism, Travel, or Hospitality
Total Obligations	$1,250,000.00
Total Expenditures	$0.00
Project Description	Via a Direct Grant Agreement entered into with Black Ball Transportation, Inc. to support the preservation of the Recipient's private marine transportation activities and jobs associated with such activities that were severely negatively

	impacted by the closure of the United States- Canada border during the COVID-19 pandemic by providing ARPA-funded economic support assistance.

Project Name: COVID-19 Vaccination Marketing Campaign

Project Identification Number	19961.21.012
Project Expenditure Category	1-Public Health
Project Expenditure Subcategory	1.1-COVID-19 Vaccination
Total Obligations	$21,000.00
Total Expenditures	$20,017.00
Project Description	COVID-19 vaccination marketing campaign for Clallam County to provide information about COVID-19 through a Clallam County Cares website that provides the community with COVID-19 information, vaccine locator, and Clallam County Statistics.

Project Name: Child Care Recruitment Job Fair

Project Identification Number	19961.21.0001273
Project Expenditure Category	3-Services to Disproportionately Impacted Communities
Project Expenditure Subcategory	3.6-Healthy Childhood Environments: Child Care
Total Obligations	$1,215.00
Total Expenditures	$1,215.00
Project Description	Sponsorship funding for a recruitment fair to encourage participants to consider a career in childcare and early childhood education and accept job openings currently available in most childcare centers and facilities across the county. Current staffing shortage has depressed child care slots by over 25% in a context of an already severe shortage of slots available. Funds were used for advertising in the local paper; Peninsula Daily News, 3 times and a City Banner (cost and installation).

Project Name: Tek84 Full Body Scanner for County Jail

Project Identification Number	815-21-02
Project Expenditure Category	1-Public Health
Project Expenditure Subcategory	1.7-Capital Investments or Physical Plant Changes to Public Facilities that respond to the COVID-19 public health emergency
Total Obligations	$183,872.00
Total Expenditures	$0.00
Project Description	Via an Agreement/Purchase Order with Tek84, project is for the purchase of the Tek84 Intercept Full Body Scanner System. This system consists of a thermal body scanner that will be employed in scanning all incoming inmates to the County jail, minimizing the amount of time and physical proximity needed to conduct a search for contraband, resulting in reduced risk of potential COVID-19 exposure to Jail staff during the processing of incoming inmates.

Subrecipients

Subrecipient Name: Public Utility District #1 of Clallam County

DUNS	
DUNS (+4)	
TIN	916001041
Type	
POC Email Address	sworthington@clallampud.net
Address Line 1	104 Hooker Road
Address Line 2	
Address Line 3	
City	Sequim
State	WA
Zip	98382
Zip+4	
Is the Recipient Registered in SAM.Gov?	Yes

Subrecipient Name: Clallam Economic Development Council

DUNS	151519105
DUNS (+4)	
TIN	911167253
Type	
POC Email Address	cmcaleer@clallam.org
Address Line 1	PO Box 1085
Address Line 2	
Address Line 3	
City	Port Angeles
State	WA
Zip	98362
Zip+4	
Is the Recipient Registered in SAM.Gov?	Yes

Subrecipient Name: North Olympic Regional Veteran's Housing Network

DUNS	
DUNS (+4)	
TIN	
Type	
POC Email Address	ct.sargesplace@gmail.com

Address Line 1	250 Ash Ave
Address Line 2	
Address Line 3	
City	Forks
State	WA
Zip	98331
Zip+4	
Is the Recipient Registered in SAM.Gov?	Yes

Subrecipient Name: Black Ball Transport, Inc

DUNS	
DUNS (+4)	
TIN	
Type	
POC Email Address	dbooth@cohoferry.com
Address Line 1	820 NE 45th St
Address Line 2	Suite 3
Address Line 3	
City	Seattle
State	WA
Zip	98105
Zip+4	
Is the Recipient Registered in SAM.Gov?	Yes

Subrecipient Name: Peninsula Housing Authority

DUNS	
DUNS (+4)	
TIN	
Type	
POC Email Address	smartinez@peninsulapha.org
Address Line 1	2603 S Francis St
Address Line 2	
Address Line 3	
City	Port Angeles
State	WA
Zip	98362
Zip+4	
Is the Recipient Registered in SAM.Gov?	Yes

Subrecipient Name: Peninsula Behavioral Health

DUNS	
DUNS (+4)	
TIN	
Type	
POC Email Address	wendys@peninsulabehavioral.org
Address Line 1	118 E 8th St
Address Line 2	
Address Line 3	
City	Port Angeles
State	WA
Zip	98362
Zip+4	
Is the Recipient Registered in SAM.Gov?	Yes

Subrecipient Name: The Cornerstone PEC of Clallam Bay-Sekiu

DUNS	
DUNS (+4)	
TIN	863346084
Type	
POC Email Address	cbaog01@gmail.com
Address Line 1	PO Box 336
Address Line 2	
Address Line 3	
City	Clallam Bay
State	WA
Zip	98326
Zip+4	
Is the Recipient Registered in SAM.Gov?	No
In the preceding fiscal year, did recipient receive 80% or more of its annual gross revenue from federal funds?	No
In the preceding fiscal year, did recipient receive $25 million or more of its annual gross revenue from federal funds?	No

Subrecipient Name: Habitat for Humanity of Clallam County

DUNS	
DUNS (+4)	
TIN	911535386
Type	
POC Email Address	colleen@habitatclallam.org

Address Line 1	PO Box 1479
Address Line 2	
Address Line 3	
City	Port Angeles
State	WA
Zip	98362
Zip+4	
Is the Recipient Registered in SAM.Gov?	No
In the preceding fiscal year, did recipient receive 80% or more of its annual gross revenue from federal funds?	No
In the preceding fiscal year, did recipient receive $25 million or more of its annual gross revenue from federal funds?	No

Subrecipient Name: Prevention Works!

DUNS	
DUNS (+4)	
TIN	651190690
Type	
POC Email Address	ann@mariposahouse.org
Address Line 1	PO Box 1913
Address Line 2	
Address Line 3	
City	Port Angeles
State	WA
Zip	98362
Zip+4	
Is the Recipient Registered in SAM.Gov?	No
In the preceding fiscal year, did recipient receive 80% or more of its annual gross revenue from federal funds?	No
In the preceding fiscal year, did recipient receive $25 million or more of its annual gross revenue from federal funds?	No

Subawards

Subward No: 19961.21.001.0582

Subaward Type	Subaward
Subaward Obligation	$350,000.00
Subaward Date	7/27/2021
Place of Performance Address 1	104 Hooker Rd
Place of Performance Address 2	
Place of Performance Address 3	
Place of Performance City	Sequim
Place of Performance State	WA
Place of Performance Zip	98382
Place of Performance Zip+4	
Description	This sub award assists residents, businesses, and nonprofits in Clallam County by providing utility assistance on past due balances for those applicants economically impacted by the COVID-19 public health emergency. Applications require applicants to attest/certify as to their household income and household size, provide a description of the negative economic impact of COVID-19 on their household, that the applicant cannot pay the utilities without jeopardizing their ability to pay for rent, food, medical and related expenses, health insurance premiums, child care, job-related transportation expenses, or other key operating expenses. Applications and certifications are then reviewed by Clallam PUD to verify eligibility.
Subrecipient	Public Utility District #1 of Clallam County
Period of Performance Start	7/27/2021
Period of Performance End	12/31/2022

Subward No: 19961.21.002.0113.1

Subaward Type	Subaward
Subaward Obligation	$2,338,000.00
Subaward Date	8/10/2021
Place of Performance Address 1	338 W First Street
Place of Performance Address 2	Suite 105
Place of Performance Address 3	
Place of Performance City	Port Angeles
Place of Performance State	WA
Place of Performance Zip	98362
Place of Performance Zip+4	
	This subaward assists small businesses in Clallam County whose operations and financial condition were adversely

Description	impacted by the COVID-19 public health emergency, including a reduction in revenues, increase in operating costs related to implementing COVID-19 prevention or mitigation tactics or due to other operating cost increases experienced during the pandemic, business disruption or closure, event cancellation, and/or other similar circumstances during the pandemic that created a financial hardship. Applications are reviewed and awarded funds by a Clallam Economic Development Council Lifeboat 3 Grant Selection Committee to verify eligibility based on pre-determined scoring criteria.
Subrecipient	Clallam Economic Development Council
Period of Performance Start	8/10/2021
Period of Performance End	12/31/2024

Subward No: 19961.21.002.0113.2

Subaward Type	Subaward
Subaward Obligation	$162,000.00
Subaward Date	8/10/2021
Place of Performance Address 1	338 W First St
Place of Performance Address 2	Suite 105
Place of Performance Address 3	
Place of Performance City	Port Angeles
Place of Performance State	WA
Place of Performance Zip	98362
Place of Performance Zip+4	
Description	This subaward assists nonprofits in Clallam County whose operations and financial condition were adversely impacted by the COVID-19 public health emergency, including a reduction in revenues, increase in operating costs related to implementing COVID-19 prevention or mitigation tactics or due to other operating cost increases experienced during the pandemic, business disruption or closure, event cancellation, and/or other similar circumstances during the pandemic that created a financial hardship. Applications are reviewed and awarded funds by a Clallam Economic Development Council Lifeboat 3 Grant Selection Committee to verify eligibility based on pre-determined scoring criteria.
Subrecipient	Clallam Economic Development Council
Period of Performance Start	8/10/2021
Period of Performance End	12/31/2024

Subward No: 19961.21.002.0113.3

Subaward Type	Subaward
Subaward Obligation	$500,000.00
Subaward Date	8/10/2021
Place of Performance Address 1	338 W First St

Place of Performance Address 2	Suite 105
Place of Performance Address 3	
Place of Performance City	Port Angeles
Place of Performance State	WA
Place of Performance Zip	98362
Place of Performance Zip+4	
Description	This subaward assists businesses, nonprofits & special districts that provide child care services in Clallam County whose operations and financial condition were adversely impacted by the COVID-19 public health emergency, including a reduction in revenues, increase in operating costs related to implementing COVID-19 mitigation tactics, increased staffing and program costs to accommodate increased community childcare needs during school closures, and other operating cost increases experienced during the pandemic, business disruption or closure, and other similar circumstances. Applications are reviewed and awarded funds by a Clallam Economic Development Council Grant Selection Committee to verify eligibility based on scoring criteria.
Subrecipient	Clallam Economic Development Council
Period of Performance Start	8/10/2021
Period of Performance End	12/31/2024

Subward No: 19961.21.005.0586

Subaward Type	Direct Payment
Subaward Obligation	$250,000.00
Subaward Date	9/28/2021
Place of Performance Address 1	33 Bogachiel St
Place of Performance Address 2	
Place of Performance Address 3	
Place of Performance City	Clallam Bay
Place of Performance State	WA
Place of Performance Zip	98326
Place of Performance Zip+4	
Description	The Cornerstone PEC of Clallam Bay Sekiu operates a food bank (New Hope Food Bank) that witnessed a significant increase in Clallam County households seeking food assistance during the COVID-19 public health emergency. The demand for storing more food, including fresh produce and other cold storage items, overwhelmed the storage capabilities of their current facility, which forced the Food Bank to turn food assistance away, and because of the facility's age and several disrepairs, was no longer safe to operate as a food bank. Funds were utilized for the purchase of a replacement facility in Clallam Bay, Washington pursuant to a Commercial & Investment Real Estate Purchase & Sale Agreement dated July 30, 2021.

Subrecipient	The Cornerstone PEC of Clallam Bay-Sekiu
Period of Performance Start	9/28/2021
Period of Performance End	12/31/2024

Subward No: 19961.21.008.5089

Subaward Type	Subaward
Subaward Obligation	$210,000.00
Subaward Date	10/19/2021
Place of Performance Address 1	2603 S Francis St
Place of Performance Address 2	
Place of Performance Address 3	
Place of Performance City	Port Angeles
Place of Performance State	WA
Place of Performance Zip	98362
Place of Performance Zip+4	
Description	This subaward will cover gaps in funding for six homes in Clallam County that the Subrecipient currently has on hold due to the sharp increase in its building costs due to the COVID-19 public health emergency and other similar affordable housing projects located in Clallam County. This program is for low income households with incomes of 50-80% of County AMI or less, and meeting the Subrecipient's other eligibility criteria for its Mutual Self-Help home ownership program and Down Payment Assistance Program. Funds were needed to address immediate cash flow of the Mutual Self-Help program which relies on available funding from the Subrecipient's Down Payment Assistance program to cover homebuild funding gaps once USDA loan funds are exhausted
Subrecipient	Peninsula Housing Authority
Period of Performance Start	10/19/2021
Period of Performance End	12/31/2024

Subward No: 19961.21.007.0588

Subaward Type	Direct Payment
Subaward Obligation	$727,411.00
Subaward Date	10/19/2021
Place of Performance Address 1	214 E Lauridsen Blvd
Place of Performance Address 2	
Place of Performance Address 3	
Place of Performance City	Port Angeles
Place of Performance State	WA
Place of Performance Zip	98362
Place of Performance Zip+4	

Description	Funds are to be used for completing the purchase of the All View Motel property that will be converted by the Recipient into supportive affordable housing for low income individuals and/or families with serious mental health needs and/or significant substance use disorders that are in need of permanent stable housing with onsite services who have household incomes below 80% of County AMI. Such eligible costs incurred for the All View Motel project may include the purchase price and closing costs of the building pursuant to the Commercial & Investment Real Estate Purchase & Sale Agreement dated July 31, 2021 between the Recipient and Ken Lee & Jen LLC.
Subrecipient	Peninsula Behavioral Health
Period of Performance Start	10/19/2021
Period of Performance End	12/31/2024

Subward No: 19961.21.003.0585

Subaward Type	Subaward
Subaward Obligation	$100,000.00
Subaward Date	8/24/2021
Place of Performance Address 1	728 E Front St
Place of Performance Address 2	
Place of Performance Address 3	
Place of Performance City	Port Angeles
Place of Performance State	WA
Place of Performance Zip	98362
Place of Performance Zip+4	
Description	Funds are to be used for affordable housing construction costs, including contractor, subcontractor and building material expenses incurred by the Subrecipient from March 1, 2021 thru December 31, 2024 for current build affordable housing unit projects, or for restarted affordable housing projects that were previously placed on hold due to high construction material or contractor/subcontractor costs encountered during the COVID pandemic. Such funds may only be used in support of funding affordable housing units built in Clallam County for low income households with incomes of 30-80% of County AMI.
Subrecipient	Habitat for Humanity of Clallam County
Period of Performance Start	8/24/2021
Period of Performance End	12/31/2024

Subward No: 19961.21.004.0587

Subaward Type	Grant: Reimbursable
Subaward Obligation	$59,903.00
Subaward Date	9/7/2021
Place of Performance Address 1	250 Ash Ave

Place of Performance Address 2	
Place of Performance Address 3	
Place of Performance City	Forks
Place of Performance State	WA
Place of Performance Zip	98331
Place of Performance Zip+4	
Description	Funds are to be used for affordable housing expenses incurred from March 1, 2020 thru December 31, 2024 incurred by the Recipient for the "Hobucket House" affordable housing group home being built in Forks, Washington in Clallam County for homeless, disabled Veterans with incomes of 50% of County AMI or less. Such eligible costs incurred for the Hobucket House project may include (a)Infrastructure costs to include Foundation/Excavation/Utilities; (b) Timberland Homes House Build costs; (c) Furniture, Appliances & Household Contents; and (d) Exterior decking, fencing, and landscaping.
Subrecipient	North Olympic Regional Veteran's Housing Network
Period of Performance Start	9/7/2021
Period of Performance End	12/31/2024

Subward No: 19961.21.011.0581.001

Subaward Type	Grant: Reimbursable
Subaward Obligation	$1,250,000.00
Subaward Date	11/30/2021
Place of Performance Address 1	101 E Railroad Ave
Place of Performance Address 2	
Place of Performance Address 3	
Place of Performance City	Port Angeles
Place of Performance State	WA
Place of Performance Zip	98362
Place of Performance Zip+4	
Description	Economic assistance being provided in the form of a reimbursable grant to recipient who operates a private marine transport ferry service between Port Angeles, WA and Victoria, BC, Canada who was forced to suspend all ferry services due to the closure of the US/Canada border due to the COVID-19 public health emergency, resulting in substantially all revenue being lost between April 2020-November 2021. While ferry service recently resumed, the ferry service has not returned to pre-COVID passenger volume due to continued strict COVID-19 mitigation measures taken by the Canadian government and as a result causing the operator to continue to need further economic support to help fund certain of its vessel maintenance and operating costs.
Subrecipient	Black Ball Transport, Inc

Period of Performance Start	11/30/2021
Period of Performance End	12/31/2024

Expenditures

Aggregate Expenditures more than $50,000

Expenditure: EN-00057660

Project Name	Clallam County PUD Residential and Commercial Utility Assistance
Subaward ID	SUB-0049877
Subaward No	19961.21.001.0582
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	9/1/2021
Expenditure End	9/30/2021
Expenditure Amount	$47,947.08
Expenditure Category	

Expenditure: EN-00057662

Project Name	Clallam County PUD Residential and Commercial Utility Assistance
Subaward ID	SUB-0049877
Subaward No	19961.21.001.0582
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	10/1/2021
Expenditure End	10/31/2021
Expenditure Amount	$120,104.74
Expenditure Category	

Expenditure: EN-00057664

Project Name	Clallam County PUD Residential and Commercial Utility Assistance
Subaward ID	SUB-0049877
Subaward No	19961.21.001.0582
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	11/1/2021
Expenditure End	11/30/2021
Expenditure Amount	$29,830.82

Expenditure Category	

Expenditure: EN-00057668

Project Name	Clallam Economic Development Council--Lifeboat3--Small Businesses
Subaward ID	SUB-0049880
Subaward No	19961.21.002.0113.1
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	10/1/2021
Expenditure End	10/31/2021
Expenditure Amount	$952,116.00
Expenditure Category	

Expenditure: EN-00057671

Project Name	Clallam Economic Development Council--Lifeboat3--Small Businesses
Subaward ID	SUB-0049880
Subaward No	19961.21.002.0113.1
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	8/10/2021
Expenditure End	11/30/2021
Expenditure Amount	$32,188.27
Expenditure Category	

Expenditure: EN-00057669

Project Name	Clallam Economic Development Council--Lifeboat3--Small Businesses
Subaward ID	SUB-0049880
Subaward No	19961.21.002.0113.1
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	11/1/2021
Expenditure End	11/30/2021
Expenditure Amount	$958,756.00
Expenditure Category	

Expenditure: EN-00057673

Project Name	Clallam Economic Development Council--Lifeboat 3 Economic Assistance--NonProfits
Subaward ID	SUB-0049888
Subaward No	19961.21.002.0113.2
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	11/1/2021
Expenditure End	11/30/2021
Expenditure Amount	$112,000.00
Expenditure Category	

Expenditure: EN-00057672

Project Name	Clallam Economic Development Council--Lifeboat 3 Economic Assistance--NonProfits
Subaward ID	SUB-0049888
Subaward No	19961.21.002.0113.2
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	10/1/2021
Expenditure End	10/31/2021
Expenditure Amount	$50,000.00
Expenditure Category	

Expenditure: EN-00057676

Project Name	Clallam Bay-Sekiu New Hope Food Bank
Subaward ID	SUB-0050418
Subaward No	19961.21.005.0586
Subaward Type	Direct Payment
Subrecipient Name	
Expenditure Start	9/28/2021
Expenditure End	9/28/2021
Expenditure Amount	$194,921.96
Expenditure Category	

Expenditure: EN-00058227

Project Name	Peninsula Housing Authority
Subaward ID	SUB-0049912

Subaward No	19961.21.008.5089
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	10/19/2021
Expenditure End	10/19/2021
Expenditure Amount	$210,000.00
Expenditure Category	

Expenditure: EN-00057674

Project Name	Peninsula Behavioral Health--All View Motel Affordable Housing Project
Subaward ID	SUB-0049978
Subaward No	19961.21.007.0588
Subaward Type	Direct Payment
Subrecipient Name	
Expenditure Start	10/27/2021
Expenditure End	10/27/2021
Expenditure Amount	$727,411.00
Expenditure Category	

Expenditure: EN-00057675

Project Name	Habitat for Humanity
Subaward ID	SUB-0050146
Subaward No	19961.21.003.0585
Subaward Type	Subaward
Subrecipient Name	
Expenditure Start	8/24/2021
Expenditure End	12/16/2021
Expenditure Amount	$100,000.00
Expenditure Category	

Expenditure: EN-00057677

Project Name	North Olympic Regional Veteran's Housing Network--Hobucket House
Subaward ID	SUB-0050499
Subaward No	19961.21.004.0587
Subaward Type	Grant: Reimbursable
Subrecipient Name	

Expenditure Start	10/25/2021
Expenditure End	10/25/2021
Expenditure Amount	$59,903.00
Expenditure Category	

Aggregate Disbursements less than $50,000

Expenditure: EN-00057682

Project Name	COVID-19 Vaccination Marketing Campaign
Expenditure Category	
Subaward Type (Aggregates)	Aggregate of Direct Payments
Total Quarterly Expenditure Amount	$20,017.00
Total Quarterly Obligation Amount	$21,000.00

Expenditure: EN-00057684

Project Name	Child Care Recruitment Job Fair
Expenditure Category	
Subaward Type (Aggregates)	Aggregate of Direct Payments
Total Quarterly Expenditure Amount	$1,215.00
Total Quarterly Obligation Amount	$1,215.00

Report

Federal Financial Reporting

Base Year General Revenue	
Fiscal Year End Date	
Growth Adjustment Used	
Actual General Revenue as of 12 months ended December 31, 2020	
Estimated Revenue Loss Due to Covid-19 Public Health Emergency as of December 31, 2020	$0.00
Were Fiscal Recovery Funds used to make a deposit into a pension fund?	No
Please provide an explanation of how revenue replacement funds were allocated to government services	As the County has not yet had an opportunity to evaluate potential funding uses made available from the recently announced option of claiming a standard allowance of up to $10 million under the Revenue Loss provisions of the Final Rule, the County has not yet determined how much of this revenue loss standard allowance it will utilize nor how such funds will be allocated under the revenue loss category as of the filing date of this report. Once this determination has been made, the County will update its response to this question in future reporting cycles.

Questions on Equity and Evidence

1. Do you have a learning agenda, evidence-building plan, or another strategic approach to using evidence and evaluation for the spending outlined in your Recovery Plan?	
1. If Yes, Please provide a link	
2. Do the performance metrics for the projects listed in the Recovery Plan include data disaggregated by race, ethnicity, gender, income, and other relevant factors?	
3. Do you have a full Community Engagement Plan that accompanies the community engagement activities outlined in your Recovery Plan?	
3. If Yes, Please provide a link	
4. Do you have a public awareness campaign or other planned dissemination activities to make residents and businesses aware of the SLFRF supported projects from your Recovery Plan?	
4. If Yes, Please describe in 1-2 sentences and provide a link.	
5. What is the total number of performance indicators across all projects in your Recovery Plan (including mandatory performance indicators)?	

Certification

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Submission Date	1/31/2022 4:39 PM



Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule

U.S. DEPARTMENT OF THE TREASURY

January 2022

The Overview of the Final Rule provides a summary of major provisions of the final rule for informational purposes and is intended as a brief, simplified user guide to the final rule provisions.

The descriptions provided in this document summarize key provisions of the final rule but are non-exhaustive, do not describe all terms and conditions associated with the use of SLFRF, and do not describe all requirements that may apply to this funding. Any SLFRF funds received are also subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which incorporate the provisions of the final rule and the guidance that implements this program.

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Introduction

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF), a part of the American Rescue Plan, delivers $350 billion to state, local, and Tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency. The program ensures that governments have the resources needed to:

- Fight the pandemic and support families and businesses struggling with its public health and economic impacts,
- Maintain vital public services, even amid declines in revenue, and
- Build a strong, resilient, and equitable recovery by making investments that support long-term growth and opportunity.

EARLY PROGRAM IMPLEMENTATION

In May 2021, Treasury published the Interim final rule (IFR) describing eligible and ineligible uses of funds (as well as other program provisions), sought feedback from the public on these program rules, and began to distribute funds. The IFR went immediately into effect in May, and since then, governments have used SLFRF funds to meet their immediate pandemic response needs and begin building a strong and equitable recovery, such as through providing vaccine incentives, development of affordable housing, and construction of infrastructure to deliver safe and reliable water.

As governments began to deploy this funding in their communities, Treasury carefully considered the feedback provided through its public comment process and other forums. Treasury received over 1,500 comments, participated in hundreds of meetings, and received correspondence from a wide range of governments and other stakeholders.

KEY CHANGES AND CLARIFICATIONS IN THE FINAL RULE

The final rule delivers broader flexibility and greater simplicity in the program, responsive to feedback in the comment process. Among other clarifications and changes, the final rule provides the features below.

Replacing Lost Public Sector Revenue

The final rule offers a standard allowance for revenue loss of $10 million, allowing recipients to select between a standard amount of revenue loss or complete a full revenue loss calculation. Recipients that select the standard allowance may use that amount – in many cases their full award – for government services, with streamlined reporting requirements.

Public Health and Economic Impacts

In addition to programs and services, the final rule clarifies that recipients can use funds for capital expenditures that support an eligible COVID-19 public health or economic response. For example, recipients may build certain affordable housing, childcare facilities, schools, hospitals, and other projects consistent with final rule requirements.

In addition, the final rule provides an expanded set of households and communities that are presumed to be "impacted" and "disproportionately impacted" by the pandemic, thereby allowing recipients to provide responses to a broad set of households and entities without requiring additional analysis. Further, the final rule provides a broader set of uses available for these communities as part of COVID-19 public health and economic response, including making affordable housing, childcare, early learning, and services to address learning loss during the pandemic eligible in all impacted communities and making certain community development and neighborhood revitalization activities eligible for disproportionately impacted communities.

Further, the final rule allows for a broader set of uses to restore and support government employment, including hiring above a recipient's pre-pandemic baseline, providing funds to employees that experienced pay cuts or furloughs, avoiding layoffs, and providing retention incentives.

Premium Pay

The final rule delivers more streamlined options to provide premium pay, by broadening the share of eligible workers who can receive premium pay without a written justification while maintaining a focus on lower-income and frontline workers performing essential work.

Water, Sewer & Broadband Infrastructure

The final rule significantly broadens eligible broadband infrastructure investments to address challenges with broadband access, affordability, and reliability, and adds additional eligible water and sewer infrastructure investments, including a broader range of lead remediation and stormwater management projects.

FINAL RULE EFFECTIVE DATE

The final rule takes effect on April 1, 2022. Until that time, the interim final rule remains in effect; funds used consistently with the IFR while it is in effect are in compliance with the SLFRF program.

However, recipients can choose to take advantage of the final rule's flexibilities and simplifications now, even ahead of the effective date. Treasury will not take action to enforce the interim final rule to the extent that a use of funds is consistent with the terms of the final rule, regardless of when the SLFRF funds were used. Recipients may consult the *Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule and Final Rule*, which can be found on Treasury's website, for more information on compliance with the interim final rule and the final rule.

Overview of the Program

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program provides substantial flexibility for each jurisdiction to meet local needs within the four separate eligible use categories. This Overview of the Final Rule addresses the four eligible use categories ordered from the broadest and most flexible to the most specific.

Recipients may use SLFRF funds to:

- **Replace lost public sector revenue**, using this funding to provide government services up to the amount of revenue loss due to the pandemic.
    - Recipients may determine their revenue loss by choosing between two options:
        - A standard allowance of up to $10 million in aggregate, not to exceed their award amount, during the program;
        - Calculating their jurisdiction's specific revenue loss each year using Treasury's formula, which compares actual revenue to a counterfactual trend.
    - Recipients may use funds up to the amount of revenue loss for government services; generally, services traditionally provided by recipient governments are government services, unless Treasury has stated otherwise.
- **Support the COVID-19 public health and economic response** by addressing COVID-19 and its impact on public health as well as addressing economic harms to households, small businesses, nonprofits, impacted industries, and the public sector.
    - Recipients can use funds for programs, services, or capital expenditures that respond to the public health and negative economic impacts of the pandemic.
    - To provide simple and clear eligible uses of funds, Treasury provides a list of enumerated uses that recipients can provide to households, populations, or classes (i.e., groups) that experienced pandemic impacts.
    - Public health eligible uses include COVID-19 mitigation and prevention, medical expenses, behavioral healthcare, and preventing and responding to violence.
    - Eligible uses to respond to negative economic impacts are organized by the type of beneficiary: assistance to households, small businesses, and nonprofits.
        - Each category includes assistance for "impacted" and "disproportionately impacted" classes: impacted classes experienced the general, broad-based impacts of the pandemic, while disproportionately impacted classes faced meaningfully more severe impacts, often due to preexisting disparities.
        - To simplify administration, the final rule presumes that some populations and groups were impacted or disproportionately impacted and are eligible for responsive services.

- Eligible uses for assistance to impacted households include aid for re-employment, job training, food, rent, mortgages, utilities, affordable housing development, childcare, early education, addressing learning loss, and many more uses.
- Eligible uses for assistance to impacted small businesses or nonprofits include loans or grants to mitigate financial hardship, technical assistance for small businesses, and many more uses.

- Recipients can also provide assistance to impacted industries like travel, tourism, and hospitality that faced substantial pandemic impacts, or address impacts to the public sector, for example by re-hiring public sector workers cut during the crisis.
- Recipients providing funds for enumerated uses to populations and groups that Treasury has presumed eligible are clearly operating consistently with the final rule. Recipients can also identify (1) other populations or groups, beyond those presumed eligible, that experienced pandemic impacts or disproportionate impacts and (2) other programs, services, or capital expenditures, beyond those enumerated, to respond to those impacts.

- **Provide premium pay for eligible workers performing essential work**, offering additional support to those who have and will bear the greatest health risks because of their service in critical sectors.
  - Recipients may provide premium pay to eligible workers – generally those working in-person in key economic sectors – who are below a wage threshold or non-exempt from the Fair Labor Standards Act overtime provisions, or if the recipient submits justification that the premium pay is responsive to workers performing essential work.
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, to support vital wastewater and stormwater infrastructure, and to expand affordable access to broadband internet.
  - Recipients may fund a broad range of water and sewer projects, including those eligible under the EPA's Clean Water State Revolving Fund, EPA's Drinking Water State Revolving Fund, and certain additional projects, including a wide set of lead remediation, stormwater infrastructure, and aid for private wells and septic units.
  - Recipients may fund high-speed broadband infrastructure in areas of need that the recipient identifies, such as areas without access to adequate speeds, affordable options, or where connections are inconsistent or unreliable; completed projects must participate in a low-income subsidy program.

While recipients have considerable flexibility to use funds to address the diverse needs of their communities, some restrictions on use apply across all eligible use categories. These include:

- **For states and territories:** No offsets of a reduction in net tax revenue resulting from a change in state or territory law.

- **For all recipients except for Tribal governments:** No extraordinary contributions to a pension fund for the purpose of reducing an accrued, unfunded liability.

- **For all recipients:** No payments for debt service and replenishments of rainy day funds; no satisfaction of settlements and judgments; no uses that contravene or violate the American Rescue Plan Act, Uniform Guidance conflicts of interest requirements, and other federal, state, and local laws and regulations.

Under the SLFRF program, funds must be used for costs incurred on or after March 3, 2021. Further, funds must be obligated by December 31, 2024, and expended by December 31, 2026. This time period, during which recipients can expend SLFRF funds, is the "period of performance."

In addition to SLFRF, the American Rescue Plan includes other sources of funding for state and local governments, including the Coronavirus Capital Projects Fund to fund critical capital investments including broadband infrastructure; the Homeowner Assistance Fund to provide relief for our country's most vulnerable homeowners; the Emergency Rental Assistance Program to assist households that are unable to pay rent or utilities; and the State Small Business Credit Initiative to fund small business credit expansion initiatives. Eligible recipients are encouraged to visit the Treasury website for more information.

Replacing Lost Public Sector Revenue

The Coronavirus State and Local Fiscal Recovery Funds provide needed fiscal relief for recipients that have experienced revenue loss due to the onset of the COVID-19 public health emergency. Specifically, SLFRF funding may be used to pay for "government services" in an amount equal to the revenue loss experienced by the recipient due to the COVID-19 public health emergency.

Government services generally include any service traditionally provided by a government, including construction of roads and other infrastructure, provision of public safety and other services, and health and educational services. Funds spent under government services are subject to streamlined reporting and compliance requirements.

In order to use funds under government services, recipients should first determine revenue loss. They may, then, spend up to that amount on general government services.

DETERMINING REVENUE LOSS

Recipients have two options for how to determine their amount of revenue loss. Recipients must choose one of the two options and cannot switch between these approaches after an election is made.

1. **Recipients may elect a "standard allowance" of $10 million to spend on government services through the period of performance.**

   Under this option, which is newly offered in the final rule Treasury presumes that up to $10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund "government services." The standard allowance provides an estimate of revenue loss that is based on an extensive analysis of average revenue loss across states and localities, and offers a simple, convenient way to determine revenue loss, particularly for SLFRF's smallest recipients.

   All recipients may elect to use this standard allowance instead of calculating lost revenue using the formula below, including those with total allocations of $10 million or less. Electing the standard allowance does not increase or decrease a recipient's total allocation.

2. **Recipients may calculate their actual revenue loss according to the formula articulated in the final rule.**

   Under this option, recipients calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Under the flexibility provided in the final rule, recipients can choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. Treasury has also provided several adjustments to the definition of general revenue in the final rule.

   To calculate revenue loss at each of these dates, recipients must follow a four-step process:

a. Calculate revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue*.

b. Estimate *counterfactual revenue*, which is equal to the following formula, where *n* is the number of months elapsed since the end of the base year to the calculation date:

$$base\ year\ revenue\ \times (1 + growth\ adjustment)^{\frac{n}{12}}$$

The *growth adjustment* is the greater of either a standard growth rate—5.2 percent—or the recipient's average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency.

c. Identify *actual revenue*, which equals revenues collected over the twelve months immediately preceding the calculation date.

Under the final rule, recipients must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after the date of adoption of the final rule (January 6, 2022). Specifically, the estimated fiscal impact of tax cuts and tax increases adopted after January 6, 2022, must be added or subtracted to the calculation of actual revenue for purposes of calculation dates that occur on or after April 1, 2022.

Recipients may subtract from their calculation of actual revenue the effect of tax increases enacted prior to the adoption of the final rule. Note that recipients that elect to remove the effect of tax increases enacted before the adoption of the final rule must also remove the effect of tax decreases enacted before the adoption of the final rule, such that they are accurately removing the effect of tax policy changes on revenue.

d. Revenue loss for the calculation date is equal to *counterfactual revenue* minus *actual revenue* (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period. Revenue loss for the period of performance is the sum of the revenue loss on for each calculation date.

The supplementary information in the final rule provides an example of this calculation, which recipients may find helpful, in the Revenue Loss section.

SPENDING ON GOVERNMENT SERVICES

Recipients can use SLFRF funds on government services up to the revenue loss amount, whether that be the standard allowance amount or the amount calculated using the above approach. **Government services generally include *any service* traditionally provided by a government**, unless Treasury has stated otherwise. Here are some common examples, although this list is not exhaustive:

- ✓ Construction of schools and hospitals
- ✓ Road building and maintenance, and other infrastructure
- ✓ Health services
- ✓ General government administration, staff, and administrative facilities
- ✓ Environmental remediation
- ✓ Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)

Government services is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements. Recipients should be mindful that certain restrictions, which are detailed further in the Restrictions on Use section and apply to all uses of funds, apply to government services as well.

Responding to Public Health and Economic Impacts of COVID-19

The Coronavirus State and Local Fiscal Recovery Funds provide resources for governments to meet the public health and economic needs of those impacted by the pandemic in their communities, as well as address longstanding health and economic disparities, which amplified the impact of the pandemic in disproportionately impacted communities, resulting in more severe pandemic impacts.

The eligible use category to respond to public health and negative economic impacts is organized around the types of assistance a recipient may provide and includes several sub-categories:

- public health,
- assistance to households,
- assistance to small businesses,
- assistance to nonprofits,
- aid to impacted industries, and
- public sector capacity.

In general, to identify eligible uses of funds in this category, recipients should (1) identify a COVID-19 public health or economic impact on an individual or class (i.e., a group) and (2) design a program that responds to that impact. Responses should be related and reasonably proportional to the harm identified and reasonably designed to benefit those impacted.

To provide simple, clear eligible uses of funds that meet this standard, Treasury provides a non-exhaustive list of enumerated uses that respond to pandemic impacts. Treasury also presumes that some populations experienced pandemic impacts and are eligible for responsive services. In other words, recipients providing enumerated uses of funds to populations presumed eligible are clearly operating consistently with the final rule.[1]

Recipients also have broad flexibility to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or "classes" of beneficiaries that experienced pandemic impacts and provide services to those classes.

[1] However, please note that use of funds for enumerated uses may not be grossly disproportionate to the harm. Further, recipients should consult the Capital Expenditures section for more information about pursuing a capital expenditure; please note that enumerated capital expenditures are not presumed to be reasonably proportional responses to an identified harm except as provided in the Capital Expenditures section.

Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	• Can identify impact to a specific household, business or nonprofit or to a class of households, businesses, or nonprofits (i.e., group) • Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class	• Types of responses can include a program, service, or capital expenditure • Response should be related and reasonably proportional to the harm • Response should also be reasonably designed to benefit impacted individual or class
Simplifying Presumptions	• Final Rule presumes certain populations and classes are impacted and disproportionately impacted	• Final Rule provides non-exhaustive list of enumerated eligible uses that respond to pandemic impacts and disproportionate impacts

To assess eligibility of uses of funds, recipients should first determine the sub-category where their use of funds may fit (e.g., public health, assistance to households, assistance to small businesses), based on the entity that experienced the health or economic impact.[2] Then, recipients should refer to the relevant section for more details on each sub-category.

While the same overall eligibility standard applies to all uses of funds to respond to the public health and negative economic impacts of the pandemic, each sub-category has specific nuances on its application. In addition:

- Recipients interested in using funds for capital expenditures (i.e., investments in property, facilities, or equipment) should review the Capital Expenditures section in addition to the eligible use sub-category.
- Recipients interested in other uses of funds, beyond the enumerated uses, should refer to the section on "Framework for Eligible Uses Beyond Those Enumerated."

[2] For example, a recipient interested in providing aid to unemployed individuals is addressing a negative economic impact experienced by a household and should refer to the section on assistance to households. Recipients should also be aware of the difference between "beneficiaries" and "sub-recipients." Beneficiaries are households, small businesses, or nonprofits that can receive assistance based on impacts of the pandemic that they experienced. On the other hand, sub-recipients are organizations that carry out eligible uses on behalf of a government, often through grants or contracts. Sub-recipients do not need to have experienced a negative economic impact of the pandemic; rather, they are providing services to beneficiaries that experienced an impact.

RESPONDING TO THE PUBLIC HEALTH EMERGENCY

While the country has made tremendous progress in the fight against COVID-19, including a historic vaccination campaign, the disease still poses a grave threat to Americans' health and the economy. Providing state, local, and Tribal governments the resources needed to fight the COVID-19 pandemic is a core goal of the Coronavirus State and Local Fiscal Recovery Funds, as well as addressing the other ways that the pandemic has impacted public health. Treasury has identified several public health impacts of the pandemic and enumerated uses of funds to respond to impacted populations.

- **COVID-19 mitigation and prevention.** The pandemic has broadly impacted Americans and recipients can provide services to prevent and mitigate COVID-19 to the general public or to small businesses, nonprofits, and impacted industries in general. Enumerated eligible uses include:

  - ✓ Vaccination programs, including vaccine incentives and vaccine sites
  - ✓ Testing programs, equipment and sites
  - ✓ Monitoring, contact tracing & public health surveillance (e.g., monitoring for variants)
  - ✓ Public communication efforts
  - ✓ Public health data systems
  - ✓ COVID-19 prevention and treatment equipment, such as ventilators and ambulances
  - ✓ Medical and PPE/protective supplies
  - ✓ Support for isolation or quarantine
  - ✓ Ventilation system installation and improvement
  - ✓ Technical assistance on mitigation of COVID-19 threats to public health and safety
  - ✓ Transportation to reach vaccination or testing sites, or other prevention and mitigation services for vulnerable populations
  - ✓ Support for prevention, mitigation, or other services in congregate living facilities, public facilities, and schools
  - ✓ Support for prevention and mitigation strategies in small businesses, nonprofits, and impacted industries
  - ✓ Medical facilities generally dedicated to COVID-19 treatment and mitigation (e.g., ICUs, emergency rooms)
  - ✓ Temporary medical facilities and other measures to increase COVID-19 treatment capacity
  - ✓ Emergency operations centers & emergency response equipment (e.g., emergency response radio systems)
  - ✓ Public telemedicine capabilities for COVID-19 related treatment

- **Medical expenses.** Funds may be used for expenses to households, medical providers, or others that incurred medical costs due to the pandemic, including:
  - ✓ Unreimbursed expenses for medical care for COVID-19 testing or treatment, such as uncompensated care costs for medical providers or out-of-pocket costs for individuals
  - ✓ Paid family and medical leave for public employees to enable compliance with COVID-19 public health precautions
  - ✓ Emergency medical response expenses
  - ✓ Treatment of long-term symptoms or effects of COVID-19

- **Behavioral health care, such as mental health treatment, substance use treatment, and other behavioral health services.** Treasury recognizes that the pandemic has broadly impacted Americans' behavioral health and recipients can provide these services to the general public to respond. Enumerated eligible uses include:
  - ✓ Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs, outreach to individuals not yet engaged in treatment, harm reduction & long-term recovery support
  - ✓ Enhanced behavioral health services in schools
  - ✓ Services for pregnant women or infants born with neonatal abstinence syndrome
  - ✓ Support for equitable access to reduce disparities in access to high-quality treatment
  - ✓ Peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services
  - ✓ Expansion of access to evidence-based services for opioid use disorder prevention, treatment, harm reduction, and recovery
  - ✓ Behavioral health facilities & equipment

- **Preventing and responding to violence.** Recognizing that violence – and especially gun violence – has increased in some communities due to the pandemic, recipients may use funds to respond in these communities through:
  - ✓ Referrals to trauma recovery services for victims of crime
  - ✓ Community violence intervention programs, including:
    - Evidence-based practices like focused deterrence, with wraparound services such as behavioral therapy, trauma recovery, job training, education, housing and relocation services, and financial assistance
  - ✓ In communities experiencing increased gun violence due to the pandemic:
    - Law enforcement officers focused on advancing community policing
    - Enforcement efforts to reduce gun violence, including prosecution
    - Technology & equipment to support law enforcement response

RESPONDING TO NEGATIVE ECONOMIC IMPACTS

The pandemic caused severe economic damage and, while the economy is on track to a strong recovery, much work remains to continue building a robust, resilient, and equitable economy in the wake of the crisis and to ensure that the benefits of this recovery reach all Americans. While the pandemic impacted millions of American households and businesses, some of its most severe impacts fell on low-income and underserved communities, where pre-existing disparities amplified the impact of the pandemic and where the most work remains to reach a full recovery.

The final rule recognizes that the pandemic caused broad-based impacts that affected many communities, households, and small businesses across the country; for example, many workers faced unemployment and many small businesses saw declines in revenue. The final rule describes these as "impacted" households, communities, small businesses, and nonprofits.

At the same time, the pandemic caused disproportionate impacts, or more severe impacts, in certain communities. For example, low-income and underserved communities have faced more severe health and economic outcomes like higher rates of COVID-19 mortality and unemployment, often because pre-existing disparities exacerbated the impact of the pandemic. The final rule describes these as "disproportionately impacted" households, communities, small businesses, and nonprofits.

To simplify administration of the program, the final rule presumes that certain populations were "impacted" and "disproportionately impacted" by the pandemic; these populations are presumed to be eligible for services that respond to the impact they experienced. The final rule also enumerates a non-exhaustive list of eligible uses that are recognized as responsive to the impacts or disproportionate impacts of COVID-19. Recipients providing enumerated uses to populations presumed eligible are clearly operating consistently with the final rule.

As discussed further in the section Framework for Eligible Uses Beyond Those Enumerated, recipients can also identify other pandemic impacts, impacted or disproportionately impacted populations or classes, and responses.

Assistance to Households

Impacted Households and Communities

Treasury presumes the following households and communities are impacted by the pandemic:

- ✓ Low- or-moderate income households or communities
- ✓ Households that experienced unemployment
- ✓ Households that experienced increased food or housing insecurity
- ✓ Households that qualify for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, or Medicaid
- ✓ *When providing affordable housing programs*: households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
- ✓ *When providing services to address lost instructional time in K-12 schools*: any student that lost access to in-person instruction for a significant period of time

Low- or moderate-income households and communities are those with (i) income at or below 300 percent of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines or (ii) income at or below 65 percent of the area median income for the county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines are higher than the area's median income and using the Federal Poverty Guidelines would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the response they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 300 percent of the Federal Poverty Guidelines for a household of three is $65,880 per year.[3] In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is impacted by the pandemic and eligible for services to respond. Additionally, by following the steps detailed in the section Framework for Eligible Uses Beyond Those Enumerated, recipients may designate additional households as impacted or disproportionately impacted beyond these presumptions, and may also pursue projects not listed below in response to these impacts consistent with Treasury's standards.

[3] For recipients in Alaska, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is $82,350 per year. For recipients in Hawaii, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is $75,780 per year.

Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to impacts of the pandemic on households and communities:

- ✓ Food assistance & food banks
- ✓ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- ✓ Health insurance coverage expansion
- ✓ Benefits for surviving family members of individuals who have died from COVID-19
- ✓ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly-employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers
- ✓ Financial services for the unbanked and underbanked
- ✓ Burials, home repair & home weatherization
- ✓ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access
- ✓ Cash assistance
- ✓ Paid sick, medical, and family leave programs
- ✓ Assistance in accessing and applying for public benefits or services
- ✓ Childcare and early learning services, home visiting programs, services for child welfare-involved families and foster youth & childcare facilities
- ✓ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)
- ✓ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing
- ✓ Certain contributions to an Unemployment Insurance Trust Fund[4]

[4] Recipients may only use SLFRF funds for contributions to unemployment insurance trust funds and repayment of the principal amount due on advances received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. Additionally, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that balance and deposit more SLFRF funds, back up to the pre-pandemic balance. Recipients that deposit SLFRF funds into an unemployment insurance trust fund, or use SLFRF funds to repay principal on Title XII advances, may not take action to reduce benefits available to unemployed workers by changing the computation method governing regular unemployment compensation in a way that results in a reduction of average weekly benefit amounts or the number of weeks of benefits payable (i.e., maximum benefit entitlement).

Disproportionately Impacted Households and Communities

Treasury presumes the following households and communities are disproportionately impacted by the pandemic:

- ✓ Low -income households and communities
- ✓ Households residing in Qualified Census Tracts
- ✓ Households that qualify for certain federal benefits[5]
- ✓ Households receiving services provided by Tribal governments
- ✓ Households residing in the U.S. territories or receiving services from these governments

Low-income households and communities are those with (i) income at or below 185 percent of the Federal Poverty Guidelines for the size of its household based on the most recently published poverty guidelines or (ii) income at or below 40 percent of area median income for its county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines level is higher than the area median income level and using this level would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the service they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 185 percent of the Federal Poverty Guidelines for a household of three is $40,626 per year.[6] In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is disproportionately impacted by the pandemic and eligible for services to respond.

[5] These programs are Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs, Medicare Part D Low-Income Subsidies, Supplemental Security Income (SSI), Head Start and/or Early Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 Vouchers, Low-Income Home Energy Assistance Program (LIHEAP), and Pell Grants. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.

[6] For recipients in Alaska, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is $50,783 per year. For recipients in Hawaii, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is $46,731 per year

Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to disproportionate impacts of the pandemic on households and communities:

- ✓ Pay for community health workers to help households access health & social services
- ✓ Remediation of lead paint or other lead hazards
- ✓ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities
- ✓ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- ✓ Investments in neighborhoods to promote improved health outcomes
- ✓ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant lot cleanup & conversion to affordable housing[7]
- ✓ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs
- ✓ Schools and other educational equipment & facilities

[7] Please see the final rule for further details and conditions applicable to this eligible use. This includes Treasury's presumption that demolition of vacant or abandoned residential properties that results in a net reduction in occupiable housing units for low- and moderate-income individuals in an area where the availability of such housing is lower than the need for such housing is ineligible for support with SLFRF funds.

Assistance to Small Businesses

Small businesses have faced widespread challenges due to the pandemic, including periods of shutdown, declines in revenue, or increased costs. The final rule provides many tools for recipients to respond to the impacts of the pandemic on small businesses, or disproportionate impacts on businesses where pre-existing disparities like lack of access to capital compounded the pandemic's effects.

Small businesses eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "small business," specifically:

1. Have no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and
2. Are a small business concern as defined in section 3 of the Small Business Act[8] (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation).

Impacted Small Businesses

Recipients can identify small businesses impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue or gross receipts
- ✓ Financial insecurity
- ✓ Increased costs
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to small businesses that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs
- ✓ Technical assistance, counseling, or other services to support business planning

Disproportionately Impacted Small Businesses

Treasury presumes that the following small businesses are disproportionately impacted by the pandemic:

[8] 15 U.S.C. 632.

- ✓ Small businesses operating in Qualified Census Tracts
- ✓ Small businesses operated by Tribal governments or on Tribal lands
- ✓ Small businesses operating in the U.S. territories

Assistance to disproportionately impacted small businesses includes the following enumerated uses, which have been expanded under the final rule:

- ✓ Rehabilitation of commercial properties, storefront improvements & façade improvements
- ✓ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses
- ✓ Support for microbusinesses, including financial, childcare, and transportation costs

Assistance to Nonprofits

Nonprofits have faced significant challenges due to the pandemic's increased demand for services and changing operational needs, as well as declines in revenue sources such as donations and fees. Nonprofits eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "nonprofit"—specifically those that are 501(c)(3) or 501(c)(19) tax-exempt organizations.

Impacted Nonprofits

Recipients can identify nonprofits impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue (e.g., from donations and fees)
- ✓ Financial insecurity
- ✓ Increased costs (e.g., uncompensated increases in service need)
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to nonprofits that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship
- ✓ Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

Disproportionately Impacted Nonprofits

Treasury presumes that the following nonprofits are disproportionately impacted by the pandemic:

- ✓ Nonprofits operating in Qualified Census Tracts
- ✓ Nonprofits operated by Tribal governments or on Tribal lands
- ✓ Nonprofits operating in the U.S. territories

Recipients may identify appropriate responses that are related and reasonably proportional to addressing these disproportionate impacts.

Aid to Impacted Industries

Recipients may use SLFRF funding to provide aid to industries impacted by the COVID-19 pandemic. Recipients should first designate an impacted industry and then provide aid to address the impacted industry's negative economic impact.

This sub-category of eligible uses does not separately identify disproportionate impacts and corresponding responsive services.

1. **Designating an impacted industry.** There are two main ways an industry can be designated as "impacted."

    1. If the industry is in the travel, tourism, or hospitality sectors (including Tribal development districts), the industry is impacted.

    2. If the industry is outside the travel, tourism, or hospitality sectors, the industry is impacted if:

        a. The industry experienced at least 8 percent employment loss from pre-pandemic levels,[9] or

        b. The industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries as of the date of the final rule, based on the totality of economic indicators or qualitative data (if quantitative data is unavailable), and if the impacts were generally due to the COVID-19 public health emergency.

    Recipients have flexibility to define industries broadly or narrowly, but Treasury encourages recipients to define narrow and discrete industries eligible for aid. State and territory recipients also have flexibility to define the industries with greater geographic precision; for example, a state may identify a particular industry in a certain region of a state as impacted.

2. **Providing eligible aid to the impacted industry.** Aid may only be provided to support businesses, attractions, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Further, aid should be generally broadly available to all businesses within the impacted industry to avoid potential conflicts of interest, and Treasury encourages aid to be first used for operational expenses, such as payroll, before being used on other types of costs.

[9] Specifically, a recipient should compare the percent change in the number of employees of the recipient's identified industry and the national Leisure & Hospitality sector in the three months before the pandemic's most severe impacts began (a straight three-month average of seasonally-adjusted employment data from December 2019, January 2020, and February 2020) with the latest data as of the final rule (a straight three-month average of seasonally-adjusted employment data from September 2021, October 2021, and November 2021). For parity and simplicity, smaller recipients without employment data that measure industries in their specific jurisdiction may use data available for a broader unit of government for this calculation (e.g., a county may use data from the state in which it is located; a city may use data for the county, if available, or state in which it is located) solely for purposes of determining whether a particular industry is an impacted industry.

Treasury recognizes the enumerated projects below as eligible responses to impacted industries.

- ✓ Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
- ✓ Technical assistance, counseling, or other services to support business planning
- ✓ COVID-19 mitigation and infection prevention measures (see section Public Health)

As with all eligible uses, recipients may pursue a project not listed above by undergoing the steps outlined in the section Framework for Eligible Uses Beyond Those Enumerated.

PUBLIC SECTOR CAPACITY

Recipients may use SLFRF funding to restore and bolster public sector capacity, which supports government's ability to deliver critical COVID-19 services. There are three main categories of eligible uses to bolster public sector capacity and workforce: Public Safety, Public Health, and Human Services Staff; Government Employment and Rehiring Public Sector Staff; and Effective Service Delivery.

Public Safety, Public Health, and Human Services Staff

SLFRF funding may be used for payroll and covered benefits for public safety, public health, health care, human services and similar employees of a recipient government, for the portion of the employee's time spent responding to COVID-19. Recipients should follow the steps below.

1. **Identify eligible public safety, public health, and human services staff.** Public safety staff include:

   - ✓ Police officers (including state police officers)
   - ✓ Sheriffs and deputy sheriffs
   - ✓ Firefighters
   - ✓ Emergency medical responders
   - ✓ Correctional and detention officers
   - ✓ Dispatchers and supervisor personnel that directly support public safety staff

   Public health staff include:

   - ✓ Employees involved in providing medical and other physical or mental health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions
   - ✓ Laboratory technicians, medical examiners, morgue staff, and other support services essential for patient care
   - ✓ Employees of public health departments directly engaged in public health matters and related supervisory personnel

   Human services staff include:

   - ✓ Employees providing or administering social services and public benefits
   - ✓ Child welfare services employees
   - ✓ Child, elder, or family care employees

2. **Assess portion of time spent on COVID-19 response for eligible staff.**

   Recipients can use a variety of methods to assess the share of an employees' time spent responding to COVID-19, including using reasonable estimates—such as estimating the share of time based on discussions with staff and applying that share to all employees in that position.

   For administrative convenience, recipients can consider public health and safety employees entirely devoted to responding to COVID-19 (and their payroll and benefits fully covered by SLFRF) if the

employee, or his or her operating unit or division, is "primarily dedicated" to responding to COVID-19. Primarily dedicated means that more than half of the employee, unit, or division's time is dedicated to responding to COVID-19.

Recipients must periodically reassess their determination and maintain records to support their assessment, although recipients do not need to track staff hours.

3. **Use SLFRF funding for payroll and covered benefits for the portion of eligible staff time spent on COVID-19 response.** SLFRF funding may be used for payroll and covered benefits for the portion of the employees' time spent on COVID-19 response, as calculated above, through the period of performance.

Government Employment and Rehiring Public Sector Staff

Under the increased flexibility of the final rule, SLFRF funding may be used to support a broader set of uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring, support, and retention.

- **Restoring pre-pandemic employment.** Recipients have two options to restore pre-pandemic employment, depending on the recipient's needs.

  - *If the recipient simply wants to hire back employees for pre-pandemic positions:* Recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021. Recipients may use SLFRF funds to cover payroll and covered benefits for such positions through the period of performance.

  - *If the recipient wants to hire above the pre-pandemic baseline and/or would like to have flexibility in positions:* Recipients may use SLFRF funds to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted FTEs up to 7.5 percent above its pre-pandemic baseline. Specifically, recipients should undergo the following steps:

    a. Identify the recipient's budgeted FTE level on January 27, 2020. This includes all budgeted positions, filled and unfilled. This is called the *pre-pandemic baseline*.
    b. Multiply the pre-pandemic baseline by 1.075. This is called the *adjusted pre-pandemic baseline*.
    c. Identify the recipient's budgeted FTE level on March 3, 2021, which is the beginning of the period of performance for SLFRF funds. Recipients may, but are not required to, exclude the number of FTEs dedicated to responding to the COVID-19 public health emergency. This is called the *actual number of FTEs*.
    d. Subtract the *actual number of FTEs* from the *adjusted pre-pandemic baseline* to calculate the number of FTEs that can be covered by SLFRF funds. Recipients do not have to hire for the same roles that existed pre-pandemic.

Recipients may use SLFRF funds to cover payroll and covered benefits through the period of performance; these employees must have begun their employment on or after March 3, 2021. Recipients may only use SLFRF funds for additional FTEs hired over the March 3, 2021 level (i.e., the *actual number of FTEs*).

- **Supporting and retaining public sector workers.** Recipients can also use funds in other ways that support the public sector workforce.[10] These include:
    - **Providing additional funding for employees who experienced pay reductions or were furloughed** since the onset of the pandemic, up to the difference in the employee's pay, taking into account unemployment benefits received.
    - **Maintaining current compensation levels to prevent layoffs.** SLFRF funds may be used to maintain current compensation levels, with adjustments for inflation, in order to prevent layoffs that would otherwise be necessary.
    - **Providing worker retention incentives, including reasonable increases in compensation** to persuade employees to remain with the employer as compared to other employment options. Retention incentives must be entirely additive to an employee's regular compensation, narrowly tailored to need, and should not exceed incentives traditionally offered by the recipient or compensation that alternative employers may offer to compete for the employees. Treasury presumes that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as other requirements are met.
- **Covering administrative costs associated with administering the hiring, support, and retention programs above.**

Effective Service Delivery

SLFRF funding may be used to improve the efficacy of public health and economic programs through tools like program evaluation, data, and outreach, as well as to address administrative needs caused or exacerbated by the pandemic. Eligible uses include:

- **Supporting program evaluation, data, and outreach through:**

[10] Recipients should be able to substantiate that these uses of funds are substantially due to the public health emergency or its negative economic impacts (e.g., fiscal pressures on state and local budgets) and respond to its impacts. See the final rule for details on these uses.

- ✓ Program evaluation and evidence resources
- ✓ Data analysis resources to gather, assess, share, and use data
- ✓ Technology infrastructure to improve access to and the user experience of government IT systems, as well as technology improvements to increase public access and delivery of government programs and services
- ✓ Community outreach and engagement activities
- ✓ Capacity building resources to support using data and evidence, including hiring staff, consultants, or technical assistance support

- **Addressing administrative needs, including:**
  - ✓ Administrative costs for programs responding to the public health emergency and its economic impacts, including non-SLFRF and non-federally funded programs
  - ✓ Address administrative needs caused or exacerbated by the pandemic, including addressing backlogs caused by shutdowns, increased repair or maintenance needs, and technology infrastructure to adapt government operations to the pandemic (e.g., video-conferencing software, data and case management systems)

CAPITAL EXPENDITURES

As described above, the final rule clarifies that recipients may use funds for programs, services, and capital expenditures that respond to the public health and negative economic impacts of the pandemic. Any use of funds in this category for a capital expenditure must comply with the capital expenditure requirements, in addition to other standards for uses of funds.

Capital expenditures are subject to the same eligibility standard as other eligible uses to respond to the pandemic's public health and economic impacts; specifically, they must be related and reasonably proportional to the pandemic impact identified and reasonably designed to benefit the impacted population or class.

For ease of administration, the final rule identifies enumerated types of capital expenditures that Treasury has identified as responding to the pandemic's impacts; these are listed in the applicable sub-category of eligible uses (e.g., public health, assistance to households, etc.). Recipients may also identify other responsive capital expenditures. Similar to other eligible uses in the SLFRF program, no pre-approval is required for capital expenditures.

To guide recipients' analysis of whether a capital expenditure meets the eligibility standard, recipients (with the exception of Tribal governments) must complete and meet the requirements of a written justification for capital expenditures equal to or greater than $1 million. For large-scale capital expenditures, which have high costs and may require an extended length of time to complete, as well as most capital expenditures for non-enumerated uses of funds, Treasury requires recipients to submit their written justification as part of regular reporting. Specifically:

If a project has total capital expenditures of	**and the use is enumerated by Treasury as eligible, then**	**and the use is beyond those enumerated by Treasury as eligible, then**
Less than $1 million	No Written Justification required	No Written Justification required
Greater than or equal to $1 million, but less than $10 million	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury	Written Justification required and recipients must submit as part of regular reporting to Treasury
$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury	

A Written Justification includes:

- *Description of the harm or need to be addressed.* Recipients should provide a description of the specific harm or need to be addressed and why the harm was exacerbated or caused by the public health emergency. Recipients may provide quantitative information on the extent and the type of harm, such as the number of individuals or entities affected.

- *Explanation of why a capital expenditure is appropriate.* For example, recipients should include an explanation of why existing equipment and facilities, or policy changes or additional funding to pertinent programs or services, would be inadequate.
- *Comparison of proposed capital project against at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior.* Recipients should consider the effectiveness of the capital expenditure in addressing the harm identified and the expected total cost (including pre-development costs) against at least two alternative capital expenditures.

Where relevant, recipients should consider the alternatives of improving existing capital assets already owned or leasing other capital assets.

Treasury presumes that the following capital projects are generally ineligible:

- Construction of new correctional facilities as a response to an increase in rate of crime
- Construction of new congregate facilities to decrease spread of COVID-19 in the facility
- Construction of convention centers, stadiums, or other large capital projects intended for general economic development or to aid impacted industries

In undertaking capital expenditures, Treasury encourages recipients to adhere to strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

FRAMEWORK FOR ELIGIBLE USES BEYOND THOSE ENUMERATED

As described above, recipients have broad flexibility to identify and respond to other pandemic impacts and serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients should undergo the following steps to decide whether their project is eligible:

Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	• Can identify impact to a specific household, business or nonprofit or to a class of households, businesses or nonprofits (i.e., group) • Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class	• Types of responses can include a program, service, or capital expenditure • Response should be related and reasonably proportional to the harm • Response should also be reasonably designed to benefit impacted individual or class

1. **Identify a COVID-19 public health or negative economic impact on an individual or a class.** Recipients should identify an individual or class that is "impacted" or "disproportionately impacted" by the COVID-19 public health emergency or its negative economic impacts as well as the specific impact itself.

    - "Impacted" entities are those impacted by the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency. For example, an individual who lost their job or a small business that saw lower revenue during a period of closure would both have experienced impacts of the pandemic.

    - "Disproportionately impacted" entities are those that experienced disproportionate public health or economic outcomes from the pandemic; Treasury recognizes that pre-existing disparities, in many cases, amplified the impacts of the pandemic, causing more severe impacts in underserved communities. For example, a household living in a neighborhood with limited access to medical care and healthy foods may have faced health disparities before the pandemic, like a higher rate of chronic health conditions, that contributed to more severe health outcomes during the COVID-19 pandemic.

    The recipient may choose to identify these impacts at either the individual level or at a class level. If the recipient is identifying impacts at the individual level, they should retain documentation supporting the impact the individual experienced (e.g., documentation of lost revenues from a small business). Such documentation can be streamlined in many cases (e.g., self-attestation that a household requires food assistance).

    Recipients also have broad flexibility to identify a "class" – or a group of households, small businesses, or nonprofits – that experienced an impact. In these cases, the recipients should

first identify the class and the impact that it faced. Then, recipients only need to document that the individuals served fall within that class; recipients do not need to document a specific impact to each individual served. For example, a recipient could identify that restaurants in the downtown area faced substantial declines in revenue due to decreased foot traffic from workers; the recipient could develop a program to respond to the impact on that class and only needs to document that the businesses being served are restaurants in the downtown area.

Recipients should keep the following considerations in mind when designating a class:

- **There should be a relationship between the definition of the class and the proposed response.** Larger and less-specific classes are less likely to have experienced similar harms, which may make it more difficult to design a response that appropriately responds to those harms.
- **Classes may be determined on a population basis or on a geographic basis**, and the response should be appropriately matched. For example, a response might be designed to provide childcare to single parents, regardless of which neighborhood they live in, or a response might provide a park to improve the health of a disproportionately impacted neighborhood.
- **Recipients may designate classes that experienced disproportionate impact**, by assessing the impacts of the pandemic and finding that some populations experienced meaningfully more severe impacts than the general public. To determine these disproportionate impacts, recipients:
    - May designate classes based on academic research or government research publications (such as the citations provided in the supplementary information in the final rule), through analysis of their own data, or through analysis of other existing data sources.
    - May also consider qualitative research and sources to augment their analysis, or when quantitative data is not readily available. Such sources might include resident interviews or feedback from relevant state and local agencies, such as public health departments or social services departments.
    - Should consider the quality of the research, data, and applicability of analysis to their determination in all cases.
- **Some of the enumerated uses may also be appropriate responses to the impacts experienced by other classes of beneficiaries**. It is permissible for recipients to provide these services to other classes, so long as the recipient determines that the response is also appropriate for those groups.
- **Recipients may designate a class based on income level, including at levels higher than the final rule definition of "low- and moderate-income."** For example, a recipient may identify that households in their community with incomes above the final rule threshold for low-income nevertheless experienced disproportionate impacts from the pandemic and provide responsive services.

2. **Design a response that addresses or responds to the impact.** Programs, services, and other interventions must be reasonably designed to benefit the individual or class that experienced

the impact. They must also be related and reasonably proportional to the extent and type of impact experienced. For example, uses that bear no relation or are grossly disproportionate to the type or extent of the impact would not be eligible.

"Reasonably proportional" refers to the scale of the response compared to the scale of the harm, as well as the targeting of the response to beneficiaries compared to the amount of harm they experienced; for example, it may not be reasonably proportional for a cash assistance program to provide a very small amount of aid to a group that experienced severe harm and a much larger amount to a group that experienced relatively little harm. Recipients should consider relevant factors about the harm identified and the response to evaluate whether the response is reasonably proportional. For example, recipients may consider the size of the population impacted and the severity, type, and duration of the impact. Recipients may also consider the efficacy, cost, cost-effectiveness, and time to delivery of the response.

For disproportionately impacted communities, recipients may design interventions that address broader pre-existing disparities that contributed to more severe health and economic outcomes during the pandemic, such as disproportionate gaps in access to health care or pre-existing disparities in educational outcomes that have been exacerbated by the pandemic.

Premium Pay

The Coronavirus State and Local Fiscal Recovery Funds may be used to provide premium pay to eligible workers performing essential work during the pandemic. Premium pay may be awarded to eligible workers up to $13 per hour. Premium pay must be in addition to wages or remuneration (i.e., compensation) the eligible worker otherwise receives. Premium pay may not exceed $25,000 for any single worker during the program.

Recipients should undergo the following steps to provide premium pay to eligible workers.

1. **Identify an "eligible" worker.** Eligible workers include workers "needed to maintain continuity of operations of essential critical infrastructure sectors." These sectors and occupations are eligible:

- ✓ Health care
- ✓ Emergency response
- ✓ Sanitation, disinfection & cleaning
- ✓ Maintenance
- ✓ Grocery stores, restaurants, food production, and food delivery
- ✓ Pharmacy
- ✓ Biomedical research
- ✓ Behavioral health
- ✓ Medical testing and diagnostics
- ✓ Home and community-based health care or assistance with activities of daily living
- ✓ Family or child care
- ✓ Social services
- ✓ Public health
- ✓ Mortuary
- ✓ Critical clinical research, development, and testing necessary for COVID-19 response
- ✓ State, local, or Tribal government workforce
- ✓ Workers providing vital services to Tribes
- ✓ Educational, school nutrition, and other work required to operate a school facility
- ✓ Laundry
- ✓ Elections
- ✓ Solid waste or hazardous materials management, response, and cleanup
- ✓ Work requiring physical interaction with patients
- ✓ Dental care
- ✓ Transportation and warehousing
- ✓ Hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment

Beyond this list, the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical so long as doing so is necessary to protecting the health and wellbeing of the residents of such jurisdictions.

2. **Verify that the eligible worker performs "essential work,"** meaning work that:

- Is not performed while teleworking from a residence; and
- Involves either:
  a. regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or
  b. regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work.

3. **Confirm that the premium pay "responds to" workers performing essential work during the COVID-19 public health emergency.** Under the final rule, which broadened the share of eligible workers who can receive premium pay without a written justification, recipients may meet this requirement in one of three ways:

    - Eligible worker receiving premium pay is earning (with the premium included) at or below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, whichever is higher, on an annual basis; or

    - Eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions; or

    - If a worker does not meet either of the above requirements, the recipient must submit written justification to Treasury detailing how the premium pay is otherwise responsive to workers performing essential work during the public health emergency. This may include a description of the essential worker's duties, health, or financial risks faced due to COVID-19, and why the recipient determined that the premium pay was responsive. Treasury anticipates that recipients will easily be able to satisfy the justification requirement for front-line workers, like nurses and hospital staff.

Premium pay may be awarded in installments or lump sums (e.g., monthly, quarterly, etc.) and may be awarded to hourly, part-time, or salaried or non-hourly workers. Premium pay must be paid in addition to wages already received and may be paid retrospectively. A recipient may not use SLFRF to merely reimburse itself for premium pay or hazard pay already received by the worker, and premium pay may not be paid to volunteers.

Water & Sewer Infrastructure

The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in water and sewer infrastructure. State, local, and Tribal governments have a tremendous need to address the consequences of deferred maintenance in drinking water systems and removal, management, and treatment of sewage and stormwater, along with additional resiliency measures needed to adapt to climate change.

Recipients may undertake the eligible projects below:

PROJECTS ELIGIBLE UNDER EPA'S CLEAN WATER STATE REVOLVING FUND (CWSRF)

Eligible projects under the CWSRF, and the final rule, include:

- ✓ Construction of publicly owned treatment works
- ✓ Projects pursuant to implementation of a nonpoint source pollution management program established under the Clean Water Act (CWA)
- ✓ Decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage
- ✓ Management and treatment of stormwater or subsurface drainage water
- ✓ Water conservation, efficiency, or reuse measures
- ✓ Development and implementation of a conservation and management plan under the CWA
- ✓ Watershed projects meeting the criteria set forth in the CWA
- ✓ Energy consumption reduction for publicly owned treatment works
- ✓ Reuse or recycling of wastewater, stormwater, or subsurface drainage water
- ✓ Security of publicly owned treatment works

Treasury encourages recipients to review the EPA handbook for the CWSRF for a full list of eligibilities.

PROJECTS ELIGIBLE UNDER EPA'S DRINKING WATER STATE REVOLVING FUND (DWSRF)

Eligible drinking water projects under the DWSRF, and the final rule, include:

- ✓ Facilities to improve drinking water quality
- ✓ Transmission and distribution, including improvements of water pressure or prevention of contamination in infrastructure and lead service line replacements
- ✓ New sources to replace contaminated drinking water or increase drought resilience, including aquifer storage and recovery system for water storage
- ✓ Green infrastructure, including green roofs, rainwater harvesting collection, permeable pavement
- ✓ Storage of drinking water, such as to prevent contaminants or equalize water demands
- ✓ Purchase of water systems and interconnection of systems
- ✓ New community water systems

Treasury encourages recipients to review the EPA handbook for the DWSRF for a full list of eligibilities.

ADDITIONAL ELIGIBLE PROJECTS

With broadened eligibility under the final rule, SLFRF funds may be used to fund additional types of projects— such as additional stormwater infrastructure, residential wells, lead remediation, and certain rehabilitations of dams and reservoirs — beyond the CWSRF and DWSRF, if they are found to be "necessary" according to the definition provided in the final rule and outlined below.

- ✓ Culvert repair, resizing, and removal, replacement of storm sewers, and additional types of stormwater infrastructure
- ✓ Infrastructure to improve access to safe drinking water for individual served by residential wells, including testing initiatives, and treatment/remediation strategies that address contamination
- ✓ Dam and reservoir rehabilitation if primary purpose of dam or reservoir is for drinking water supply and project is necessary for provision of drinking water
- ✓ Broad set of lead remediation projects eligible under EPA grant programs authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act, such as lead testing, installation of corrosion control treatment, lead service line replacement, as well as water quality testing, compliance monitoring, and remediation activities, including replacement of internal plumbing and faucets and fixtures in schools and childcare facilities

A "necessary" investment in infrastructure must be:

(1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise,
(2) a cost-effective means for meeting that need, taking into account available alternatives, and
(3) for investments in infrastructure that supply drinking water in order to meet projected population growth, projected to be sustainable over its estimated useful life.

Please note that DWSRF and CWSRF-eligible projects are generally presumed to be necessary investments. Additional eligible projects generally must be responsive to an identified need to achieve or maintain an adequate minimum level of service. Recipients are only required to assess cost-effectiveness of projects for the creation of new drinking water systems, dam and reservoir rehabilitation projects, or projects for the extension of drinking water service to meet population growth needs. Recipients should review the supplementary information to the final rule for more details on requirements applicable to each type of investment.

APPLICABLE STANDARDS & REQUIREMENTS

Treasury encourages recipients to adhere to strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

Broadband Infrastructure

The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in broadband infrastructure, which has been shown to be critical for work, education, healthcare, and civic participation during the public health emergency. The final rule broadens the set of eligible broadband infrastructure investments that recipients may undertake.

Recipients may pursue investments in broadband infrastructure meeting technical standards detailed below, as well as an expanded set of cybersecurity investments.

BROADBAND INFRASTRUCTURE INVESTMENTS

Recipients should adhere to the following requirements when designing a broadband infrastructure project:

1. **Identify an eligible area for investment.** Recipients are encouraged to prioritize projects that are designed to serve locations without access to reliable wireline 100/20 Mbps broadband service (meaning service that reliably provides 100 Mbps download speed and 20 Mbps upload speed through a wireline connection), but are broadly able to invest in projects designed to provide service to locations with an identified need for additional broadband investment. Recipients have broad flexibility to define need in their community. Examples of need could include:

   - ✓ Lack of access to a reliable high-speed broadband connection
   - ✓ Lack of affordable broadband
   - ✓ Lack of reliable service

   If recipients are considering deploying broadband to locations where there are existing and enforceable federal or state funding commitments for reliable service of at least 100/20 Mbps, recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Recipients must also ensure that SLFRF funds will not be used for costs that will be reimbursed by the other federal or state funding streams.

2. **Design project to meet high-speed technical standards.** Recipients are required to design projects to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, eligible projects may be designed to reliably meet or exceed 100/20 Mbps and be scalable to a minimum of symmetrical 100 Mbps download and upload speeds.

   Treasury encourages recipients to prioritize investments in fiber-optic infrastructure wherever feasible and to focus on projects that will achieve last-mile connections. Further, Treasury encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, nonprofits, and co-operatives.

3. **Require enrollment in a low-income subsidy program.** Recipients must require the service provider for a broadband project that provides service to households to either:

   - ✓ Participate in the FCC's Affordable Connectivity Program (ACP)
   - ✓ Provide access to a broad-based affordability program to low-income consumers that provides benefits commensurate to ACP

   Treasury encourages broadband services to also include at least one low-cost option offered without data usage caps at speeds sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Recipients are also encouraged to consult with the community on affordability needs.

CYBERSECURITY INVESTMENTS

SLFRF may be used for modernization of cybersecurity for existing and new broadband infrastructure, regardless of their speed delivery standards. This includes modernization of hardware and software.

APPLICABLE STANDARDS & REQUIREMENTS

Treasury encourages recipients to adhere to strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

Restrictions on Use

While recipients have considerable flexibility to use Coronavirus State and Local Fiscal Recovery Funds to address the diverse needs of their communities, some restrictions on use of funds apply.

OFFSET A REDUCTION IN NET TAX REVENUE

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the funds provided have been spent.** If a state or territory cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than SLFRF, such as by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the Treasury.

DEPOSITS INTO PENSION FUNDS

- **No recipients except Tribal governments may use this funding to make a deposit to a pension fund.** Treasury defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions connected to an eligible use of funds (e.g., for public health and safety staff). Examples of extraordinary payments include ones that:
  - Reduce a liability incurred prior to the start of the COVID-19 public health emergency and occur outside the recipient's regular timing for making the payment
  - Occur at the regular time for pension contributions but is larger than a regular payment would have been

ADDITIONAL RESTRICTIONS AND REQUIREMENTS

Additional restrictions and requirements that apply across all eligible use categories include:

- **No debt service or replenishing financial reserves.** Since SLFRF funds are intended to be used prospectively, recipients may not use SLFRF funds for debt service or replenishing financial reserves (e.g., rainy day funds).

- **No satisfaction of settlements and judgments.** Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding is itself not an eligible use. However, if a settlement requires the recipient to provide services or incur other costs that are an eligible use of SLFRF funds, SLFRF may be used for those costs.

- **Additional general restrictions.** SLFRF funds may not be used for a project that conflicts with or contravenes the purpose of the American Rescue Plan Act statute (e.g., uses of funds that

undermine COVID-19 mitigation practices in line with CDC guidance and recommendations) and may not be used in violation of the Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance. Other applicable laws and regulations, outside of SLFRF program requirements, may also apply (e.g., laws around procurement, contracting, conflicts-of-interest, environmental standards, or civil rights).

Program Administration

The Coronavirus State and Local Fiscal Recovery Funds final rule details a number of administrative processes and requirements, including on distribution of funds, timeline for use of funds, transfer of funds, treatment of loans, use of funds to meet non-federal match or cost-share requirements, administrative expenses, reporting on use of funds, and remediation and recoupment of funds used for ineligible purposes. This section provides a summary for the most frequently asked questions.

TIMELINE FOR USE OF FUNDS

Under the SLFRF, funds must be used for costs incurred on or after March 3, 2021. Further, costs must be obligated by December 31, 2024, and expended by December 31, 2026.

TRANSFERS

Recipients may undertake projects on their own or through subrecipients, which carry out eligible uses on behalf of a recipient, including pooling funds with other recipients or blending and braiding SLFRF funds with other sources of funds. Localities may also transfer their funds to the state through section 603(c)(4), which will decrease the locality's award and increase the state award amounts.

LOANS

Recipients may generally use SLFRF funds to provide loans for uses that are otherwise eligible, although there are special rules about how recipients should track program income depending on the length of the loan. Recipients should consult the final rule if they seek to utilize these provisions.

NON-FEDERAL MATCH OR COST-SHARE REQUIREMENTS

Funds available under the "revenue loss" eligible use category (sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act) generally may be used to meet the non-federal cost-share or matching requirements of other federal programs. However, note that SLFRF funds may not be used as the non-federal share for purposes of a state's Medicaid and CHIP programs because the Office of Management and Budget has approved a waiver as requested by the Centers for Medicare & Medicaid Services pursuant to 2 CFR 200.102 of the Uniform Guidance and related regulations.

SLFRF funds beyond those that are available under the revenue loss eligible use category may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute. As an example, the Infrastructure Investment and Jobs Act provides that SLFRF funds may be used to meet the non-federal match requirements of authorized Bureau of Reclamation projects and certain broadband deployment projects. Recipients should consult the final rule for further details if they seek to utilize SLFRF funds as a match for these projects.

ADMINISTRATIVE EXPENSES

SLFRF funds may be used for direct and indirect administrative expenses involved in administering the program. For details on permissible direct and indirect administrative costs, recipients should refer to Treasury's Compliance and Reporting Guidance. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

REPORTING, COMPLIANCE & RECOUPMENT

Recipients are required to comply with Treasury's Compliance and Reporting Guidance, which includes submitting mandatory periodic reports to Treasury.

Funds used in violation of the final rule are subject to remediation and recoupment. As outlined in the final rule, Treasury may identify funds used in violation through reporting or other sources. Recipients will be provided with an initial written notice of recoupment with an opportunity to submit a request for reconsideration before Treasury provides a final notice of recoupment. If the recipient receives an initial notice of recoupment and does not submit a request for reconsideration, the initial notice will be deemed the final notice. Treasury may pursue other forms of remediation and monitoring in conjunction with, or as an alternative to, recoupment.

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda) 15

2/14/22

Department: Finance

WORK SESSION ☒ **Meeting Date: 02/14/2022**

REGULAR AGENDA ☒ **Meeting Date: 02/22/2022**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing ☒ Contract/Agreement/MOU - **Contract # 19961.22.005**

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☐ Other

Documents exempt from public disclosure attached: ☐

ARPA DIRECT GRANT ASSISTANCE AGREEMENT BETWEEN CLALLAM COUNTY AND THE PORT ANGELES FARMER'S MARKET

GRANT FUNDING BACKGROUND

In May 2021, the County was awarded $15,020,640 of federal stimulus funding from the Coranavirus State Fiscal Recovery Funds and the Coronavirus Local Fiscal Recovery Funds ("ARPA Funds") under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act ("ARPA ACT"). The County received the first half of these funds on May 28, 2021 with the 2nd half of these funds to be distributed to the County by the US Treasury one year thereafter.

As outlined in the ARPA Interim Final Rule and FAQ guidance provided by the US Treasury, ARPA Funds can be utilized in support of the following purposes:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;

(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency;

(4) To make necessary investments in water, sewer, or broadband infrastructure; and

(5) To address the disparate impact of COVID-19 on certain populations and geographics, additional eligible services may include:

a. Addressing health disparities and the social determinants of health, including community health workers, public benefits navigators, remediation of lead paint or other lead hazards, and community violence intervention programs;

b. Building stronger neighborhoods and communities, including supportive housing and other services for individuals experiencing housing or food insecurity, development of affordable housing, and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity;

c. Addressing educational disparities exacerbated by COVID-19, including: early learning services, increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, and supports for students' social, emotional, and mental health needs; and

d. Promoting healthy childhood environments, including: child care, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

During the July 6, 2021 Continued Work Session with BOCC, the BOCC identified eight priority areas that they indicated support for allocating ARPA Funds to, including;

- Local Small Business and Non-Profit Economic Assistance;
- Assistance to Businesses and Non Profits that provide Child Care Services;
- Mental/Behavioral Health;
- Food Security Support to Local Food Banks;
- Affordable Housing/Homelessness Support;
- Residential and Commercial Utility Relief;
- Local Water Systems Infrastructure; and
- Broadband

Based on discussions held during this Work Session in which food security support requests from various food bank entities including Port Angeles Food Bank, Sequim Food Bank, Forks Community Food Bank, and New Hope Food Bank of Clallam Bay were discussed, the BOCC approved the initial granting of $700,000 of ARPA-funding directed toward supporting food banks in Clallam County. In a follow up work session, this funding amount was increased to $1,883,950. On November 29, 2021, a BOCC work session discussion was held to confirm BOCC ARPA funding support for food banks in the County.

Below is a recap of the operational impacts incurred by Port Angeles Farmer's Market during the COVID-19 pandemic and the resulting needs.

PORT ANGELES FARMER'S MARKET – NOTABLE FACTS AND THE OPERATIONAL IMPACT OF THE COVID-19 PANDEMIC ON THE FARMER'S MARKET SERVICES

- Since March 2020 when the COVID-19 emergency began, the Port Angeles Farmer's Market has seen a significant increase in the participants using the SNAP *Market Match Program* that

incentivizes SNAP recipients to purchase fresh fruits, vegetables, herbs, mushrooms, edible plants and seeds, diluting the program's available matching funds used to provide a one-for-one match of SNAP benefits used at the Farmers Market.

- During this same time period, there has also been a significant increase in low-income shoppers participating in the *Seniors Farmer's Market Nutrition Program* (S-FMNP) which improves nutrition for lower-income adults over age 60, and the *Women Infants and Children Farmer's Market Nutrition Program* (WIC-FMNP) which supplements food budgets while improving nutrition by providing access to fresh, healthy, unprocessed and locally grown fruits, vegetables, and cut herbs by providing a coupon booklet to participants for $40.00 worth of qualified purchases at participating farmer's markets. The booklet is incentivized by the Port Angeles Farmer's Market for an additional $10.00 from funds raised privately or through sponsorships.

- Because of COVID-19 related emergency public health protections and protocols, there has been a reduction of major fundraising and sponsorship activities, decreasing the Port Angeles Farmer's Market's available incentive funds for the S-FMNP and WIC-FMNP participants. Additionally, there have been increased expenses related to disinfecting, sanitation materials for shoppers and new signage for directing foot traffic to meet social distancing requirements of the emergency public health protections and protocols.

- As a result of the negative impact on the economy caused by the COVID-19 pandemic, the contribution of sponsorships from area businesses has significantly slowed because the businesses have closed, or could no longer afford to support the applicant's programs.

- Because of the limited ability of the Port Angeles Farmer's Market to match eligible purchases on a one-to-one basis, sales income generated by participating farmers at the market has decreased.

- As a result of the financial and operational demands placed on the Port Angeles Farmer's Market during the pandemic as outlined above, the Port Angeles Farmer's Market submitted an ARPA Application to the County requesting $6,500 of ARPA Assistance, with $5,000 to be utilized in support of the 2022 *SNAP Market Match Program*, and $1,500 to be used in support of the *Senior Farmers Market Nutrition Program* (S-FMNP) and the *Women Infants and Children Farmer's Market Nutrition Program* (WIC-FMNP).

As outlined below, the County believes the provision of economic support under ARPA to Port Angeles Farmer's Market is appropriate and proportional to the need given:

- The Recipient's critical role in providing food security assistance to impacted, vulnerable low-income residents within Clallam County seeking access to fresh, healthy, unprocessed and locally grown fruits, vegetables, and cut herbs;
- The difficulty in generating program funds from sponsorships or fundraising to support and maintain the one-for-one match of the Recipient's *SNAP Market Match Program*, or to incentivize S-FMNP and WIC-FMNP participants experiencing food insecurity and are seeking low-cost healthy eating options.
- The necessity to support small businesses and farms experiencing the negative economic impacts created by the COVID-19 public health emergency.

WHAT THE ARPA FUNDS WILL BE USED FOR

This $6,500 of ARPA Direct Assistance Grant funding will be provided to the Port Angeles Farmer's Market on a reimbursement basis and must be utilized by the Recipient no later than December 31, 2024. All costs to be reimbursed must have been incurred between the effective date of this agreement and December 31, 2024 and meet the following eligibility criteria;

- Funds are to be used for the augmenting of fundraising and sponsorship funds that have diminished due to the COVID-19 public health emergency that were provided to:
    - Support the one-to-one matching ability for eligible food purchases under the guidelines of the *SNAP Market Match Program* following the exhaustion of the grant issued by the Department of Health for this purpose.
    - Matching costs incurred to support a $10.00 or more incentive within the *S-FMNP and WIC-FMNP* users' coupon booklets.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Approval of this agreement will authorize the release of $6,500 of ARPA funds from the American Rescue Plan Act special revenue fund to the Port Angeles Farmer's Market on a reimbursement basis for eligible expenses incurred and submitted for reimbursement by the Port Angeles Farmer's Market.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Given that the Port Angeles Farmer's Market planning for the 2022 season is in progress, we request the Commissioner's approval to proceed in submitting this agreement for approval during the BOCC meeting scheduled on Tuesday, February 22, 2022.

County Official signature & print name: Rich Meier

Name of Employee/Stakeholder attending meeting: Rich Meier

Relevant Departments: Finance, BOCC

Date submitted: February 8, 2022

CONTRACT # 19961.22.005

ARPA DIRECT GRANT ASSISTANCE AGREEMENT

This ARPA Direct Grant Assistance Agreement ("Agreement") is dated as of the _____ day of _____, 2022, by and between Clallam County, a Washington political subdivision ("County"), and Port Angeles Farmer's Market (Federal Tax ID 13-4255810, UBI # 602-119-859), a Washington State non-profit 501(c)(3) organization ("Recipient").

WHEREAS, the U.S. Department of the Treasury ("Treasury") has allocated to the County $15,020,640 of federal stimulus funding from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds under CFDA No. 21.027 ("ARPA Funds") under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act ("ARPA Act"), of which $7,510,320 was outlaid to the County on May 28, 2021 with the remainder of funds of $7,510,320 to be disbursed by Treasury to the County one year thereafter, for the limited purposes identified in the Interagency Agreement between the Treasury and Clallam County designated under FAIN #SLFRP2169 ("IGA"), identified as Attachment A, the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule ("Interim Final Rule"), identified as Attachment B, and the Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds ("Compliance & Reporting Guidelines"), identified as Attachment C. Attachments A, B & C are attached hereto and incorporated herein by this reference.

WHEREAS, the ARPA Act authorizes the County to expend ARPA Funds awarded to the County for the following eligible purposes as outlined in the Interim Final Rule as follows:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
(4) To make necessary investments in water, sewer, or broadband infrastructure;
(5) To address the disparate impact of COVID-19 on certain populations and geographics, additional eligible services may include:

a. Addressing health disparities and the social determinants of health, including community health workers, public benefits navigators, remediation of lead paint or other lead hazards, and community violence intervention programs;

b. Building stronger neighborhoods and communities, including supportive housing and other services for individuals experiencing housing or food insecurity, development of affordable housing, and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity;

c. Addressing educational disparities exacerbated by COVID-19, including: early learning services, increasing resources for high-poverty school districts,

educational services like tutoring or afterschool programs, and supports for students' social, emotional, and mental health needs; and

d. Promoting healthy childhood environments, including: child care, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth. (collectively "Eligible Uses").

Pursuant to the ARPA Act, Eligible Uses under this non-R&D federal program must be obligated no earlier than March 3, 2021 and no later than December 31, 2024, with final disbursement of all funds no later than December 31, 2026.

WHEREAS, the County desires to allocate portions of the ARPA Funds awarded to Clallam County in support of non-profit organizations and other agencies engaged in supporting the food security needs of those low income households, residents residing in Qualified Census Tracts, and other vulnerable populations or geographic areas disproportionately-impacted by the COVID public health emergency in the County who are experiencing food insecurity, which is consistent with Items 1 and 5 (b) of the Eligible Uses of ARPA Funds outlined above.

WHEREAS, the Recipient, a Clallam County non-profit organization that operates a Farmer's Market offering residents of Port Angeles and surrounding Clallam County areas with produce and other healthy food products, many of who are experiencing food insecurity during the COVID-19 public health emergency and are utilizing the USDA Supplemental Nutrition Assistance Program (SNAP) designed to assist low-income individuals and families to purchase qualified food items. The Recipient participates in the Washington State Department of Health funded *SNAP Market Match Program* that incentivizes SNAP recipients to purchase fresh fruits, vegetables, herbs, mushrooms, edible plants and seeds by offering a one-for-one match of SNAP benefits used at the Farmers Market that are restricted to these healthy choices

The Recipient also participates in the Low-Income *Seniors Farmer's Market Nutrition Program* (S-FMNP) which improves nutrition for lower-income adults over age 60, and the *Women Infants and Children Farmer's Market Nutrition Program* (WIC-FMNP) by supplementing their food budgets and improving nutrition by providing access to fresh, healthy, unprocessed and locally grown fruits, vegetables and cut herbs. Both programs provide a coupon booklet to participants for $40.00 worth of qualified purchases at the farmer's market. This booklet is incentivized by $10.00 by the Recipient from funds raised privately or through sponsorships.

The Recipient has witnessed a significant increase in Clallam County households seeking food assistance in its service area during the COVID-19 public health emergency. Notable impacts of the COVID-19 emergency on the Recipient's farmer's market operations and services include:

- A complete closure of the farmer's market for eight weeks between March and May of 2020 to comply with COVID-19 related emergency public health protections;
- An extremely low level of customer foot traffic, reducing sales;
- An approximate 50% reduction in vendor participation, reducing the applicant's revenues to a level that created a deficit in covering operating costs;
- Increased expenses related to disinfecting, sanitation materials for shoppers and new signage for directing foot traffic to meet social distancing requirements;

- An increased use of *SNAP Market Match Program* benefits at the market compared to prior years that has reduced the program's available matching funds;
- A reduction of major fundraising activities in order to comply with COVID-19 related emergency public health protections;
- A reduction of sponsorships from area businesses that significantly slowed because the businesses closed, or could no longer afford to support the applicant's programs;
- The reduction in the ability to fundraise or obtain sponsorships has directly impacted the capacity to supplement the one-to-one matching funds for qualified low-income shoppers made available from the Washington State Department of Health (DOH), in support of the *SNAP Market Match Program.*
    - The *SNAP Market Match Program* incentivizes nutritional benefits to supplement the food budgets of low-income families so they can purchase healthy food and move toward self-sufficiency;
    - *The SNAP Market Match Program* provides the Recipient with a grant to allow for the use of one-to-one matching funds for eligible purchases, essentially doubling the purchasing ability for the consumer;
    - The terms of the Recipient's contractual agreement with the Washington State Department of Health require the Recipient provide an unlimited SNAP Market Match, even if DOH funds are exhausted.
    - Before the COVID-19 public health emergency, fundraising and sponsorship for the program had allowed the Recipient to supplement the Department of Health grant and continue offering an unlimited one-to-one matching funds after the exhaustion of the grant funding; and
    - In 2021, the gap between the grant funding and the need was approximately $5,500.00. Based on current trends showing an increase in the number of *SNAP Market Match Program* participants utilizing the farmer's market, the Recipient anticipates a funding need of approximately $5,000 to continue the program during the COVID-19 public health emergency;
- A reduction in the ability to fundraise or obtain sponsorships to provide funds to incentivize qualified low-income seniors, women, infants and children using the S-FMNP and WIC-FMNP booklets. The $10.00 incentive is funded entirely through local sponsorships and donations which have decreased during the COVID-19 public health emergency.
    - The *Senior Farmers Market Nutrition Program* (S-FMNP) and the *Women Infants and Children Farmer's Market Nutrition Program* (WIC-FMNP) are part of the USDA's efforts to improve nutrition for lower-income participants by providing fresh, healthy, unprocessed, locally grown fresh fruits, vegetables, and cut herbs.
    - Based on current trends establishing an increase in the number of S-FMNP and WIC- FMNP recipients utilizing the farmer's market, the Recipient anticipates a funding need of approximately $1,500.00 to continue the program during the COVID-19 public health emergency.
- Reduced income for local farmers who have relied on the one-to-one matching benefits of the SNAP, S-FMNP and WIC-FMNP programs to increase sales at the farmer's market.
    - The SNAP, S-FMNP and WIC-FMNP funds had provided an opportunity to increase the farmer's market sales for the local farmers who are marketing eligible produce;

    - Each program expanded the awareness and sales at farmer's markets;
    - The administrative support of the farmer's market often provides the only outlet available to local farmers to sell their produce directly to low-income families by providing the ability to accept an EBT card payment and by providing matching funds and incentives;
- The Recipient received a $10,000 recovery grant from the USDA and an additional $5,000 grant from the Clallam County Lifeboat3 program. Those funds were used to:
    - Continue operations in 2020 and 2021when revenue levels decreased as a result of the COVID-19 Public Health Emergency
    - Provide the required funding of the SNAP Market Match program's contractual requirements from the beginning of the COVID-19 Public Health Emergency through December 2021 when the combined $15,000 of additional grant funds were completely exhausted.
- As the reduction in fundraising and sponsorship revenues supporting the SNAP, S-FMNP and WIC-FMNP programs, coupled with the increase in costs of the matching program and incentive costs incurred during the COVID-19 public health emergency were not budgeted for by the Recipient, the Recipient is requesting assistance in funding these matching programs totaling $6500.
- The requested $6,500 would cover the gap between funding and expenses for the 2022 market season's SNAP, S-FMNP and WIC-FMNP program obligations incurred no earlier than the effective date of this agreement and cannot be applied retroactively for expenses incurred prior to the effective date of this agreement.

WHEREAS, the County believes the provision of economic support to the Recipient is necessary, appropriate and proportional to the need given:

- The Recipient's critical role in providing healthy food security assistance to impacted, vulnerable low-income residents within Clallam County; and
- The difficulty in generating program sponsorship or fundraising revenues sufficient to maintain the one-for-one match of the Recipient's *SNAP Market Match Program*, or to incentivize S-FMNP and WIC-FMNP participants experiencing food insecurity, and are seeking low-cost healthy eating options.

Based on the Interim Final Rule, the County believes the provision of economic support to the Recipient represents an eligible use of ARPA Funds as outlined previously;

WHEREAS, the County and Recipient desire to enter into this Agreement so that the County may reimburse the Recipient using ARPA Funds via a direct economic support grant to provide the Recipient with sufficient resources to restore their ability to fund the one-for-one match to purchase healthy food choices through the *SNAP Market Match Program*, incentivizing the *S-FMNP and WIC-FMNP* users, and stimulating the local agriculture sector by reestablishing sales opportunities for local farmers, with such assistance allowed under the IGA and Interim Final Rule.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

1. Effective Date and Term. This Agreement shall commence when last executed by all parties and remain in effect until December 31, 2024, unless terminated by the County in writing.

2. ARPA Funds. The County agrees to provide the Recipient a total sum not to exceed $6,500 on a reimbursement basis for eligible costs incurred from the effective date of this agreement through December 31, 2024 based on eligibility criteria outlined in Attachment D.

3. Reimbursement Request Support. To facilitate release of ARPA funding to the Recipient, the Recipient will submit a detailed invoice in a form specified and approved by the County, on or before the 10th day of each month and no more frequently than monthly, detailing the eligible expenses incurred by the Recipient for which Reimbursement is being requested, together with copies of invoices, receipts and other supporting documentation for each expense for which reimbursement is requested. Each Reimbursement request submitted by the Recipient will include a signed certification by the Recipient that such expenses represent eligible expenses incurred by the Recipient based on the eligibility criteria outlined in Attachment D and that such expenses have not been nor will be reimbursed under any other government or private entity program. Such schedule may be modified with the prior approval of the County. Failure to provide any of the required documentation may result in termination of the Agreement and in the withholding and/or nonpayment of all remaining funds awarded to the Recipient by the County under the Agreement.

4. Ineligible Uses. Non-allowable uses of ARPA Funds include, without limitation, the following: a) usage of funds to either directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation or administrative interpretation during the covered period that reduces any tax or delays the imposition of any tax or tax increase; b) damages covered by insurance; c) usage of funds as a deposit into any pension fund; d) expenses that have been or will be reimbursed under any federal program; e) debt service costs; f) contributions to a "rainy day" fund; and d) legal settlements.

5. Non-Discrimination. The Recipient shall provide food security services to clients based solely upon the basis of need and shall not, in the operation the Recipient's farmer's market discriminate against any person on the basis of religion, race, creed, political ideology, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.

6. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the Recipient.

7. Independent Contractor. Each party under the Agreement shall be for all purposes an Independent Contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Recipient shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of the County for any purpose.

8. Indemnification. The Recipient agrees to defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless from and against any and all claims, injuries, damages, losses or expenses including without limitation personal injury, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are alleged or proven to be caused in whole or in part by an act or omission of the Recipient, its officers, directors, employees, and/or agents relating to the Recipient's performance or failure to perform under this Agreement. The section shall survive the expiration or termination of this Agreement.

9. Compliance with Laws, Guidelines. The Recipient shall comply with all federal, state, and local laws and all requirements (including debarment and other required certifications and audits) of the IGA, Interim Final Rule, and Compliance & Reporting Guidelines to the extent applicable, when disbursing ARPA Funds to recipients or when seeking Reimbursement from the County.

10. Maintenance and Audit of Records. The Recipient shall maintain records, books, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review and audit by the County or its designee, the Washington State Auditor's Office and as required by the IGA, Interim Final Rule and Compliance & Reporting Guidelines for five (5) years following termination of this Agreement. If it is determined during the course of the audit that the Recipient was reimbursed for unallowable costs under this Agreement, the Recipient agrees to promptly reimburse the County for such payments upon request.

11. Notices. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received three (3) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

Recipient
Port Angeles Farmer's Market
Attn: Billy Fortini - Director
PO Box 336
Port Angeles, WA 98362

Clallam County
Attn: Mark Lane, Chief Financial Officer
223 E 4th St, Suite 4
Port Angeles, WA 98362-3015

12. Improper Influence. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants,

and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

13. Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

14. Time. Time is of the essence in this Agreement.

15. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include without limitation; Indemnification and Maintenance and Audit of Records.

16. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.

17. Governing Law; Venue. The Agreement will be governed in all respects by the laws of Washington State, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Clallam County, Washington or as provided by RCW 36.01.050.

18. Non-Waiver. No failure on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a wavier thereof; nor shall any single or partial exercise by the County of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to the County at law or in equity.

19. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

20. Assignment. The Recipient shall not assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of the County.

21. Entire Agreement. This Agreement constitutes the entire agreement between the County and the Recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.

22. No Third Party Beneficiaries. Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either Party has to Treasury in connection with the use of ARPA Funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement.

23. Severability. In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the

remainder of the Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.

24. Counterparts. This Agreement may be executed in one or more counterparts, any of which shall be deemed an original but all of which together shall constitute one and the same instrument.

25. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Agreement on behalf of the party for whom they sign.

IN WITNESS WHEREOF, this Agreement is executed and shall become effective as of the last date signed below.

DATED this 9TH **day of** FEBRUARY**, 2022.**

RECIPIENT

By: _____

Print Name: Billy Fortini

Its: Executive Director

DATED this _____ day of _____ _____, 2022.

APPROVED AS TO FORM by DPA Stanley

BOARD OF COUNTY COMMISSIONERS
CLALLAM COUNTY, WASHINGTON

_____
MARK OZIAS, Chair

_____
RANDY JOHNSON, Commissioner

_____
BILL PEACH, Commissioner

ATTEST:

_____
L. Gores, Clerk of the Board

ATTACHMENT A

INTERAGENCY AGREEMENT BETWEEN
THE U.S. DEPARTMENT OF TREASURY AND
CLALLAM COUNTY

DocuSign Envelope ID: EF22FEC0-DB4C-45DA-B2F0-43D84D64229D

OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address: CLALLAM COUNTY 223 EAST FOURTH STREET, SUITE 4 PORT ANGELES, Washington, 98362-3015	DUNS Number: 075739235 Taxpayer Identification Number: 916001298 Assistance Listing Number: 21.019

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient: DocuSigned by: MARK OZIAS
9C5FE664B8F24C1...

Authorized Representative: MARK OZIAS

Title: CHAIRMAN, BOARD OF CLALLAM COUNTY COMMISSIONERS

Date signed: 5/19/2021

U.S. Department of the Treasury:

_____

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE
The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

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U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
   a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.

4. Maintenance of and Access to Records
   a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.

   c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

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9. Compliance with Applicable Law and Regulations.

a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

14. Debts Owed the Federal Government.
    a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

    b. Any debts determined to be owed the federal government must be paid promptly by

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Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.
    a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.

    b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.
    a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

    b. The list of persons and entities referenced in the paragraph above includes the following:
        i. A member of Congress or a representative of a committee of Congress;
        ii. An Inspector General;
        iii. The Government Accountability Office;
        iv. A Treasury employee responsible for contract or grant oversight or management;
        v. An authorized official of the Department of Justice or other law enforcement agency;
        vi. A court or grand jury; or
        vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

    c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit http://www.lep.gov.

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4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.

5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.

7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.

8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.

9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

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agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

CLALLAM COUNTY

Recipient

5/19/2021

Date

DocuSigned by:
MARK OZIAS
9C5FE664B8F24C1...

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

ATTACHMENT B

U.S. DEPARTMENT OF TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
INTERIM FINAL RULE
DATED 5-17-2021

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505–AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Interim final rule.

SUMMARY: The Secretary of the Treasury (Treasury) is issuing this interim final rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: *Effective date:* The provisions in this interim final rule are effective May 17, 2021.

Comment date: Comments must be received on or before July 16, 2021.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: *http://www.regulations.gov*. Comments can be mailed to the Office of the Undersecretary for Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically. All comments should be captions with "Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments." Please include your name, organization affiliation, address, email address and telephone number in your comment. Where appropriate, a comment should include a short executive summary.

In general, comments received will be posted on *http://www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Katharine Richards, Senior Advisor, Office of Recovery Programs, Department of the Treasury, (844) 529–9527.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Overview

Since the first case of coronavirus disease 2019 (COVID–19) was discovered in the United States in January 2020, the disease has infected over 32 million and killed over 575,000 Americans.[1] The disease has impacted every part of life: As social distancing became a necessity, businesses closed, schools transitioned to remote education, travel was sharply reduced, and millions of Americans lost their jobs. In April 2020, the national unemployment rate reached its highest level in over seventy years following the most severe month-over-month decline in employment on record.[2] As of April 2021, there were still 8.2 million fewer jobs than before the pandemic.[3] During this time, a significant share of households have faced food and housing insecurity.[4] Economic disruptions impaired the flow of credit to households, State and local governments, and businesses of all sizes.[5] As businesses weathered closures and sharp declines in revenue, many were forced to shut down, especially small businesses.[6]

Amid this once-in-a-century crisis, State, territorial, Tribal, and local governments (State, local, and Tribal governments) have been called on to respond at an immense scale. Governments have faced myriad needs to prevent and address the spread of COVID–19, including testing, contact tracing, isolation and quarantine, public communications, issuance and enforcement of health orders, expansions to health system capacity like alternative care facilities, and in recent months, a massive nationwide mobilization around vaccinations. Governments also have supported major efforts to prevent COVID–19 spread through safety measures in settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and public facilities. The pandemic's impacts on behavioral health, including the toll of pandemic-related stress, have increased the need for behavioral health resources.

At the same time, State, local and Tribal governments launched major efforts to address the economic impacts of the pandemic. These efforts have been tailored to the needs of their communities and have included expanded assistance to unemployed workers; food assistance; rent, mortgage, and utility support; cash assistance; internet access programs; expanded services to support individuals experiencing homelessness; support for individuals with disabilities and older adults; and assistance to small businesses facing closures or revenue loss or implementing new safety measures.

In responding to the public health emergency and its negative economic impacts, State, local, and Tribal governments have seen substantial increases in costs to provide these services, often amid substantial declines in revenue due to the economic downturn and changing economic patterns during the pandemic.[7] Facing these budget challenges, many State, local, and Tribal governments have been forced to make cuts to services or their workforces, or delay critical investments. From February to May of 2020, State, local, and Tribal governments reduced their workforces by more than 1.5 million jobs and, in April of 2021, State, local, and Tribal government employment remained nearly 1.3 million jobs below pre-pandemic levels.[8] These cuts to State, local, and Tribal government workforces

[1] Centers for Disease Control and Prevention, COVID Data Tracker, *http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home* (last visited May 8, 2021).

[2] U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/UNRATE*, May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNU02000000*, May 3, 2021.

[3] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/PAYEMS*, May 7, 2021.

[4] Nirmita Panchal et al., The Implications of COVID–19 for Mental Health and Substance Abuse (Feb. 10, 2021), https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis; U.S. Census Bureau, Household Pulse Survey: Measuring Social and Economic Impacts during the Coronavirus Pandemic, https://www.census.gov/programs-surveys/household-pulse-survey.html (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 1—October 17, 2020, Morb. Mortal. Wkly. Rep. 69(45):1675–80 (Nov. 13, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm*.

[5] Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), *https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm*.

[6] Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), *https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/*.

[7] Michael Leachman, House Budget Bill Provides Needed Fiscal Aid for States, Localities, Tribal Nations, and Territories (Feb. 10, 2021), *https://www.cbpp.org/research/state-budget-and-tax/house-budget-bill-provides-needed-fiscal-aid-for-states-localities*.

[8] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited May 8, 2021).

come at a time when demand for government services is high, with State, local, and Tribal governments on the frontlines of fighting the pandemic. Furthermore, State, local, and Tribal government austerity measures can hamper overall economic growth, as occurred in the recovery from the Great Recession.[9]

Finally, although the pandemic's impacts have been widespread, both the public health and economic impacts of the pandemic have fallen most severely on communities and populations disadvantaged before it began. Low-income communities, people of color, and Tribal communities have faced higher rates of infection, hospitalization, and death,[10] as well as higher rates of unemployment and lack of basic necessities like food and housing.[11] Pre-existing social vulnerabilities magnified the pandemic in these communities, where a reduced ability to work from home and, frequently, denser housing amplified the risk of infection. Higher rates of pre-existing health conditions also may have contributed to more severe COVID–19 health outcomes.[12] Similarly, communities or households facing economic insecurity before the pandemic were less able to weather business closures, job losses, or declines in earnings and were less able to participate in remote work or education due to the inequities in access to reliable and affordable broadband infrastructure.[13] Finally, though schools in all areas faced challenges, those in high poverty areas had fewer resources to adapt to remote and hybrid learning models.[14] Unfortunately, the pandemic also has reversed many gains made by communities of color in the prior economic expansion.[15]

B. The Statute and Interim Final Rule

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President.[16] Section 9901 of ARPA amended Title VI of the Social Security Act[17] (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds).[18] The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments (together, recipients) in responding to the impact of COVID–19 and in their efforts to contain COVID–19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).[19]

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID–19 public health emergency and its economic impacts through four categories of eligible uses. Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities, nonentitlement units of local government, and counties. Sections 602(c)(1) and 603(c)(1) provide that funds may be used:

(a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(b) To respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers;

(c) For the provision of government services to the extent of the reduction in revenue due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(d) To make necessary investments in water, sewer, or broadband infrastructure.

In addition, Congress clarified two types of uses which do not fall within these four categories. Sections 602(c)(2)(B) and 603(c)(2) provide that these eligible uses do not include, and thus funds may not be used for, depositing funds into any pension fund. Section 602(c)(2)(A) also provides, for States and territories, that the eligible uses do not include "directly or indirectly offset[ting] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation."

The ARPA provides a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. First, payments from the Fiscal Recovery Funds help to ensure that State, local, and Tribal governments have the resources needed to continue to take actions to decrease the spread of COVID–19 and bring the pandemic under control. Payments from the Fiscal Recovery Funds may also be used by recipients to provide support for costs incurred in addressing public health and economic challenges resulting from the pandemic, including resources to offer premium pay to essential workers, in recognition of their sacrifices over the

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[9] Tracy Gordon, State and Local Budgets and the Great Recession, Brookings Institution (Dec. 31, 2012), *http://www.brookings.edu/articles/state-and-local-budgets-and-the-great-recession.*

[10] Sebastian D. Romano et al., Trends in Racial and Ethnic Disparities in COVID–19 Hospitalizations, by Region—United States, March–December 2020, MMWR Morb Mortal Wkly Rep 2021, 70:560–565 (Apr. 16, 2021), *https://www.cdc.gov/mmwr/volumes/70/wr/mm7015e2.htm?s_cid=mm7015e2_w.*

[11] Center on Budget and Policy Priorities, Tracking the COVID–19 Recession's Effects on Food, Housing, and Employment Hardships, *https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-housing-and* (last visited May 4, 2021).

[12] Lisa R. Fortuna et al., Inequity and the Disproportionate Impact of COVID–19 on Communities of Color in the United States: The Need for Trauma-Informed Social Justice Response, Psychological Trauma Vol. 12(5):443–45 (2020), *available at https://psycnet.apa.org/fulltext/2020-37320-001.pdf.*

[13] Emily Vogles et al., 53% of Americans Say the internet Has Been Essential During the COVID–19 Outbreak (Apr. 30, 2020), *https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/.*

[14] Emma Dorn et al., COVID–19 and student learning in the United States: The hurt could last a lifetime (June 2020), *https://webtest.childrensinstitute.net/sites/default/files/documents/COVID-19-and-student-learning-in-the-United-States_FINAL.pdf;* Andrew Bacher-Hicks et al., Inequality in Household Adaptation to Schooling Shocks: Covid-Induced Online Engagement in Real Time, J. of Public Econ. Vol. 193(C) (July 2020), *available at https://www.nber.org/papers/w27555.*

[15] *See, e.g.,* Tyler Atkinson & Alex Richter, Pandemic Disproportionately Affects Women, Minority Labor Force Participation, *https://www.dallasfed.org/research/economics/2020/1110* (last visited May 9, 2021); Jared Bernstein & Janelle Jones, The Impact of the COVID19 Recession on the Jobs and Incomes of Persons of Color, *https://www.cbpp.org/sites/default/files/atoms/files/6-2-20bud_0.pdf* (last visited May 9, 2021).

[16] American Rescue Plan Act of 2021 (ARPA), sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 *et seq.* The term "state" as used in this **SUPPLEMENTARY INFORMATION** and defined in section 602 of the Act means each of the 50 States and the District of Columbia. The term "territory" as used in this **SUPPLEMENTARY INFORMATION** and defined in section 602 of the Act means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of Northern Mariana Islands, and American Samoa. Tribal government is defined in the Act and the interim final rule to mean "the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of the [American Rescue Plan Act] pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131)." See section 602(g)(7) of the Social Security Act, as added by the American Rescue Plan Act. On January 29, 2021, the Bureau of Indian Affairs published a current list of 574 Tribal entities. See 86 FR 7554, January 29, 2021. The term "local governments" as used in this **SUPPLEMENTARY INFORMATION** includes metropolitan cities, counties, and nonentitlement units of local government.

[17] 42 U.S.C. 801 *et seq.*

[18] Sections 602, 603 of the Act.

[19] The CRF was established by the section 601 of the Act as added by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136, 134 Stat. 281 (2020).

last year. Recipients may also use payments from the Fiscal Recovery Funds to replace State, local, and Tribal government revenue lost due to COVID–19, helping to ensure that governments can continue to provide needed services and avoid cuts or layoffs. Finally, these resources lay the foundation for a strong, equitable economic recovery, not only by providing immediate economic stabilization for households and businesses, but also by addressing the systemic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color.

Within the eligible use categories outlined in the Fiscal Recovery Funds provisions of ARPA, State, local, and Tribal governments have flexibility to determine how best to use payments from the Fiscal Recovery Funds to meet the needs of their communities and populations. The interim final rule facilitates swift and effective implementation by establishing a framework for determining the types of programs and services that are eligible under the ARPA along with examples of uses that State, local, and Tribal governments may consider. These uses build on eligible expenditures under the CRF, including some expansions in eligible uses to respond to the public health emergency, such as vaccination campaigns. They also reflect changes in the needs of communities, as evidenced by, for example, nationwide data demonstrating disproportionate impacts of the COVID–19 public health emergency on certain populations, geographies, and economic sectors. The interim final rule takes into consideration these disproportionate impacts by recognizing a broad range of eligible uses to help States, local, and Tribal governments support the families, businesses, and communities hardest hit by the COVID–19 public health emergency.

Implementation of the Fiscal Recovery Funds also reflect the importance of public input, transparency, and accountability. Treasury seeks comment on all aspects of the interim final rule and, to better facilitate public comment, has included specific questions throughout this **SUPPLEMENTARY INFORMATION**. Treasury encourages State, local, and Tribal governments in particular to provide feedback and to engage with Treasury regarding issues that may arise regarding all aspects of this interim final rule and Treasury's work in administering the Fiscal Recovery Funds. In addition, the interim final rule establishes certain regular reporting requirements, including by requiring State, local, and Tribal governments to publish information regarding uses of Fiscal Recovery Funds payments in their local jurisdiction. These reporting requirements reflect the need for transparency and accountability, while recognizing and minimizing the burden, particularly for smaller local governments. Treasury urges State, territorial, Tribal, and local governments to engage their constituents and communities in developing plans to use these payments, given the scale of funding and its potential to catalyze broader economic recovery and rebuilding.

II. Eligible Uses

A. Public Health and Economic Impacts

Sections 602(c)(1)(A) and 603(c)(1)(A) provide significant resources for State, territorial, Tribal governments, and counties, metropolitan cities, and nonentitlement units of local governments (each referred to as a recipient) to meet the wide range of public health and economic impacts of the COVID–19 public health emergency.

These provisions authorize the use of payments from the Fiscal Recovery Funds to respond to the public health emergency with respect to COVID–19 or its negative economic impacts. Section 602 and section 603 also describe several types of uses that would be responsive to the impacts of the COVID–19 public health emergency, including assistance to households, small businesses, and nonprofits and aid to impacted industries, such as tourism, travel, and hospitality.[20]

Accordingly, to assess whether a program or service is included in this category of eligible uses, a recipient should consider whether and how the use would respond to the COVID–19 public health emergency. Assessing whether a program or service "responds to" the COVID–19 public health emergency requires the recipient to, first, identify a need or negative impact of the COVID–19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact. While the COVID–19 public health emergency affected many aspects of American life, eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID–19 public health emergency.

[20] Sections 602(c)(1)(A), 603(c)(1)(A) of the Act.

The interim final rule implements these provisions by identifying a non-exclusive list of programs or services that may be funded as responding to COVID–19 or the negative economic impacts of the COVID–19 public health emergency, along with considerations for evaluating other potential uses of the Fiscal Recovery Funds not explicitly listed. The interim final rule also provides flexibility for recipients to use payments from the Fiscal Recovery Funds for programs or services that are not identified on these non-exclusive lists but that fall under the terms of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID–19 public health emergency or its negative economic impacts. As an example, in determining whether a program or service responds to the negative economic impacts of the COVID–19 public health emergency, the interim final rule provides that payments from the Fiscal Recovery Funds should be designed to address an economic harm resulting from or exacerbated by the public health emergency. Recipients should assess the connection between the negative economic harm and the COVID–19 public health emergency, the nature and extent of that harm, and how the use of this funding would address such harm.

As discussed, the pandemic and the necessary actions taken to control the spread had a severe impact on households and small businesses, including in particular low-income workers and communities and people of color. While eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) provide flexibility to recipients to identify the most pressing local needs, Treasury encourages recipients to provide assistance to those households, businesses, and non-profits in communities most disproportionately impacted by the pandemic.

1. Responding to COVID–19

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) identified the first case of novel coronavirus in the United States.[21] By late March, the virus had spread to many States and the first wave was growing rapidly, centered in the northeast.[22] This wave brought acute

[21] Press Release, Centers for Disease Control and Prevention, First Travel-related Case of 2019 Novel Coronavirus Detected in United States (Jan. 21, 2020), *https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html.*

[22] Anne Schuchat et al., Public Health Response to the Initiation and Spread of Pandemic COVID–19 in the United States, February 24–April 21, 2021, MMWR Morb Mortal Wkly Rep 2021, 69(18):551–56 (May 8, 2021), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e2.htm.*

strain on health care and public health systems: Hospitals and emergency medical services struggled to manage a major influx of patients; response personnel faced shortages of personal protective equipment; testing for the virus was scarce; and congregate living facilities like nursing homes and prisons saw rapid spread. State, local, and Tribal governments mobilized to support the health care system, issue public health orders to mitigate virus spread, and communicate safety measures to the public. The United States has since faced at least two additional COVID–19 waves that brought many similar challenges: The second in the summer, centered in the south and southwest, and a wave throughout the fall and winter, in which the virus reached a point of uncontrolled spread across the country and over 3,000 people died per day.[23] By early May 2021, the United States has experienced over 32 million confirmed COVID–19 cases and over 575,000 deaths.[24]

Mitigating the impact of COVID–19, including taking actions to control its spread and support hospitals and health care workers caring for the sick, continues to require a major public health response from State, local and Tribal governments. New or heightened public health needs include COVID–19 testing, major expansions in contact tracing, support for individuals in isolation or quarantine, enforcement of public health orders, new public communication efforts, public health surveillance (*e.g.*, monitoring case trends and genomic sequencing for variants), enhancement to health care capacity through alternative care facilities, and enhancement of public health data systems to meet new demands or scaling needs. State, local, and Tribal governments have also supported major efforts to prevent COVID–19 spread through safety measures at key settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and in other public facilities. This has included implementing infection prevention measures or making ventilation improvements in congregate settings, health care settings, or other key locations.

Other response and adaptation costs include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID–19 mitigation tactics. In recent months, State, local, and Tribal governments across the country have mobilized to support the national vaccination campaign, resulting in over 250 million doses administered to date.[25]

The need for public health measures to respond to COVID–19 will continue in the months and potentially years to come. This includes the continuation of the vaccination campaign for the general public and, if vaccinations are approved for children in the future, eventually for youths. This also includes monitoring the spread of COVID–19 variants, understanding the impact of these variants (especially on vaccination efforts), developing approaches to respond to those variants, and monitoring global COVID–19 trends to understand continued risks to the United States. Finally, the long-term health impacts of COVID–19 will continue to require a public health response, including medical services for individuals with "long COVID," and research to understand how COVID–19 impacts future health needs and raises risks for the millions of Americans who have been infected.

Other areas of public health have also been negatively impacted by the COVID–19 pandemic. For example, in one survey in January 2021, over 40 percent of American adults reported symptoms of depression or anxiety, up from 11 percent in the first half of 2019.[26] The proportion of children's emergency department visits related to mental health has also risen noticeably.[27] Similarly, rates of substance misuse and overdose deaths have spiked: Preliminary data from the CDC show a nearly 30 percent increase in drug overdose mortality from September 2019 to September 2020.[28] Stay-at-home orders and other pandemic responses may have also reduced the ability of individuals affected by domestic violence to access services.[29] Finally, some preventative public health measures like childhood vaccinations have been deferred and potentially forgone.[30]

While the pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines.[31] The CDC has found that racial and ethnic minorities are at increased risk for infection, hospitalization, and death from COVID–19, with Hispanic or Latino and Native American or Alaska Native patients at highest risk.[32]

Similarly, low-income and socially vulnerable communities have seen the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000, as of May 2021.[33] Counties with high social vulnerability, as measured by factors such as poverty and educational attainment, have also fared more poorly than the national average, with 211 deaths per 100,000 as of May 2021.[34]

[23] Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID–19 Cases and Deaths in the US Reported to CDC, by State/Territory, *https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases* (last visited May 8, 2021).

[24] *Id.*

[25] Centers for Disease Control and Prevention, COVID Data Tracker: COVID–19 Vaccinations in the United States, *https://covid.cdc.gov/covid-data-tracker/#vaccinations* (last visited May 8, 2021).

[26] Panchal, *supra* note 4; Mark É. Czeisler et al., Mental Health, Substance Abuse, and Suicidal Ideation During COVID–19 Pandemic– United States, June 24–30 2020, Morb. Mortal. Wkly. Rep. 69(32):1049–57 (Aug. 14, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm*.

[27] Leeb, *supra* note 4.

[28] Centers for Disease Prevention and Control, National Center for Health Statistics, Provisional Drug Overdose Death Counts, *https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm* (last visited May 8, 2021).

[29] Megan L. Evans, et al., A Pandemic within a Pandemic—Intimate Partner Violence during Covid–19, N. Engl. J. Med. 383:2302–04 (Dec. 10, 2020), *available at https://www.nejm.org/doi/full/10.1056/NEJMp2024046*.

[30] Jeanne M. Santoli et al., Effects of the COVID–19 Pandemic on Routine Pediatric Vaccine Ordering and Administration—United States, Morb. Mortal. Wkly. Rep. 69(19):591–93 (May 8, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e2.htm;* Marisa Langdon-Embry et al., Notes from the Field: Rebound in Routine Childhood Vaccine Administration Following Decline During the COVID–19 Pandemic—New York City, March 1–June 27, 2020, Morb. Mortal. Wkly. Rep. 69(30):999–1001 (Jul. 31 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6930a3.htm*.

[31] Office of the White House, National Strategy for the COVID–19 Response and Pandemic Preparedness (Jan. 21, 2021), *https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf*.

[32] In a study of 13 states from October to December 2020, the CDC found that Hispanic or Latino and Native American or Alaska Native individuals were 1.7 times more likely to visit an emergency room for COVID–19 than White individuals, and Black individuals were 1.4 times more likely to do so than White individuals. *See* Romano, *supra* note 10.

[33] Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID–19 Cases and Deaths in the United States, by County-level Population Factors, *https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths* (last visited May 8, 2021).

[34] The CDC's Social Vulnerability Index includes fifteen variables measuring social vulnerability, including unemployment, poverty, education levels, single-parent households, disability status, non-English speaking households, crowded housing, and transportation access.

Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID–19 Cases

Continued

Over the last year, Native Americans have experienced more than one and a half times the rate of COVID–19 infections, more than triple the rate of hospitalizations, and more than double the death rate compared to White Americans.[35] Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID–19 mortality.[36]

In addition, individuals living in low-income communities may have had more limited ability to socially distance or to self-isolate when ill, resulting in faster spread of the virus, and were over-represented among essential workers, who faced greater risk of exposure.[37] Social distancing measures in response to the pandemic may have also exacerbated pre-existing public health challenges. For example, for children living in homes with lead paint, spending substantially more time at home raises the risk of developing elevated blood lead levels, while screenings for elevated blood lead levels declined during the pandemic.[38] The combination of these underlying social and health vulnerabilities may have contributed to more severe public health outcomes of the pandemic within these communities, resulting in an exacerbation of pre-existing disparities in health outcomes.[39]

Eligible Public Health Uses. The Fiscal Recovery Funds provide resources to meet and address these emergent public health needs, including through measures to counter the spread of COVID–19, through the provision of care for those impacted by the virus, and through programs or services that address disparities in public health that have been exacerbated by the pandemic. To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding to respond to the COVID–19 public health emergency. Eligible uses listed under this section build and expand upon permissible expenditures under the CRF, while recognizing the differences between the ARPA and CARES Act, and recognizing that the response to the COVID–19 public health emergency has changed and will continue to change over time. To assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID–19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need.

The interim final rule identifies a non-exclusive list of uses that address the effects of the COVID–19 public health emergency, including:

- *COVID–19 Mitigation and Prevention.* A broad range of services and programming are needed to contain COVID–19. Mitigation and prevention efforts for COVID–19 include vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (*e.g.*, monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (*e.g.*, nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools;[40] ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses.[41] They also include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID–19 mitigation tactics. These COVID–19 prevention and mitigation programs and services, among others, were eligible expenditures under the CRF and are eligible uses under this category of eligible uses for the Fiscal Recovery Funds.[42]
- *Medical Expenses.* The COVID–19 public health emergency continues to have devastating effects on public health; the United States continues to average hundreds of deaths per day and the spread of new COVID–19 variants has raised new risks and genomic surveillance needs.[43] Moreover, our understanding of the potentially serious and long-term effects of the virus is growing, including the potential for symptoms like shortness of breath to continue for weeks or months, for multi-organ impacts from COVID–19, or for post-intensive care syndrome.[44] State and local governments may need to continue to provide care and services to address these near- and longer-term needs.[45]

and Deaths in the United States, by Social Vulnerability Index, *https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths* (last visited May 8, 2021).

[35] Centers for Disease Control and Prevention, Risk for COVID–19 Infection, Hospitalization, and Death By Race/Ethnicity, *https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html* (last visited Apr. 26, 2021).

[36] *See, e.g.*, Centers for Disease Control and Prevention, Risk of Severe Illness or Death from COVID–19 (Dec. 10, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-illness.html* (last visited Apr. 26, 2021).

[37] Milena Almagro et al., Racial Disparities in Frontline Workers and Housing Crowding During COVID–19: Evidence from Geolocation Data (Sept. 22, 2020), NYU Stern School of Business (forthcoming), *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695249;* Grace McCormack et al., Economic Vulnerability of Households with Essential Workers, JAMA 324(4):388–90 (2020), *available at https://jamanetwork.com/journals/jama/fullarticle/2767630.*

[38] *See, e.g.*, Joseph G. Courtney et al., Decreases in Young Children Who Received Blood Lead Level Testing During COVID–19—34 Jurisdictions, January–May 2020, Morb. Mort. Wkly. Rep. 70(5):155–61 (Feb. 5, 2021), *https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a2.htm;* Emily A. Benfer & Lindsay F. Wiley, Health Justice Strategies to Combat COVID–19: Protecting Vulnerable Communities During a Pandemic, Health Affairs Blog (Mar. 19, 2020), *https://www.healthaffairs.org/do/10.1377/hblog20200319.757883/full/.*

[39] *See, e.g.*, Centers for Disease Control and Prevention, *supra* note 34; Benfer & Wiley, *supra* note 38; Nathaniel M. Lewis et al., Disparities in COVID–19 Incidence, Hospitalizations, and Testing, by Area-Level Deprivation—Utah, March 3–July 9, 2020, Morb. Mortal. Wkly. Rep. 69(38):1369–73 (Sept. 25, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6938a4.htm.*

[40] This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Operational Strategy for K–12 Schools through Phased Prevention, *available at https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html.*

[41] Many of these expenses were also eligible in the CRF. Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID–19 will continue to be eligible under the ARPA, including those not explicitly listed here (*e.g.*, telemedicine costs, costs to facilitate compliance with public health orders, disinfection of public areas, facilitating distance learning, increased solid waste disposal needs related to PPE, paid sick and paid family and medical leave to public employees to enable compliance with COVID–19 public health precautions), with the following two exceptions: (1) The standard for eligibility of public health and safety payrolls has been updated (see section II.A of this **SUPPLEMENTARY INFORMATION**) and (2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see discussion of debt service in section II.B of this **SUPPLEMENTARY INFORMATION**).

[42] Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR 4182 (Jan. 15, 2021), *available at https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf.*

[43] Centers for Disease Control and Prevention, *supra* note 24.

[44] Centers for Disease Control and Prevention, Long-Term Effects (Apr. 8, 2021), *https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects.html* (last visited Apr. 26, 2021).

[45] Pursuant to 42 CFR 433.51 and 45 CFR 75.306, Fiscal Recovery Funds may not serve as a State or locality's contribution of certain Federal funds.

• *Behavioral Health Care.* In addition, new or enhanced State, local, and Tribal government services may be needed to meet behavioral health needs exacerbated by the pandemic and respond to other public health impacts. These services include mental health treatment, substance misuse treatment, other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

• *Public Health and Safety Staff.* Treasury recognizes that responding to the public health and negative economic impacts of the pandemic, including administering the services described above, requires a substantial commitment of State, local, and Tribal government human resources. As a result, the Fiscal Recovery Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID–19 public health emergency.[46] Accordingly, the Fiscal Recovery Funds may be used to support the payroll and covered benefits for the portion of the employee's time that is dedicated to responding to the COVID–19 public health emergency. For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID–19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID–19 public health emergency. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID–19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on the COVID–19 response. Recipients need not routinely track staff hours.

• *Expenses to Improve the Design and Execution of Health and Public Health Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to engage in planning and analysis in order to improve programs addressing the COVID–19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Eligible Uses to Address Disparities in Public Health Outcomes. In addition, in recognition of the disproportionate impacts of the COVID–19 pandemic on health outcomes in low-income and Native American communities and the importance of mitigating these effects, the interim final rule identifies a broader range of services and programs that will be presumed to be responding to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a Qualified Census Tract (QCT),[47] to families living in QCTs, or when these services are provided by Tribal governments.[48] Recipients may also provide these services to other populations, households, or geographic areas that are disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served.

Given the exacerbation of health disparities during the pandemic and the role of pre-existing social vulnerabilities in driving these disparate outcomes, services to address health disparities are presumed to be responsive to the public health impacts of the pandemic. Specifically, recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resources and public assistance programs and build healthier environments, such as:

• Funding community health workers to help community members access health services and services to address the social determinants of health;[49]

• Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services;

• Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness;

• Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children; and

• Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic.[50]

2. Responding to Negative Economic Impacts

Impacts on Households and Individuals. The public health emergency, including the necessary measures taken to protect public health, resulted in significant economic and financial hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote

[46] In general, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

[47] Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents. Using an existing measure may speed implementation and decrease administrative burden, while identifying areas of need at a highly-localized level.

While QCTs are an effective tool generally, many tribal communities have households with a wide range of income levels due in part to non-tribal member, high income residents living in the community. Mixed income communities, with a significant share of tribal members at the lowest levels of income, are often not included as eligible QCTs yet tribal residents are experiencing disproportionate impacts due to the pandemic. Therefore, including all services provided by Tribal governments is a more effective means of ensuring that disproportionately impacted Tribal members can receive services.

[48] U.S. Department of Housing and Urban Development (HUD), Qualified Census Tracts and Difficult Development Areas, *https://www.huduser.gov/portal/datasets/qct.html* (last visited Apr. 26, 2021); U.S. Department of the Interior, Bureau of Indian Affairs, Indian Lands of Federally Recognized Tribes of the United States (June 2016), *https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/webteam/pdf/idc1-028635.pdf* (last visited Apr. 26, 2021).

[49] The social determinants of health are the social and environmental conditions that affect health outcomes, specifically economic stability, health care access, social context, neighborhoods and built environment, and education access. *See, e.g.,* U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, Healthy People 2030: Social Determinants of Health, *https://health.gov/healthypeople/objectives-and-data/social-determinants-health* (last visited Apr. 26, 2021).

[50] National Commission on COVID–19 and Criminal Justice, Impact Report: COVID–19 and Crime (Jan. 31, 2021), *https://covid19.councilonci.org/2021/01/31/impact-report-covid-19-and-crime-3/* (showing a spike in homicide and assaults); Brad Boesrup et al., Alarming Trends in US domestic violence during the COVID–19 pandemic, Am. J. of Emerg. Med. 38(12): 2753–55 (Dec. 1, 2020), *available at https://www.ajemjournal.com/article/S0735-6757(20)30307-7/fulltext* (showing a spike in domestic violence).

education, and travel declined precipitously, over 20 million jobs were lost in March and April 2020.[51] Although many have returned to work, as of April 2021, the economy remains 8.2 million jobs below its pre-pandemic peak,[52] and more than 3 million workers have dropped out of the labor market altogether relative to February 2020.[53]

Rates of unemployment are particularly severe among workers of color and workers with lower levels of educational attainment; for example, the overall unemployment rate in the United States was 6.1 percent in April 2021, but certain groups saw much higher rates: 9.7 percent for Black workers, 7.9 percent for Hispanic or Latino workers, and 9.3 percent for workers without a high school diploma.[54] Job losses have also been particularly steep among low wage workers, with these workers remaining furthest from recovery as of the end of 2020.[55] A severe recession—and its concentrated impact among low-income workers—has amplified food and housing insecurity, with an estimated nearly 17 million adults living in households where there is sometimes or often not enough food to eat and an estimated 10.7 million adults living in households that were not current on rent.[56] Over the course of the pandemic, inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without child care during the day.[57] Women of color have been hit especially hard: The labor force participation rate for Black women has fallen by 3.2 percentage points [58] during the pandemic as compared to 1.0 percentage points for Black men [59] and 2.0 percentage points for White women.[60]

As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential. For example, unemployed workers, especially those who have experienced longer periods of unemployment, earn lower wages over the long term once rehired.[61] In addition to the labor market consequences for unemployed workers, recessions can also cause longer-term economic challenges through, among other factors, damaged consumer credit scores [62] and reduced familial and childhood wellbeing.[63] These potential long-term economic consequences underscore the continued need for robust policy support.

Impacts on Businesses. The pandemic has also severely impacted many businesses, with small businesses hit especially hard. Small businesses make up nearly half of U.S. private-sector employment [64] and play a key role in supporting the overall economic recovery as they are responsible for two-thirds of net new jobs.[65] Since the beginning of the pandemic, however, 400,000 small businesses have closed, with many more at risk.[66] Sectors with a large share of small business employment have been among those with the most drastic drops in employment.[67] The negative outlook for small businesses has continued: As of April 2021, approximately 70 percent of small businesses reported that the pandemic has had a moderate or large negative effect on their business, and over a third expect that it will take over 6 months for their business to return to their normal level of operations.[68]

This negative outlook is likely the result of many small businesses having faced periods of closure and having seen declining revenues as customers stayed home.[69] In general, small businesses can face greater hurdles in accessing credit,[70] and many small businesses were already financially fragile at the outset of the pandemic.[71] Non-profits, which provide vital services to communities, have similarly faced

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[51] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm (PAYEMS), retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/PAYEMS* (last visited May 8, 2021).

[52] *Id.*

[53] U.S. Bureau of Labor Statistics, Civilian Labor Force Level [CLF16OV], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CLF16OV* (last visited May 8, 2021).

[54] U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (May 8 2021), *https://www.bls.gov/news.release/empsit.t01.htm* (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age (May 8, 2021), *https://www.bls.gov/web/empsit/cpseea04.htm* (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population 25 years and over by educational attainment (May 8, 2021), *https://www.bls.gov/web/empsit/cpseea05.htm* (last visited May 8, 2021).

[55] Elise Gould & Jori Kandra, Wages grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), *https://files.epi.org/pdf/219418.pdf. See also,* Michael Dalton et al., The K-Shaped Recovery: Examining the Diverging Fortunes of Workers in the Recovery from the COVID–19 Pandemic using Business and Household Survey Microdata, U.S. Bureau of Labor Statistics Working Paper Series (Feb. 2021), *https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf.*

[56] Center on Budget and Policy Priorities, Tracking the COVID–19 Recession's Effects on Food, Housing, and Employment Hardships, *https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and* (last visited May 8, 2021).

[57] Women have carried a larger share of childcare responsibilities than men during the COVID–19 crisis. *See, e.g.,* Gema Zamarro & María J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID–19, Rev. Econ. Household 19:11–40 (2021), *available at https://link.springer.com/article/10.1007/s11150-020-09534-7;* Titan Alon et al., The Impact of COVID–19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), *available at https://www.nber.org/papers/w26947.*

[58] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Women [LNS11300032], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300032* (last visited May 8, 2021).

[59] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Men [LNS11300031], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300031* (last visited May 8, 2021).

[60] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, White Women [LNS11300029], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300029* (last visited May 8, 2021).

[61] *See, e.g.,* Michael Greenstone & Adam Looney, Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers, Brookings Institution (Nov. 4, 2021), *https://www.brookings.edu/blog/jobs/2011/11/04/unemployment-and-earnings-losses-a-look-at-long-term-impacts-of-the-great-recession-on-american-workers/.*

[62] Chi Chi Wu, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession (Dec. 2013), *https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.*

[63] Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., Children of the Great Recession, Russell Sage Foundation (Aug. 2016), *available at https://www.russellsage.org/publications/children-great-recession.*

[64] Board of Governors of the Federal Reserve System, *supra* note 5.

[65] U.S. Small Business Administration, Office of Advocacy, Small Businesses Generate 44 Percent of U.S. Economic Activity (Jan. 30, 2019), *https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/.*

[66] Biden, *supra* note 6.

[67] Daniel Wilmoth, U.S. Small Business Administration Office of Advocacy, The Effects of the COVID–19 Pandemic on Small Businesses, Issue Brief No. 16 (Mar. 2021), *available at https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf.*

[68] U.S. Census Bureau, Small Business Pulse Survey, *https://portal.census.gov/pulse/data/* (last visited May 8, 2021).

[69] Olivia S. Kim et al., Revenue Collapses and the Consumption of Small Business Owners in the Early Stages of the COVID–19 Pandemic (Nov. 2020), *https://www.nber.org/papers/w28151.*

[70] *See e.g.,* Board of Governors of the Federal Reserve System, Report to Congress on the Availability of Credit to Small Businesses (Sept. 2017), *available at https://www.federalreserve.gov/publications/2017-september-availability-of-credit-to-small-businesses.htm.*

[71] Alexander W. Bartik et al., The Impact of COVID–19 on small business outcomes and expectations, PNAS 117(30): 17656–66 (July 28, 2020), *available at https://www.pnas.org/content/117/30/17656.*

economic and financial challenges due to the pandemic.[72]

Impacts to State, Local, and Tribal Governments. State, local, and Tribal governments have felt substantial fiscal pressures. As noted above, State, local, and Tribal governments have faced significant revenue shortfalls and remain over 1 million jobs below their pre-pandemic staffing levels.[73] These reductions in staffing may undermine the ability to deliver services effectively, as well as add to the number of unemployed individuals in their jurisdictions.

Exacerbation of Pre-existing Disparities. The COVID–19 public health emergency may have lasting negative effects on economic outcomes, particularly in exacerbating disparities that existed prior to the pandemic.

The negative economic impacts of the COVID–19 pandemic are particularly pronounced in certain communities and families. Low- and moderate-income jobs make up a substantial portion of both total pandemic job losses,[74] and jobs that require in-person frontline work, which are exposed to greater risk of contracting COVID–19.[75] Both factors compound pre-existing vulnerabilities and the likelihood of food, housing, or other financial insecurity in low- and moderate-income families and, given the concentration of low- and moderate-income families within certain communities,[76] raise a substantial risk that the effects of the COVID–19 public health emergency will be amplified within these communities.

These compounding effect of recessions on concentrated poverty and the long-lasting nature of this effect were observed after the 2007–2009 recession, including a large increase in concentrated poverty with the number of people living in extremely poor neighborhoods more than doubling by 2010–2014 relative to 2000.[77] Concentrated poverty has a range of deleterious impacts, including additional burdens on families and reduced economic potential and social cohesion.[78] Given the disproportionate impact of COVID–19 on low-income households discussed above, there is a risk that the current pandemic-induced recession could further increase concentrated poverty and cause long-term damage to economic prospects in neighborhoods of concentrated poverty.

The negative economic impacts of COVID–19 also include significant impacts to children in disproportionately affected families and include impacts to education, health, and welfare, all of which contribute to long-term economic outcomes.[79] Many low-income and minority students, who were disproportionately served by remote or hybrid education during the pandemic, lacked the resources to participate fully in remote schooling or live in households without adults available throughout the day to assist with online coursework.[80] Given these trends, the pandemic may widen educational disparities and worsen outcomes for low-income students,[81] an effect that would substantially impact their long-term economic outcomes. Increased economic strain or material hardship due to the pandemic could also have a long-term impact on health, educational, and economic outcomes of young children.[82] Evidence suggests that adverse conditions in early childhood, including exposure to poverty, food insecurity, housing insecurity, or other economic hardships, are particularly impactful.[83]

The pandemic's disproportionate economic impacts are also seen in Tribal communities across the country—for Tribal governments as well as families and businesses on and off Tribal lands. In the early months of the pandemic, Native American unemployment spiked to 26 percent and, while partially recovered, remains at nearly 11 percent.[84] Tribal enterprises are a significant source of revenue for Tribal governments to support the provision of government services. These enterprises, notably concentrated in gaming, tourism, and hospitality, frequently closed, significantly reducing both revenues to Tribal governments and employment. As a result, Tribal governments have reduced essential services to their citizens and communities.[85]

Eligible Uses. Sections 602(c)(1)(A) and 603(c)(1)(A) permit use of payments from the Fiscal Recovery Funds to respond to the negative economic impacts of the COVID–19 public health emergency. Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be

[72] Federal Reserve Bank of San Francisco, Impacts of COVID–19 on Nonprofits in the Western United States (May 2020), *https://www.frbsf.org/community-development/files/impact-of-covid-nonprofits-serving-western-united-states.pdf.*

[73] Bureau of Labor Statistics, *supra* note 8; Elijah Moreno & Heather Sobrepena, Tribal entities remain resilient as COVID–19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2021), *https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances.*

[74] Kim Parker et al., Economic Fallout from COVID–19 Continues to Hit Lower-Income Americans the Hardest, Pew Research Center (Sept. 24, 2020), *https://www.pewresearch.org/social-trends/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/;* Gould, *supra* note 55.

[75] *See infra* Section II.B of this Supplementary Information.

[76] Elizabeth Kneebone, The Changing geography of US poverty, Brookings Institution (Feb. 15, 2017), *https://www.brookings.edu/testimonies/the-changing-geography-of-us-poverty/.*

[77] Elizabeth Kneebone & Natalie Holmes, U.S. concentrated poverty in the wake of the Great Recession, Brookings Institution (Mar. 31, 2016), *https://www.brookings.edu/research/u-s-concentrated-poverty-in-the-wake-of-the-great-recession/.*

[78] David Erickson et al., The Enduring Challenge of Concentrated Poverty in America: Case Studies from Communities Across the U.S. (2008), *available at https://www.frbsf.org/community-development/files/cp_fullreport.pdf.*

[79] Educational quality, as early as Kindergarten, has a long-term impact on children's public health and economic outcomes. *See, e.g.,* Tyler W. Watts et al., The Chicago School Readiness Project: Examining the long-term impacts of an early childhood intervention, PLoS ONE 13(7) (2018), *available at https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0200144;* Opportunity Insights, How Can We Amplify Education as an Engine of Mobility? Using big data to help children get the most from school, *https://opportunityinsights.org/education/* (last visited Apr. 26, 2021); U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Early Childhood Development and Education, *https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/early-childhood-development-and-education* (last visited Apr. 26, 2021).

[80] *See, e.g.,* Bacher-Hicks, *supra* note 14.

[81] A Department of Education survey found that, as of February 2021, 42 percent of fourth grade students nationwide were offered only remote education, compared to 48 percent of economically disadvantaged students, 54 percent of Black students and 57 percent of Hispanic students. Large districts often disproportionately serve low-income students. *See* Institute of Education Sciences, Monthly School Survey Dashboard, *https://ies.ed.gov/schoolsurvey/* (last visited Apr. 26, 2021). In summer 2020, a review found that 74 percent of the largest 100 districts chose remote learning only. *See* Education Week, School Districts' Reopening Plans: A Snapshot (Jul. 15, 2020), *https://www.edweek.org/leadership/school-districts-reopening-plans-a-snapshot/2020/07* (last visited May 4, 2021).

[82] HHS, *supra* note 79.

[83] Hirokazu Yoshikawa, Effects of the Global Coronavirus Disease—2019 Pandemic on Early Childhood Development: Short- and Long-Term Risks and Mitigating Program and Policy Actions, J. of Pediatrics Vol. 223:188–93 (Aug. 1, 2020), *available at https://www.jpeds.com/article/S0022-3476(20)30606-5/abstract.*

[84] Based on calculations conducted by the Minneapolis Fed's Center for Indian Country Development using Flood et al. (2020)'s Current Population Survey." Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 8.0 [dataset]. Minneapolis, MN: IPUMS, 2020. *https://doi.org/10.18128/D030.V8.0; see also* Donna Feir & Charles Golding, Native Employment During COVID–19: Hard hit in April but Starting to Rebound? (Aug. 5, 2020), *https://www.minneapolisfed.org/article/2020/native-employment-during-covid-19-hit-hard-in-april-but-starting-to-rebound.*

[85] Moreno & Sobrepena, *supra* note 73.

eligible under this category, the recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID–19 public health emergency and whether, and the extent to which, the use would respond or address this harm.[86] A recipient should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID–19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.

In addition, the eligible use must "respond to" the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Where there has been a negative economic impact resulting from the public health emergency, States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact. Sections 602(c)(1)(A) and 603(c)(1)(A) describe several types of uses that would be eligible under this category, including assistance to households, small businesses, and nonprofits and aid to impacted industries such as tourism, travel, and hospitality.

To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding that respond to the negative economic impacts of the public health emergency. Consistent with the discussion above, the eligible uses listed below would respond directly to the economic or financial harms resulting from and or exacerbated by the public health emergency.

- *Assistance to Unemployed Workers.* This includes assistance to unemployed workers, including services like job training to accelerate rehiring of unemployed workers; these services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began and remain so due to the negative economic impacts of the pandemic.
- *State Unemployment Insurance Trust Funds.* Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021, given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic. States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic's negative economic impacts on unemployed workers.
- *Assistance to Households.* Assistance to households or populations facing negative economic impacts due to COVID–19 is also an eligible use. This includes: Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance (discussed below); emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic. For example, a cash transfer program may focus on unemployed workers or low- and moderate-income families, which have faced disproportionate economic harms due to the pandemic. Cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID–19 public health emergency or its negative impacts. In particular, when considering the appropriate size of permissible cash transfers made in response to the COVID–19 public health emergency, State, local and Tribal governments may consider and take guidance from the per person amounts previously provided by the Federal Government in response to the COVID–19 crisis. Cash transfers that are grossly in excess of such amounts would be outside the scope of eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) and could be subject to recoupment. In addition, a recipient could provide survivor's benefits to surviving family members of COVID–19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID–19 victims.
- *Expenses to Improve Efficacy of Economic Relief Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.
- *Small Businesses and Non-profits.* As discussed above, small businesses and non-profits faced significant challenges in covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID–19 public health emergency, including:
  - Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
  - Loans, grants, or in-kind assistance to implement COVID–19 prevention or mitigation tactics, such as physical

[86] In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section (c)(1)(A) of the Act.

plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID–19 vaccination, testing, or contact tracing programs; and

○ Technical assistance, counseling, or other services to assist with business planning needs.

As discussed above, these services should respond to the negative economic impacts of COVID–19. Recipients may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (*e.g.*, comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. Recipients should consider local economic conditions and business data when establishing such criteria.[87]

• *Rehiring State, Local, and Tribal Government Staff.* State, local, and Tribal governments continue to see pandemic impacts in overall staffing levels: State, local, and Tribal government employment remains more than 1 million jobs lower in April 2021 than prior to the pandemic.[88] Employment losses decrease a state or local government's ability to effectively administer services. Thus, the interim final rule includes as an eligible use payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government.

• *Aid to Impacted Industries.* Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that certain industries, such as tourism, travel, and hospitality, were disproportionately and negatively impacted by the COVID–19 public health emergency. Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic on those and similarly impacted industries. For example, aid may include assistance to implement COVID–19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services, for example, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.

Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, business districts, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID–19 public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic.

When considering providing aid to industries other than tourism, travel, and hospitality, recipients should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, on net, the leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide due to the COVID–19 public health emergency.[89] Recipients should also consider whether impacts were due to the COVID–19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

To facilitate transparency and accountability, the interim final rule requires that State, local, and Tribal governments publicly report assistance provided to private-sector businesses under this eligible use, including tourism, travel, hospitality, and other impacted industries, and its connection to negative economic impacts of the pandemic. Recipients also should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

As discussed above, economic disparities that existed prior to the COVID–19 public health emergency amplified the impact of the pandemic among low-income and minority groups. These families were more likely to face housing, food, and financial insecurity; are over-represented among low-wage workers; and many have seen their livelihoods deteriorate further during the pandemic and economic contraction. In recognition of the disproportionate negative economic impacts on certain communities and populations, the interim final rule identifies services and programs that will be presumed to be responding to the negative economic impacts of the COVID–19 public health emergency when provided in these communities.

Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments.[90] Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. The interim final rule identifies a non-exclusive list of uses that address the disproportionate negative economic effects of the COVID–19 public health emergency, including:

○ *Building Stronger Communities through Investments in Housing and Neighborhoods.* The economic impacts of COVID–19 have likely been most acute in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity.[91]

[87] *See* Federal Reserve Bank of Cleveland, An Uphill Battle: COVID–19's Outsized Toll on Minority-Owned Firms (Oct. 8, 2020), *https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-20201008-misera-report.aspx* (discussing the impact of COVID–19 on minority owned businesses).

[88] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited May 8, 2021).

[89] From February 2020 to April 2021, employment in "Leisure and hospitality" has fallen by approximately 17 percent. *See* U.S. Bureau of Labor Statistics, All Employees, Leisure and Hospitality, retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/USLAH* (last visited May 8, 2021). From 2019Q4 to 2020Q4, gross output (*e.g.* revenue) in arts, entertainment, recreation, accommodation, and food services has fallen by approximately 24 percent. *See* Bureau of Economic Analysis, News Release: Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, Fourth Quarter and Year 2020 (Mar. 25, 2021), Table 17, *https://www.bea.gov/sites/default/files/2021-03/gdp4q20_3rd.pdf.*

[90] HUD, *supra* note 48.

[91] Stuart M. Butler & Jonathan Grabinsky, Tackling the legacy of persistent urban inequality and concentrated poverty, Brookings Institution (Nov. 16, 2020), *https://www.brookings.edu/blog/up-front/2020/11/16/tackling-the-legacy-of-*

Continued

Services in this category alleviate the immediate economic impacts of the COVID–19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing.[92] Eligible services include:

- Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
- Affordable housing development to increase supply of affordable and high-quality living units; and
- Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents, to help residents increase their economic opportunity and reduce concentrated areas of low economic opportunity.[93]

○ *Addressing Educational Disparities.* As outlined above, school closures and the transition to remote education raised particular challenges for lower-income students, potentially exacerbating educational disparities, while increases in economic hardship among families could have long-lasting impacts on children's educational and economic prospects. Services under this prong would enhance educational supports to help mitigate impacts of the pandemic. Eligible services include:

- New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services;
- Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;
- Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other extended learning and enrichment programs; and
- Evidence-based practices to address the social, emotional, and mental health needs of students;

○ *Promoting Healthy Childhood Environments.* Children's economic and family circumstances have a long-term impact on their future economic outcomes.[94] Increases in economic hardship, material insecurity, and parental stress and behavioral health challenges all raise the risk of long-term harms to today's children due to the pandemic. Eligible services to address this challenge include:

- New or expanded high-quality childcare to provide safe and supportive care for children;
- Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development; and
- Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

State, local, and Tribal governments are encouraged to use payments from the Fiscal Recovery Funds to respond to the direct and immediate needs of the pandemic and its negative economic impacts and, in particular, the needs of households and businesses that were disproportionately and negatively impacted by the public health emergency. As highlighted above, low-income communities and workers and people of color have faced more severe health and economic outcomes during the pandemic, with pre-existing social vulnerabilities like low-wage or insecure employment, concentrated neighborhoods with less economic opportunity, and pre-existing health disparities likely contributing to the magnified impact of the pandemic. The Fiscal Recovery Funds provide resources to not only respond to the immediate harms of the pandemic but also to mitigate its longer-term impact in compounding the systemic public health and economic challenges of disproportionately impacted populations. Treasury encourages recipients to consider funding uses that foster a strong, inclusive, and equitable recovery, especially uses with long-term benefits for health and economic outcomes.

Uses Outside the Scope of this Category. Certain uses would not be within the scope of this eligible use category, although may be eligible under other eligible use categories. A general infrastructure project, for example, typically would not be included unless the project responded to a specific pandemic public health need (*e.g.*, investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (*e.g.*, affordable housing in a QCT). The ARPA explicitly includes infrastructure if it is "necessary" and in water, sewer, or broadband. *See* Section II.D of this **SUPPLEMENTARY INFORMATION.** State, local, and Tribal governments also may use the Fiscal Recovery Funds under sections 602(c)(1)(C) or 603(c)(1)(C) to provide "government services" broadly to the extent of their reduction in revenue. *See* Section II.C of this **SUPPLEMENTARY INFORMATION.**

This category of eligible uses also would not include contributions to rainy day funds, financial reserves, or similar funds. Resources made available under this eligible use category are intended to help meet pandemic response needs and provide relief for households and businesses facing near- and long-term negative economic impacts. Contributions to rainy day funds and similar financial reserves would not address these needs or respond to the COVID–19 public health emergency but would rather constitute savings for future spending needs. Similarly, this eligible use category would not include payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs. As discussed below, payments from the Fiscal Recovery Funds are intended to be used prospectively and the interim final rule precludes use of these funds to cover the costs of debt incurred prior to March 3, 2021. Fees or issuance costs associated with the issuance of new debt would also not be covered using payments from the Fiscal Recovery Funds because such costs would not themselves have been incurred to address the needs of pandemic response or its negative economic impacts. The purpose of the Fiscal Recovery Funds is to provide fiscal relief that will permit State, local, and Tribal governments to continue to respond to the COVID–19 public health emergency.

For the same reasons, this category of eligible uses would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring

persistent-urban-inequality-and-concentrated-poverty/.

[92] U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Quality of Housing, *https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing#11* (last visited Apr. 26, 2021).

[93] The Opportunity Atlas, *https://www.opportunityatlas.org/* (last visited Apr. 26, 2021); Raj Chetty & Nathaniel Hendren, The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects, Quarterly J. of Econ. 133(3):1107–162 (2018), *available at https://opportunityinsights.org/paper/neighborhoodsi/.*

[94] *See* supra notes 52 and 84.

plan in a judicial, administrative, or regulatory proceeding, except to the extent the judgment or settlement requires the provision of services that would respond to the COVID–19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID–19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to these needs, as described above.

In addition, as described in Section V.III of this **SUPPLEMENTARY INFORMATION**, Treasury will establish reporting and record keeping requirements for uses within this category, including enhanced reporting requirements for certain types of uses.

Question 1: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the public health impacts of COVID–19? Describe how these respond to the COVID–19 public health emergency.

Question 2: The interim final rule permits coverage of payroll and benefits costs of public health and safety staff primarily dedicated to COVID–19 response, as well as rehiring of public sector staff up to pre-pandemic levels. For how long should these measures remain in place? What other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID–19 response, and therefore reimbursable, in an easily-administrable manner?

Question 3: The interim final rule permits rehiring of public sector staff up to the government's pre-pandemic staffing level, which is measured based on employment as of January 27, 2020. Does this approach adequately measure the pre-pandemic staffing level in a manner that is both accurate and easily administrable? Why or why not?

Question 4: The interim final rule permits deposits to Unemployment Insurance Trust Funds, or using funds to pay back advances, up to the pre-pandemic balance. What, if any, conditions should be considered to ensure that funds repair economic impacts of the pandemic and strengthen unemployment insurance systems?

Question 5: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the negative economic impacts of COVID–19? Describe how these respond to the COVID–19 public health emergency.

Question 6: What other measures, presumptions, or considerations could be used to assess "impacted industries" affected by the COVID–19 public health emergency?

Question 7: What are the advantages and disadvantages of using Qualified Census Tracts and services provided by Tribal governments to delineate where a broader range of eligible uses are presumed to be responsive to the public health and economic impacts of COVID–19? What other measures might Treasury consider? Are there other populations or geographic areas that were disproportionately impacted by the pandemic that should be explicitly included?

Question 8: Are there other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID–19 on low-income populations and communities? Describe how these respond to the COVID–19 public health emergency or its negative economic impacts, including its exacerbation of pre-existing challenges in these areas.

Question 9: The interim final rule includes eligible uses to support affordable housing and stronger neighborhoods in disproportionately-impacted communities. Discuss the advantages and disadvantages of explicitly including other uses to support affordable housing and stronger neighborhoods, including rehabilitation of blighted properties or demolition of abandoned or vacant properties. In what ways does, or does not, this potential use address public health or economic impacts of the pandemic? What considerations, if any, could support use of Fiscal Recovery Funds in ways that do not result in resident displacement or loss of affordable housing units?

B. Premium Pay

Fiscal Recovery Funds payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID–19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work.[95] These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.

Since the start of the COVID–19 public health emergency in January 2020, essential workers have put their physical wellbeing at risk to meet the daily needs of their communities and to provide care for others. In the course of this work, many essential workers have contracted or died of COVID–19.[96] Several examples reflect the severity of the health impacts for essential workers. Meat processing plants became "hotspots" for transmission, with 700 new cases reported at a single plant on a single day in May 2020.[97] In New York City, 120 employees of the Metropolitan Transit Authority were estimated to have died due to COVID–19 by mid-May 2020, with nearly 4,000 testing positive for the virus.[98] Furthermore, many essential workers are people of color or low-wage workers.[99] These workers, in particular, have borne a disproportionate share of the health and economic impacts of the pandemic. Such workers include:

- Staff at nursing homes, hospitals, and home care settings;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitation workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;
- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

During the public health emergency, employers' policies on COVID–19-related hazard pay have varied widely, with many essential workers not yet compensated for the heightened risks they have faced and continue to face.[100]

[95] Sections 602(c)(1)(B), 603(c)(1)(B) of the Act.

[96] *See, e.g.*, Centers for Disease Control and Prevention, COVID Data Tracker: Cases & Death among Healthcare Personnel, *https://covid.cdc.gov/covid-data-tracker/#health-care-personnel* (last visited May 4, 2021); Centers for Disease Control and Prevention, COVID Data Tracker: Confirmed COVID–19 Cases and Deaths among Staff and Rate per 1,000 Resident-Weeks in Nursing Homes, by Week—United States, *https://covid.cdc.gov/covid-data-tracker/#nursing-home-staff* (last visited May 4, 2021).

[97] *See, e.g.*, The Lancet, The plight of essential workers during the COVID–19 pandemic, Vol. 395, Issue 10237:1587 (May 23, 2020), *available at https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2820%2931200-9/fulltext.*

[98] *Id.*

[99] Joanna Gaitens et al., Covid–19 and essential workers: A narrative review of health outcomes and moral injury, Int'l J. of Envtl. Research and Pub. Health 18(4):1446 (Feb. 4, 2021), *available at https://pubmed.ncbi.nlm.nih.gov/33557075/;* Tiana N. Rogers et al., Racial Disparities in COVID–19 Mortality Among Essential Workers in the United States, World Med. & Health policy 12(3):311–27 (Aug. 5, 2020), *available at https://onlinelibrary.wiley.com/doi/full/10.1002/wmh3.358* (finding that vulnerability to coronavirus exposure was increased among non-Hispanic blacks, who disproportionately occupied the top nine essential occupations).

[100] Economic Policy Institute, Only 30% of those working outside their home are receiving hazard pay (June 16, 2020), *https://www.epi.org/press/only-30-of-those-working-outside-their-home-are-receiving-hazard-pay-black-and-hispanic-workers-are-most-concerned-about-bringing-the-coronavirus-home/.*

Many of these workers earn lower wages on average and live in socioeconomically vulnerable communities as compared to the general population.[101] A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.[102] The low pay of many essential workers makes them less able to cope with the financial consequences of the pandemic or their work-related health risks, including working hours lost due to sickness or disruptions to childcare and other daily routines, or the likelihood of COVID–19 spread in their households or communities. Thus, the threats and costs involved with maintaining the ongoing operation of vital facilities and services have been, and continue to be, borne by those that are often the most vulnerable to the pandemic. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities.

The Fiscal Recovery Funds will help respond to the needs of essential workers by allowing recipients to remunerate essential workers for the elevated health risks they have faced and continue to face during the public health emergency. To ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work, the interim final rule defines essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence.

Sections 602(g)(2) and 603(g)(2) define eligible worker to mean "those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State or territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government." [103] The rule incorporates this definition and provides a list of industries recognized as essential critical infrastructure sectors.[104] These sectors include healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services, among others as noted above. As provided under sections 602(g)(2) and 603(g)(2), the chief executive of each recipient has discretion to add additional sectors to this list, so long as additional sectors are deemed critical to protect the health and well-being of residents.

In providing premium pay to essential workers or grants to eligible employers, a recipient must consider whether the pay or grant would "respond to" to the worker or workers performing essential work. Premium pay or grants provided under this section respond to workers performing essential work if it addresses the heightened risk to workers who must be physically present at a jobsite and, for many of whom, the costs associated with illness were hardest to bear financially. Many of the workers performing critical essential services are low- or moderate-income workers, such as those described above. The ARPA recognizes this by defining premium pay to mean an amount up to $13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed $25,000 per eligible worker. To ensure the provision is implemented in a manner that compensates these workers, the interim final rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work.

As such, providing premium pay to eligible workers responds to such workers by helping address the disparity between the critical services and risks taken by essential workers and the relatively low compensation they tend to receive in exchange. If premium pay would increase a worker's total pay above 150 percent of their residing state's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, or their residing county's average annual wage, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the State, local, or Tribal government must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a written justification of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency.[105]

The threshold of 150 percent for requiring additional written justification is based on an analysis of the distribution of labor income for a sample of 20 occupations that generally correspond to the essential workers as defined in the interim final rule.[106] For these occupations, labor income for the vast majority of workers was under 150 percent of average annual labor income across all occupations. Treasury anticipates that the threshold of 150 percent of the annual average wage will be greater than the annual average wage of the vast majority of eligible workers performing essential work. These enhanced reporting requirements help to ensure grants are directed to essential workers in critical infrastructure sectors and responsive to the impacts of the pandemic observed among essential workers, namely the mis-alignment between health risks and compensation. Enhanced reporting also provides transparency to the public. Finally, using a localized measure reflects differences in wages and cost of living across the country, making this standard administrable and reflective of essential worker incomes across a diverse range of geographic areas.

Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID–19, it must be entirely additive to a worker's regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker's normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID–19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.[107] Treasury encourages recipients to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many

[101] McCormack, *supra* note 37.

[102] *Id.*

[103] Sections 602(g)(2), 603(g)(2) of the Act.

[104] The list of critical infrastructure sectors provided in the interim final rule is based on the list of essential workers under The Heroes Act, H.R. 6800, 116th Cong. (2020).

[105] County median annual wage is taken to be that of the metropolitan or nonmetropolitan area that includes the county. *See* U.S. Bureau of Labor Statistics, State Occupational Employment and Wage Estimates, *https://www.bls.gov/oes/current/oessrcst.htm* (last visited May 1, 2021); U.S. Bureau of Labor Statistics, May 2020 Metropolitan and Nonmetropolitan Area Estimates listed by county or town, *https://www.bls.gov/oes/current/county_links.htm* (last visited May 1, 2021).

[106] Treasury performed this analysis with data from the U.S. Census Bureau's 2019 Annual Social and Economic Supplement. In determining which occupations to include in this analysis, Treasury excluded management and supervisory positions, as such positions may not necessarily involve regular in-person interactions or physical handling of items to the same extent as non-managerial positions.

[107] However, such compensation must be "in addition to" remuneration or wages already received. That is, employers may not reduce such workers' current pay and use Fiscal Recovery Funds to compensate themselves for premium pay previously provided to the worker.

months. Essential workers who have already earned premium pay for essential work performed during the COVID–19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. *See* Section VIII of this **SUPPLEMENTARY INFORMATION**, discussing reporting requirements. In responding to the needs of essential workers, a grant to an employer may provide premium pay to eligible workers performing essential work, as these terms are defined in the interim final rule and discussed above. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.

Question 10: Are there additional sectors beyond those listed in the interim final rule that should be considered essential critical infrastructure sectors?

Question 11: What, if any, additional criteria should Treasury consider to ensure that premium pay responds to essential workers?

Question 12: What consideration, if any, should be given to the criteria on salary threshold, including measure and level, for requiring written justification?

C. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID–19 public health emergency.[108] Pursuant to sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.

Many State, local, and Tribal governments are experiencing significant budget shortfalls, which can have a devastating impact on communities. State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same period 2019.[109] At the local level, nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in general fund revenues in their fiscal year 2021.[110] Similarly, surveys of Tribal governments and Tribal enterprises found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in healthcare, housing, social services, and economic development activities as a result of reduced revenues.[111] These budget shortfalls are particularly problematic in the current environment, as State, local, and Tribal governments work to mitigate and contain the COVID–19 pandemic and help citizens weather the economic downturn.

Further, State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007–2009 recession, State and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.[112] Inflation-adjusted State and local government revenue did not return to the previous peak until 2013,[113] while State, local, and Tribal government employment did not recover to its prior peak for over a decade, until August 2019—just a few months before the COVID–19 public health emergency began.[114]

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act allow recipients facing budget shortfalls to use payments from the Fiscal Recovery Funds to avoid cuts to government services and, thus, enable State, local, and Tribal governments to continue to provide valuable services and ensure that fiscal austerity measures do not hamper the broader economic recovery. The interim final rule implements these provisions by establishing a definition of "general revenue" for purposes of calculating a loss in revenue and by providing a methodology for calculating revenue lost due to the COVID–19 public health emergency.

General Revenue. The interim final rule adopts a definition of "general revenue" based largely on the components reported under "General Revenue from Own Sources" in the Census Bureau's Annual Survey of State and Local Government Finances, and for purposes of this interim final rule, helps to ensure that the components of general revenue would be calculated in a consistent manner.[115] By relying on a methodology that is both familiar and comprehensive, this approach minimizes burden to recipients and provides consistency in the measurement of general revenue across a diverse set of recipients.

The interim final rule defines the term "general revenue" to include revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.[116] In calculating revenue, recipients should sum across all revenue streams covered as general revenue. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the overall impact of

[108] ARPA, *supra* note 16.

[109] Major sources include personal income tax, corporate income tax, sales tax, and property tax. *See* Lucy Dadayan., States Reported Revenue Growth in July–September Quarter, Reflecting Revenue Shifts from the Prior Quarter, State Tax and Econ. Rev. (Q. 3, 2020), *available at https://www.urban.org/sites/default/files/publication/103938/state-tax-and-economic-review-2020-q3_0.pdf.*

[110] National League of Cities, City Fiscal Conditions (2020), *available at https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal_Conditions_2020_FINAL.pdf.*

[111] Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. *See* Moreno & Sobrepena, *supra* note 73.

[112] *See, e.g.*, Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), *https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html;* Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf;* Gordon, *supra* note 9.

[113] State and local government general revenue from own sources, adjusted for inflation using the GDP price index. U.S. Census Bureau, Annual Survey of State Government Finances and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

[114] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited Apr. 27, 2021).

[115] U.S. Census Bureau, Annual Survey of State and Local Government Finances, *https://www.census.gov/programs-surveys/gov-finances.html* (last visited Apr. 30, 2021).

[116] The interim final rule would define tax revenue in a manner consistent with the Census Bureau's definition of tax revenue, with certain changes (*i.e.*, inclusion of revenue from liquor stores and certain intergovernmental transfers). Current charges are defined as "charges imposed for providing current services or for the sale of products in connection with general government activities." It includes revenues such as public education institution, public hospital, and toll revenues. Miscellaneous general revenue comprises of all other general revenue of governments from their own sources (*i.e.*, other than liquor store, utility, and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

the COVID–19 public health emergency on a recipient's revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.[117]

Consistent with the Census Bureau's definition of "general revenue from own sources," the definition of general revenue in the interim final rule would exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions. The definition of general revenue also would exclude revenue generated by utilities and insurance trusts. In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity.[118] For example, public utilities typically require financial support from the State, local, or Tribal government, rather than providing revenue to such government, and any revenue that is generated by public utilities typically is used to support the public utility's continued operation, rather than being used as a source of revenue to support government services generally.

The definition of general revenue would include all revenue from Tribal enterprises, as this revenue is generated from economic activity and is available to fund government services. Tribes are not able to generate revenue through taxes in the same manner as State and local governments and, as a result, Tribal enterprises are critical sources of revenue for Tribal governments that enable Tribal governments to provide a range of services, including elder care, health clinics, wastewater management, and forestry.

Finally, the term "general revenue" includes intergovernmental transfers between State and local governments, but excludes intergovernmental transfers from the Federal Government, including Federal transfers made via a State to a local government pursuant to the CRF or as part of the Fiscal Recovery Funds. States and local governments often share or collect revenue on behalf of one another, which results in intergovernmental transfers. When attributing revenue to a unit of government, the Census Bureau's methodology considers which unit of government imposes, collects, and retains the revenue and assigns the revenue to the unit of government that meets at least two of those three factors.[119] For purposes of measuring loss in general revenue due to the COVID–19 public health emergency and to better allow continued provision of government services, the retention and ability to use the revenue is a more critical factor. Accordingly, and to better measure the funds available for the provision of government services, the definition of general revenue would include intergovernmental transfers from States or local governments other than funds transferred pursuant to ARPA, CRF, or another Federal program. This formulation recognizes the importance of State transfers for local government revenue.[120]

Calculation of Loss. In general, recipients will compute the extent of the reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic. This approach measures losses in revenue relative to the most recent fiscal year prior to the COVID–19 public health emergency by using the most recent pre-pandemic fiscal year as the starting point for estimates of revenue growth absent the pandemic. In other words, the counterfactual trend starts with the last full fiscal year prior to the COVID–19 public health emergency and then assumes growth at a constant rate in the subsequent years. Because recipients can estimate the revenue shortfall at multiple points in time throughout the covered period as revenue is collected, this approach accounts for variation across recipients in the timing of pandemic impacts.[121] Although revenue may decline for reasons unrelated to the COVID–19 public health emergency, to minimize the administrative burden on recipients and taking into consideration the devastating effects of the COVID–19 public health emergency, any diminution in actual revenues relative to the counterfactual pre-pandemic trend would be presumed to have been due to the COVID–19 public health emergency.

For purposes of measuring revenue growth in the counterfactual trend, recipients may use a *growth adjustment* of either 4.1 percent per year or the recipient's average annual revenue growth over the three full fiscal years prior to the COVID–19 public health emergency, whichever is higher. The option of 4.1 percent represents the average annual growth across all State and local government "General Revenue from Own Sources" in the most recent three years of available data.[122] This approach provides recipients with a standardized growth adjustment when calculating the counterfactual revenue trend and thus minimizes administrative burden, while not disadvantaging recipients with revenue growth that exceeded the national average prior to the COVID–19 public health emergency by permitting these recipients to use their own revenue growth rate over the preceding three years.

Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:

- *Step 1:* Identify revenues collected in the most recent full fiscal year prior to the public health emergency (*i.e.*, last full fiscal year before January 27, 2020), called the *base year revenue.*
- *Step 2:* Estimate *counterfactual revenue,* which is equal to *base year revenue* * [(1 + *growth adjustment*) ^ (*n*/12)], where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of 4.1 percent and the recipient's average annual revenue growth in the three full fiscal

[117] Fund-oriented reporting, such as what is used under the Governmental Accounting Standards Board (GASB), focuses on the types of uses and activities funded by the revenue, as opposed to the economic activity from which the revenue is sourced. *See* Governmental Accounting Standards Series, Statement No. 54 of the Governmental Accounting Standards Board: Fund Balance Reporting and Governmental Fund Type Definitions, No. 287–B (Feb. 2009).

[118] *Supra* note 116.

[119] U.S. Census Bureau, Government Finance and Employment Classification Manual (Dec. 2000), *https://www2.census.gov/govs/class/classfull.pdf.*

[120] For example, in 2018, state transfers to localities accounted for approximately 27 percent of local revenues. U.S. Census Bureau, Annual Survey of State and Local Government Finances, Table 1 (2018), *https://www.census.gov/data/datasets/2018/econ/local/public-use-datasets.html.*

[121] For example, following the 2007–09 recession, local government property tax collections did not begin to decline until 2011, suggesting that property tax collection declines can lag downturns. *See* U.S. Bureau of Economic Analysis, Personal current taxes: State and local: Property taxes [S210401A027NBEA], retrieved from Federal Reserve Economic Data, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/graph/?g=r3YI* (last visited Apr. 22, 2021). Estimating the reduction in revenue at points throughout the covered period will allow for this type of lagged effect to be taken into account during the covered period.

[122] Together with revenue from liquor stores from 2015 to 2018. This estimate does not include any intergovernmental transfers. A recipient using the three-year average to calculate their growth adjustment must be based on the definition of general revenue, including treatment of intergovernmental transfers. 2015–2018 represents the most recent available data. *See* U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables (2018), *https://www.census.gov/programs-surveys/gov-finances/data/datasets.html.*

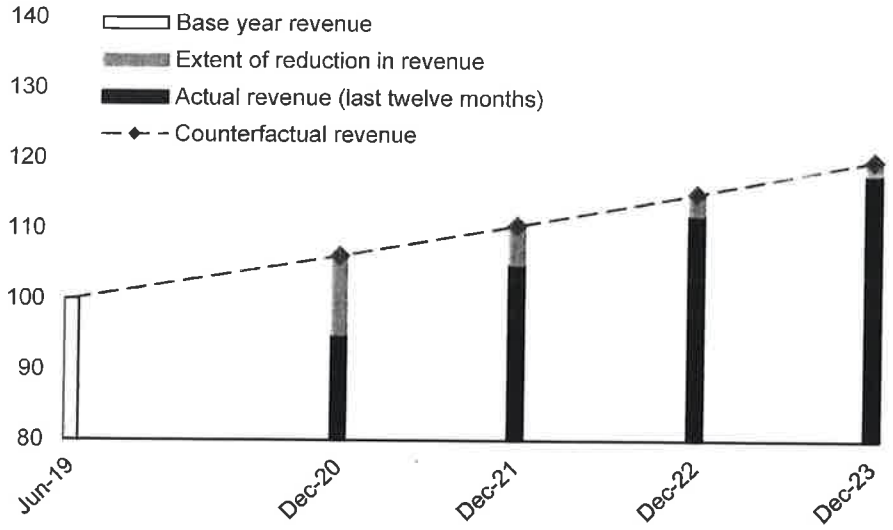
years prior to the COVID–19 public health emergency.

- *Step 3:* Identify *actual revenue,* which equals revenues collected over the past twelve months as of the calculation date.
- *Step 4:* The extent of the reduction in revenue is equal to *counterfactual revenue* less *actual revenue.* If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100. In Step 2, the hypothetical recipient finds that 4.1 percent is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. Furthermore, this recipient's base year ends June 30. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
n (months elapsed)	18	30	42	54
Counterfactual revenue:	106.2	110.6	115.1	119.8

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building [123] of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. However, expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services. That is, satisfaction of a settlement or judgment itself is not a government service, unless the settlement required the provision of government services. In addition, replenishing financial reserves (*e.g.,* rainy day or other reserve funds) would not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.

Question 13: Are there sources of revenue that either should or should not be included in the interim final rule's measure of "general revenue" for recipients? If so, discuss why these sources either should or should not be included.

Question 14: In the interim final rule, recipients are expected to calculate the reduction in revenue on an aggregate basis. Discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or appropriate to calculate the reduction in revenue by source.

Question 15: Treasury is considering whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID–19 public health emergency, in determining whether to presume that revenue losses are "due to" the COVID–

[123] Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

19 public health emergency. Discuss the advantages and disadvantages of this presumption, including when, if ever, during the covered period it would be appropriate to reevaluate the presumption that all losses are attributable to the COVID–19 public health emergency.

Question 16: Do recipients anticipate lagged revenue effects of the public health emergency? If so, when would these lagged effects be expected to occur, and what can Treasury to do support these recipients through its implementation of the program?

Question 17: In the interim final rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.

D. Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors. The interim final rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds. Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.[124]

It is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

1. Water and Sewer Infrastructure

The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure.[125] By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the interim final rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure. The interim final rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).[126]

Established by the 1987 amendments[127] to the Clean Water Act (CWA),[128] the CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution in a way that enables each State to address and prioritize the needs of their populations. The types of projects eligible for CWSRF assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.[129] Each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.[130]

The DWSRF was modeled on the CWSRF and created as part of the 1996 amendments to the Safe Drinking Water Act (SDWA),[131] with the principal objective of helping public water systems obtain financing for improvements necessary to protect public health and comply with drinking water regulations.[132] Like the CWSRF,

[124] Treasury notes that using funds to support or oppose collective bargaining would not be included as part of "necessary investments in water, sewer, or broadband infrastructure."

[125] Sections 602(c)(1)(D), 603(c)(1)(D) of the Act.

[126] Environmental Protection Agency, Drinking Water State Revolving fund, *https://www.epa.gov/dwsrf* (last visited Apr. 30, 2021); Environmental Protection Agency, Clean Water State Revolving Fund, *https://www.epa.gov/cwsrf* (last visited Apr. 30, 2021).

[127] Water Quality Act of 1987, Public Law 100–4.

[128] Federal Water Pollution Control Act as amended, codified at 33 U.S.C. 1251 *et seq.*, common name (Clean Water Act). In 2009, the American Recovery and Reinvestment Act created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficient, and environmentally innovative projects. Public Law 111–5. The CWA was amended by the Water Resources Reform and Development Act of 2014 to further expand the CWSRF's eligibilities. Public Law 113–121. *The CWSRF's eligibilities were further expanded in 2018 by the America's Water Infrastructure Act of 2018, Public Law 115–270.*

[129] *See* Environmental Protection Agency, The Drinking Water State Revolving Funds: Financing America's Drinking Water, EPA–816–R–00–023 (Nov. 2000), *https://nepis.epa.gov/Exe/ZyPDF.cgi/200024WB.PDF?Dockey=200024WB.PDF; See also* Environmental Protection Agency, *Learn About the Clean Water State Revolving Fund, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Apr. 30, 2021).*

[130] 33 U.S.C. 1383(c). *See also Environmental Protection Agency, Overview of Clean Water State Revolving Fund Eligibilities (May 2016), https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf; Claudia Copeland, Clean Water Act: A Summary of the Law, Congressional Research Service (Oct. 18, 2016), https://fas.org/sgp/crs/misc/RL30030.pdf; Jonathan L Ramseur, Wastewater Infrastructure: Overview, Funding, and Legislative Developments, Congressional Research Service (May 22, 2018), https://fas.org/sgp/crs/misc/R44963.pdf.*

[131] 42 U.S.C. 300j–12.

[132] Environmental Protection Agency, Drinking Water State Revolving Fund Eligibility Handbook, (June 2017), *https://www.epa.gov/sites/production/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf;* Environmental Protection Agency, Drinking Water

the DWSRF provides States with the flexibility to meet the needs of their populations.[133] The primary use of DWSRF funds is to assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.[134] In administering these programs, States must give priority to projects that ensure compliance with applicable health and environmental safety requirements; address the most serious risks to human health; and assist systems most in need on a per household basis according to State affordability criteria.[135]

By aligning use of Fiscal Recovery Funds with the categories or types of eligible projects under the existing EPA state revolving fund programs, the interim final rule provides recipients with the flexibility to respond to the needs of their communities while ensuring that investments in water and sewer infrastructure made using Fiscal Recovery Funds are necessary. As discussed above, the CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health standards.[136] The need to provide funding through the state revolving funds suggests that these projects are less likely to be addressed with private sources of funding; for example, by remediating failing or inadequate infrastructure, much of which is publicly owned, and by addressing non-point sources of pollution. This approach of aligning with the EPA state revolving fund programs also supports expedited project identification and investment so that needed relief for the people and communities most affected by the pandemic can deployed expeditiously and have a positive impact on their health and wellbeing as soon as possible. Further, the interim final rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria.

In addition, responding to the immediate needs of the COVID–19 public health emergency may have diverted both personnel and financial resources from other State, local, and Tribal priorities, including projects to ensure compliance with applicable water health and quality standards and provide safe drinking and usable water.[137] Through sections 602(c)(1)(D) and 603(c)(1)(D), the ARPA provides resources to address these needs. Moreover, using Fiscal Recovery Funds in accordance with the priorities of the CWA and SWDA to "assist systems most in need on a per household basis according to state affordability criteria" would also have the benefit of providing vulnerable populations with safe drinking water that is critical to their health and, thus, their ability to work and learn.[138]

Recipients may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, recipients may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Finally, consistent with the CWSRF and DWSRF, Fiscal Recovery Funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Many of the types of projects eligible under either the CWSRF or DWSRF also support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly, projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Question 18: What are the advantages and disadvantages of aligning eligible uses with the eligible project type requirements of the DWSRF and CWSRF? What other water or sewer project categories, if any, should Treasury consider in addition to DWSRF and CWSRF eligible projects? Should Treasury consider a broader general category of water and sewer projects?

Question 19: What additional water and sewer infrastructure categories, if any, should Treasury consider to address and respond to the needs of unserved, undeserved, or rural communities? How do these projects differ from DWSFR and CWSRF eligible projects?

Question 20: What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.

Question 21: Infrastructure projects related to dams and reservoirs are generally not eligible under the CWSRF and DWSRF categories. Should Treasury consider expanding eligible

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Infrastructure Needs Survey and Assessment: Sixth Report to Congress (March 2018), *https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf.*

[133] *Id.*

[134] *Id.*

[135] 42 U.S.C. 300j–12(b)(3)(A).

[136] Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, *https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf* (last visited Apr. 30, 2021); 42 U.S.C. 300j–12.

[137] House Committee on the Budget, State and Local Governments are in Dire Need of Federal Relief (Aug. 19, 2020), *https://budget.house.gov/publications/report/state-and-local-governments-are-dire-need-federal-relief.*

[138] Environmental Protection Agency, Drinking Water State Revolving Fund (Nov. 2019), *https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf;* Environmental Protection Agency, National Benefits Analysis for Drinking Water Regulations, *https://www.epa.gov/sdwa/national-benefits-analysis-drinking-water-regulations* (last visited Apr. 30, 2020).

infrastructure under the interim final rule to include dam and reservoir projects? Discuss public health, environmental, climate, or equity benefits and costs in expanding the eligibility to include these types of projects.

2. Broadband Infrastructure

The COVID–19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA Internet Use Survey data, noting that Americans turn to broadband internet access service for every facet of daily life including work, study, and healthcare.[139] With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

By at least one measure, however, tens of millions of Americans live in areas where there is no broadband infrastructure that provides download speeds greater than 25 Mbps and upload speeds of 3 Mbps.[140] By contrast, as noted below, many households use upload and download speeds of 100 Mbps to meet their daily needs. Even in areas where broadband infrastructure exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).[141] There are disparities in availability as well; historically, Americans living in territories and Tribal lands as well as rural areas have disproportionately lacked sufficient broadband infrastructure.[142] Moreover, rapidly growing demand has, and will likely continue to, quickly outpace infrastructure capacity, a phenomenon acknowledged by various states around the country that have set scalability requirements to account for this anticipated growth in demand.[143]

The interim final rule provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the interim final rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

Under the interim final rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.[144] In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth. Treasury also recognizes that different communities and their members may have a broad range of internet needs and that those needs may change over time.

In considering the appropriate speed requirements for eligible projects, Treasury considered estimates of typical households demands during the pandemic. Using the Federal Communication Commission's (FCC) Broadband Speed Guide, for example, a household with two telecommuters and two to three remote learners today are estimated to need 100 Mbps download to work simultaneously.[145] In households with more members, the demands may be greater, and in households with fewer members, the demands may be less.

In considering the appropriate speed requirements for eligible projects, Treasury also considered data usage patterns and how bandwidth needs have changed over time for U.S. households and businesses as people's use of technology in their daily lives has evolved. In the few years preceding the pandemic, market research data showed that average upload speeds in the United States surpassed over 10 Mbps in 2017[146] and continued to increase significantly, with the average upload speed as of November, 2019 increasing to 48.41 Mbps,[147] attributable, in part to a shift to using broadband and the internet by individuals and businesses

[139] *See, e.g., https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show; https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show;* and generally, *https://www.ntia.gov/data/digital-nation-data-explorer.*

[140] As an example, data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Availability was significantly less for rural versus urban populations, with 35.57 percent of the rural population lacking such access, compared with 2.57 percent of the urban population. Availability was also significantly less for tribal versus non-tribal populations, with 35.93 percent of the tribal population lacking such access, compared with 8.74 of the non-tribal population. Federal Communications Commission, Fixed Broadband Deployment, *https://broadbandmap.fcc.gov/#/* (last visited May 9, 2021).

[141] How Do U.S. Internet Costs Compare To The Rest Of The World?, BroadbandSearch Blog Post, *available at https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide.*

[142] *See, e.g.,* Federal Communications Commission, Fourteenth Broadband Deployment Report, *available at https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf.*

[143] *See, e.g.,* Illinois Department of Commerce & Economic Opportunity, Broadband Grants, h (last visited May 9, 2021), *https://www2.illinois.gov/dceo/ConnectIllinois/Pages/BroadbandGrants.aspx;* Kansas Office of Broadband Development, Broadband Acceleration Grant, *https://www.kansascommerce.gov/wp-content/uploads/2020/11/Broadband-Acceleration-Grant.pdf* (last visited May 9, 2021); New York State Association of Counties, Universal Broadband: Deploying High Speed Internet Access in NYS (Jul. 2017), *https://www.nysac.org/files/BroadbandUpdateReport2017(1).pdf.*

[144] This scalability threshold is consistent with scalability requirements used in other jurisdictions. *Id.*

[145] Federal Communications Commission, Broadband Speed Guide, *https://www.fcc.gov/consumers/guides/broadband-speed-guide* (last visited Apr. 30, 2021).

[146] Letter from Lisa R. Youngers, President and CEO of Fiber Broadband Association to FCC, WC Docket No. 19–126 (filed Jan. 3, 2020), including an Appendix with research from RVA LLC, *Data Review Of The Importance of Upload Speeds* (Jan. 2020), and Ookla speed test data, *available at https://ecfsapi.fcc.gov/file/1010300851185 17/FCC%20RDOF%20Jan%203%20Ex%20Parte.pdf.* Additional information on historic growth in data usage is provided in Schools, Health & Libraries Broadband Coalition, *Common Sense Solutions for Closing the Digital Divide,* Apr. 29, 2021.

[147] *Id. See also* United States's Mobile and Broadband internet Speeds—Speedtest Global Index, *available at https://www.speedtest.net/global-index/united-states#fixed.*

to create and share content using video sharing, video conferencing, and other applications.[148]

The increasing use of data accelerated markedly during the pandemic as households across the country became increasingly reliant on tools and applications that require greater internet capacity, both to download data but also to upload data. Sending information became as important as receiving it. A video consultation with a healthcare provider or participation by a child in a live classroom with a teacher and fellow students requires video to be sent and received simultaneously.[149] As an example, some video conferencing technology platforms indicate that download and upload speeds should be roughly equal to support two-way, interactive video meetings.[150] For both work and school, client materials or completed school assignments, which may be in the form of PDF files, videos, or graphic files, also need to be shared with others. This is often done by uploading materials to a collaboration site, and the upload speed available to a user can have a significant impact on the time it takes for the content to be shared with others. [151] These activities require significant capacity from home internet connections to both download and upload data, especially when there are multiple individuals in one household engaging in these activities simultaneously.

This need for increased broadband capacity during the pandemic was reflected in increased usage patterns seen over the last year. As OpenVault noted in recent advisories, the pandemic significantly increased the amount of data users consume. Among data users observed by OpenVault, per-subscriber average data usage for the fourth quarter of 2020 was 482.6 gigabytes per month, representing a 40 percent increase over the 344 gigabytes consumed in the fourth quarter of 2019 and a 26 percent increase over the third quarter 2020 average of 383.8 gigabytes.[152] OpenVault also noted significant increases in upstream usage among the data users it observed, with upstream data usage growing 63 percent—from 19 gigabytes to 31 gigabytes—between December, 2019 and December, 2020.[153] According to an OECD Broadband statistic from June 2020, the largest percentage of U.S. broadband subscribers have services providing speeds between 100 Mbps and 1 Gbps.[154]

Jurisdictions and Federal programs are increasingly responding to the growing demands of their communities for both heightened download and upload speeds. For example, Illinois now requires 100 Mbps symmetrical service as the construction standard for its state broadband grant programs. This standard is also consistent with speed levels, particularly download speed levels, prioritized by other Federal programs supporting broadband projects. Bids submitted as part of the FCC in its Rural Digital Opportunity Fund (RDOF), established to support the construction of broadband networks in rural communities across the country, are given priority if they offer faster service, with the service offerings of 100 Mbps download and 20 Mbps upload being included in the "above baseline" performance tier set by the FCC.[155] The Broadband Infrastructure Program (BBIP) [156] of the Department of Commerce, which provides Federal funding to deploy broadband infrastructure to eligible service areas of the country also prioritizes projects designed to provide broadband service with a download speed of not less than 100 Mbps and an upload speed of not less than 20 Mbps.[157]

The 100 Mbps upload and download speeds will support the increased and growing needs of households and businesses. Recognizing that, in some instances, 100 Mbps upload speed may be impracticable due to geographical, topographical, or financial constraints, the interim final rule permits upload speeds of between at least 20 Mbps and 100 Mbps in such instances. To provide for investments that will accommodate technologies requiring symmetry in download and upload speeds, as noted above, eligible projects that are not designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical speeds of 100 Mbps because it would be impracticable to do so should be designed so that they can be scalable to such speeds. Recipients are also encouraged to prioritize investments in fiber optic infrastructure where feasible, as such advanced technology enables the next generation of application solutions for all communities.

Under the interim final rule, eligible projects are expected to focus on locations that are unserved or underserved. The interim final rule treats users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload as households and businesses lacking this level of access are generally not viewed as being able to originate and receive high-quality voice, data, graphics, and video telecommunications. This threshold is consistent with the FCC's benchmark for an "advanced telecommunications capability." [158] This threshold is also consistent with thresholds used in other Federal programs to identify eligible areas to be served by programs to improve broadband services. For example, in the FCC's RDOF program, eligible areas include those without current (or already funded) access to terrestrial broadband service providing 25 Mbps download and 3 Mbps upload speeds.[159] The Department of Commerce's BBIP also considers households to be "unserved" generally if they lack access to broadband service

[148] *Id.*

[149] One high definition Zoom meeting or class requires approximately 3.8 Mbps/3.0 Mbps (up/down).

[150] *See, e.g.*, Zoom, System Requirements for Windows, macOS, and Linux, *https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h_d278c327-e03d-4896-b19a-96a8f3c0c69c* (last visited May 8, 2021).

[151] By one estimate, to upload a one gigabit video file to YouTube would take 15 minutes at an upload speed of 10 Mbps compared with 1 minute, 30 seconds at an upload speed of 100 Mbps, and 30 seconds at an upload speed of 300 Mbps. *Reviews.org:* What is Symmetrical internet? (March 2020).

[152] OVBI: Covid-19 Drove 15 percent Increase in Broadband Traffic in 2020, OpenVault, Quarterly Advisory, (Feb. 10, 2021), *available at https://openvault.com/ovbi-covid-19-drove-51-increase-in-broadband-traffic-in-2020; See* OpenVault's data set incorporates information on usage by subscribers across multiple continents, including North America and Europe. Additional data and detail on increases in the amount of data users consume and the broadband speeds they are using is provided in *OpenVault Broadband Insights Report Q4*, Quarterly Advisory (Feb. 10, 2021), *available at https://openvault.com/complimentary-report-4q20/.*

[153] OVBI Special Report: 202 Upstream Growth Nearly 4X of Pre-Pandemic Years, OpenVault, Quarterly Advisory, (April 1, 20201), *available at https://openvault.com/ovbi-special-report-2020-upstream-growth-rate-nearly-4x-of-pre-pandemic-years/;* Additional data is provided in *OpenVault Broadband Insights Pandemic Impact on Upstream Broadband Usage and Network Capacity, available at https://openvault.com/upstream-whitepaper/.*

[154] Organisation for Economic Co-operation and Development, Fixed broadband subscriptions per 100 inhabitants, per speed tiers (June 2020), *https://www.oecd.org/sti/broadband/5.1-FixedBB-SpeedTiers-2020-06.xls www.oecd.org/sti/broadband/broadband-statistics.*

[155] *Rural Digital Opportunity Fund*, Report and Order, 35 FCC Rcd 686, 690, para. 9 (2020), *available at https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0.*

[156] The BIPP was authorized by the Consolidated Appropriations Act, 2021, Section 905, Public Law 116–260, 134 Stat. 1182 (Dec. 27, 2020).

[157] Section 905(d)(4) of the Consolidated Appropriations Act, 2021.

[158] *Deployment Report, supra* note 142.

[159] *Rural Digital Opportunity Fund, supra* note 156.

with a download speed of not less than 25 Mbps download and 3 Mbps upload, among other conditions. In selecting an area to be served by a project, recipients are encouraged to avoid investing in locations that have existing agreements to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload by December 31, 2024, in order to avoid duplication of efforts and resources.

Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved households and businesses, recipients are encouraged to focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections. Treasury also encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

Under sections 602(c)(1)(A) and 603(c)(1)(A), assistance to households facing negative economic impacts due to COVID–19 is also an eligible use, including internet access or digital literacy assistance. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic.

Question 22: What are the advantages and disadvantages of setting minimum symmetrical download and upload speeds of 100 Mbps? What other minimum standards would be appropriate and why?

Question 23: Would setting such a minimum be impractical for particular types of projects? If so, where and on what basis should those projects be identified? How could such a standard be set while also taking into account the practicality of using this standard in particular types of projects? In addition to topography, geography, and financial factors, what other constraints, if any, are relevant to considering whether an investment is impracticable?

Question 24: What are the advantages and disadvantages of setting a minimum level of service at 100 Mbps download and 20 Mbps upload in projects where it is impracticable to set minimum symmetrical download and upload speeds of 100 Mbps? What are the advantages and disadvantages of setting a scalability requirement in these cases? What other minimum standards would be appropriate and why?

Question 25: What are the advantages and disadvantages of focusing these investments on those without access to a wireline connection that reliably delivers 25 Mbps download by 3 Mbps upload? Would another threshold be appropriate and why?

Question 26: What are the advantages and disadvantages of setting any particular threshold for identifying unserved or underserved areas, minimum speed standards or scalability minimum? Are there other standards that should be set (e.g., latency)? If so, why and how? How can such threshold, standards, or minimum be set in a way that balances the public's interest in making sure that reliable broadband services meeting the daily needs of all Americans are available throughout the country with the providing recipients flexibility to meet the varied needs of their communities?

III. Restrictions on Use

As discussed above, recipients have considerable flexibility to use Fiscal Recovery Funds to address the diverse needs of their communities. To ensure that payments from the Fiscal Recovery Funds are used for these congressionally permitted purposes, the ARPA includes two provisions that further define the boundaries of the statute's eligible uses. Section 602(c)(2)(A) of the Act provides that States and territories may not "use the funds . . . to either directly or indirectly offset a reduction in . . . net tax revenue . . . resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax . . . or delays the imposition of any tax or tax increase." In addition, sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, nonentitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund. These restrictions support the use of funds for the congressionally permitted purposes described in Section II of this Supplementary Information by providing a backstop against the use of funds for purposes outside of the eligible use categories.

These provisions give force to Congress's clear intent that Fiscal Recovery Funds be spent within the four eligible uses identified in the statute—(1) to respond to the public health emergency and its negative economic impacts, (2) to provide premium pay to essential workers, (3) to provide government services to the extent of eligible governments' revenue losses, and (4) to make necessary water, sewer, and broadband infrastructure investments—and not otherwise. These four eligible uses reflect Congress's judgment that the Fiscal Recovery Funds should be expended in particular ways that support recovery from the COVID–19 public health emergency. The further restrictions reflect Congress's judgment that tax cuts and pension deposits do not fall within these eligible uses. The interim final rule describes how Treasury will identify when such uses have occurred and how it will recoup funds put toward these impermissible uses and, as discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, establishes a reporting framework for monitoring the use of Fiscal Recovery Funds for eligible uses.

A. Deposit Into Pension Funds

The statute provides that recipients may not use Fiscal Recovery Funds for "deposit into any pension fund." For the reasons discussed below, Treasury interprets "deposit" in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the interim final rule does not permit this assistance to be used to make a payment into a pension fund if both:

1. The payment reduces a liability incurred prior to the start of the COVID–19 public health emergency, and

2. the payment occurs outside the recipient's regular timing for making such payments.

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries.

As discussed above, eligible uses for premium pay and responding to the negative economic impacts of the COVID–19 public health emergency include hiring and compensating public sector employees. Interpreting the scope of "deposit" to exclude contributions that are part of payroll contributions is more consistent with these eligible uses and would reduce administrative burden for recipients. Accordingly, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans

(Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Treasury anticipates that this approach to employees' covered benefits will be comprehensive and, for employees whose wage and salary costs are eligible expenses, will allow all covered benefits listed in the previous paragraph to be eligible under the Fiscal Recovery Funds. Treasury expects that this will minimize the administrative burden on recipients by treating all the specified covered benefit types as eligible expenses, for employees whose wage and salary costs are eligible expenses.

Question 27: Beyond a "deposit" and a "payroll contribution," are there other types of payments into a pension fund that Treasury should consider?

B. Offset a Reduction in Net Tax Revenue

For States and territories (recipient governments [160]), section 602(c)(2)(A)—the offset provision—prohibits the use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation [161] during the covered period. If a State or territory uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the State or territory must repay to the Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount received by the State or territory under the ARPA. *See* Section IV of this **SUPPLEMENTARY INFORMATION**. As discussed below Section IV of this **SUPPLEMENTARY INFORMATION**, a State or territory that chooses to use Fiscal Recovery Funds to offset a reduction in net tax revenue does not forfeit its entire allocation of Fiscal Recovery Funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-ARPA funding received.

The interim final rule implements these conditions by establishing a framework for States and territories to determine the cost of changes in law, regulation, or interpretation that reduce tax revenue and to identify and value the sources of funds that will offset—*i.e.*, cover the cost of—any reduction in net tax revenue resulting from such changes. A recipient government would only be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue resulting from changes in law, regulation, or interpretation if, and to the extent that, the recipient government could not identify sufficient funds from sources other than the Fiscal Recovery Funds to offset the reduction in net tax revenue. If sufficient funds from other sources cannot be identified to cover the full cost of the reduction in net tax revenue resulting from changes in law, regulation, or interpretation, the remaining amount not covered by these sources will be considered to have been offset by Fiscal Recovery Funds, in contravention of the offset provision. The interim final rule recognizes three sources of funds that may offset a reduction in net tax revenue other than Fiscal Recovery Funds—organic growth, increases in revenue (*e.g.*, an increase in a tax rate), and certain cuts in spending.

In order to reduce burden, the interim final rule's approach also incorporates the types of information and modeling already used by States and territories in their own fiscal and budgeting processes. By incorporating existing budgeting processes and capabilities, States and territories will be able to assess and evaluate the relationship of tax and budget decisions to uses of the Fiscal Recovery Funds based on information they likely have or can obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of the Fiscal Recovery Funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue, making them potentially subject to recoupment.

Reporting on both the eligible uses and on a State's or territory's covered tax changes that would reduce tax revenue will enable identification of, and recoupment for, use of Fiscal Recovery Funds to directly offset reductions in tax revenue resulting from tax relief. Moreover, this approach recognizes that, because money is fungible, even if Fiscal Recovery Funds are not explicitly or directly used to cover the costs of changes that reduce net tax revenue, those funds may be used in a manner inconsistent with the statute by indirectly being used to substitute for the State's or territory's funds that would otherwise have been needed to cover the costs of the reduction. By focusing on the cost of changes that reduce net tax revenue—and how a recipient government is offsetting those reductions in constructing its budget over the covered period—the framework prevents efforts to use Fiscal Recovery Funds to indirectly offset reductions in net tax revenue for which the recipient government has not identified other offsetting sources of funding.

As discussed in greater detail below in this preamble, the framework set forth in the interim final rule establishes a step-by-step process for determining whether, and the extent to which, Fiscal Recovery Funds have been used to offset a reduction in net tax revenue. Based on information reported annually by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process. The sum of these values in the year for which the government is reporting is the amount it needs to "pay for" with sources other than Fiscal Recovery Funds (total value of revenue reducing changes).
- Second, the interim final rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a de minimis level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.
- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which they are reporting. If the recipient government's actual tax revenue is greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.
- Fourth, if the recipient government's actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any sources of funds that have been used to permissibly offset the total value of covered tax changes other than Fiscal Recovery Funds. These are:
  - State or territory tax changes that would increase any source of general

[160] In this sub-section, "recipient governments" refers only to States and territories. In other sections, "recipient governments" refers more broadly to eligible governments receiving funding from the Fiscal Recovery Funds.

[161] For brevity, referred to as "changes in law, regulation, or interpretation" for the remainder of this preamble.

fund revenue, such as a change that would increase a tax rate; and

- Spending cuts in areas not being replaced by Fiscal Recovery Funds.

The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that, is, how much of the tax change has not been paid for. The recipient government will then compare that value to the difference between the baseline and actual tax revenue. A recipient government will not be required to repay to the Treasury an amount that is greater than the recipient government's actual tax revenue shortfall relative to the baseline (*i.e.*, fiscal year 2019 tax revenue adjusted for inflation). This "revenue reduction cap," together with Step 3, ensures that recipient governments can use organic revenue growth to offset the cost of revenue reductions.

- Finally, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts. This process is discussed in greater detail in Section IV of this **SUPPLEMENTARY INFORMATION.**

Together, these steps allow Treasury to identify the amount of reduction in net tax revenue that both is attributable to covered changes and has been directly or indirectly offset with Fiscal Recovery Funds. This process ensures Fiscal Recovery Funds are used in a manner consistent with the statute's defined eligible uses and the offset provision's limitation on these eligible uses, while avoiding undue interference with State and territory decisions regarding tax and spending policies.

The interim final rule also implements a process for recouping Fiscal Recovery Funds that were used to offset reductions in net tax revenue, including the calculation of any amounts that may be subject to recoupment, a process for a recipient government to respond to a notice of recoupment, and clarification regarding amounts excluded from recoupment. *See* Section IV of this **SUPPLEMENTARY INFORMATION.**

The interim final rule includes several definitions that are applicable to the implementation of the offset provision.

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from "a change in law, regulation, or administrative interpretation." A covered change includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. Changed administrative interpretations would not include corrections to replace prior inaccurate interpretations; such corrections would instead be treated as changes implementing legislation enacted or regulations issued prior to the covered period; the operative change in those circumstances is the underlying legislation or regulation that occurred prior to the covered period. Moreover, only the changes within the control of the State or territory are considered covered changes. Covered changes do not include a change in rate that is triggered automatically and based on statutory or regulatory criteria in effect prior to the covered period. For example, a state law that sets its earned income tax credit (EITC) at a fixed percentage of the Federal EITC will see its EITC payments automatically increase—and thus its tax revenue reduced—because of the Federal Government's expansion of the EITC in the ARPA.[162] This would not be considered a covered change. In addition, the offset provision applies only to actions for which the change in policy occurs during the covered period; it excludes regulations or other actions that implement a change or law substantively enacted prior to March 3, 2021. Finally, Treasury has determined and previously announced that income tax changes—even those made during the covered period—that simply conform with recent changes in Federal law (including those to conform to recent changes in Federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program) are permissible under the offset provision.

Baseline. For purposes of measuring a reduction in net tax revenue, the interim final rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline will be calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator.[163]

FY 2019 was chosen as the starting year for the baseline because it is the last full fiscal year prior to the COVID–19 public health emergency.[164] This baseline year is consistent with the approach directed by the ARPA in sections 602(c)(1)(C) and 603(c)(1)(C), which identify the "most recent full fiscal year of the [State, territory, or Tribal government] prior to the emergency" as the comparator for measuring revenue loss. U.S. gross domestic product is projected to rebound to pre-pandemic levels in 2021,[165] suggesting that an FY 2019 pre-pandemic baseline is a reasonable comparator for future revenue levels. The FY 2019 baseline revenue will be adjusted annually for inflation to allow for direct comparison of actual tax revenue in each year (reported in nominal terms) to baseline revenue in common units of measurement; without inflation adjustment, each dollar of reported actual tax revenue would be worth less than each dollar of baseline revenue expressed in 2019 terms.

Reporting year. The interim final rule defines "reporting year" as a single year within the covered period, aligned to the current fiscal year of the recipient government during the covered period, for which a recipient government reports the value of covered changes and any sources of offsetting revenue increases ("in-year" value), regardless of when those changes were enacted. For the fiscal years ending in 2021 or 2025 (partial years), the term "reporting year" refers to the portion of the year falling within the covered period. For example, the reporting year for a fiscal year beginning July 2020 and ending June 2021 would be from March 3, 2021 to July 2021.

Tax revenue. The interim final rule's definition of "tax revenue" is based on the Census Bureau's definition of taxes, used for its Annual Survey of State Government Finances.[166] It provides a consistent, well-established definition with which States and territories will be familiar and is consistent with the approach taken in Section II.C of this **SUPPLEMENTARY INFORMATION** describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, regarding revenue loss. Consistent with the approach described in Section II.C of this **SUPPLEMENTARY INFORMATION**, tax

[162] *See, e.g.*, Tax Policy Center, How do state earned income tax credits work?, *https://www.taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work/* (last visited May 9, 2021).

[163] U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, *https://www.bea.gov/data/prices-inflation/gdp-price-deflator* (last visited May 9, 2021).

[164] Using Fiscal Year 2019 is consistent with section 602 as Congress provided for using that baseline for determining the impact of revenue loss affecting the provision of government services. *See* section 602(c)(1)(C).

[165] Congressional Budget Office, An Overview of the Economic Outlook: 2021 to 2031 (February 1, 2021), *available at https://www.cbo.gov/publication/56965.*

[166] U.S. Census Bureau, Annual Survey of State and Local Government Finances Glossary, *https://www.census.gov/programs-surveys/state/about/glossary.html* (last visited Apr. 30, 2021).

revenue does not include revenue taxed and collected by a different unit of government (*e.g.*, revenue from taxes levied by a local government and transferred to a recipient government).

Framework. The interim final rule provides a step-by-step framework, to be used in each reporting year, to calculate whether the offset provision applies to a State's or territory's use of Fiscal Recovery Funds:

(1) *Covered changes that reduce tax revenue.* For each reporting year, a recipient government will identify and value covered changes that the recipient government predicts will have the effect of reducing tax revenue in a given reporting year, similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Further, estimation approaches should not use dynamic methodologies that incorporate the projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework. Relative to these dynamic scoring methodologies, scoring methodologies that do not incorporate projected effects of macroeconomic growth rely on fewer assumptions and thus provide greater consistency among States and territories. Dynamic scoring that incorporates macroeconomic growth may also increase the likelihood of underestimation of the cost of a reduction in tax revenue.

In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities. In addition, the approach of using the projected value of changes in law that enact fiscal policies to estimate the net effect of such policies is consistent with the way many States and territories already consider tax changes.[167]

(2) *In excess of the de minimis.* The recipient government will next calculate the total value of all covered changes in the reporting year resulting in revenue reductions, identified in Step 1. If the total value of the revenue reductions resulting from these changes is below the de minimis level, the recipient government will be deemed not to have any revenue-reducing changes for the purpose of determining the recognized net reduction. If the total is above the de minimis level, the recipient government must identify sources of in-year revenue to cover the full costs of changes that reduce tax revenue.

The de minimis level is calculated as 1 percent of the reporting year's baseline. Treasury recognizes that, pursuant to their taxing authority, States and territories may make many small changes to alter the composition of their tax revenues or implement other policies with marginal effects on tax revenues. They may also make changes based on projected revenue effects that turn out to differ from actual effects, unintentionally resulting in minor revenue changes that are not fairly described as "resulting from" tax law changes. The de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. Treasury determined the 1 percent level by assessing the historical effects of state-level tax policy changes in state EITCs implemented to effect policy goals other than reducing net tax revenues.[168] The 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies.

(3) *Safe harbor.* The recipient government will then compare the reporting year's actual tax revenue to the baseline. If actual tax revenue is greater than the baseline, Treasury will deem the recipient government not to have any recognized net reduction for the reporting year, and therefore to be in a safe harbor and outside the ambit of the offset provision. This approach is consistent with the ARPA, which contemplates recoupment of Fiscal Recovery Funds only in the event that such funds are used to offset a reduction in net tax revenue. If net tax revenue has not been reduced, this provision does not apply. In the event that actual tax revenue is above the baseline, the organic revenue growth that has occurred, plus any other revenue-raising changes, by definition must have been enough to offset the in-year costs of the covered changes.

(4) *Consideration of other sources of funding.* Next, the recipient government will identify and calculate the total value of changes that could pay for revenue reduction due to covered changes and sum these items. This amount can be used to pay for up to the total value of revenue-reducing changes in the reporting year. These changes consist of two categories:

(a) *Tax and other increases in revenue.* The recipient government must identify and consider covered changes in policy that the recipient government predicts will have the effect of increasing general revenue in a given reporting year. As when identifying and valuing covered changes that reduce tax revenue, the value of revenue-raising changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, aligned with the recipient government's existing approach for measuring the effects of fiscal policies, and measured relative to a current law baseline, or based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s). Further, and as discussed above, estimation approaches should not use dynamic scoring methodologies that incorporate the effects of macroeconomic growth because growth is accounted for separately under the interim final rule. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities.

(b) *Covered spending cuts.* A recipient government also may cut spending in certain areas to pay for covered changes that reduce tax revenue, up to the amount of the recipient government's net reduction in total spending as described below. These changes must be reductions in government outlays not in an area where the recipient government has spent Fiscal Recovery Funds. To better align with existing reporting and accounting, the interim final rule considers the department, agency, or

[167] *See, e.g.*, Megan Randall & Kim Rueben, Tax Policy Center, Sustainable Budgeting in the States: Evidence on State Budget Institutions and Practices (Nov. 2017), *available at https://www.taxpolicycenter.org/sites/default/files/publication/149186/sustainable-budgeting-in-the-states_1.pdf.*

[168] Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004–2017.

authority from which spending has been cut and whether the recipient government has spent Fiscal Recovery Funds on that same department, agency, or authority. This approach was selected to allow recipient governments to report how Fiscal Recovery Funds have been spent using reporting units already incorporated into their budgeting process. If they have not spent Fiscal Recovery Funds in a department, agency, or authority, the full amount of the reduction in spending counts as a covered spending cut, up to the recipient government's net reduction in total spending. If they have, the Fiscal Recovery Funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of Fiscal Recovery Funds spent on the department, agency, or authority would count.

To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient government must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offsetting other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding Fiscal Recovery Funds spent, relative to total spending for the recipient's fiscal year ending in 2019, adjusted for inflation. Measuring reductions in spending relative to 2019 reflects the fact that the fiscal space created by a spending cut persists so long as spending remains below its original level, even if it does not decline further, relative to the same amount of revenue. Measuring spending cuts from year to year would, by contrast, not recognize any available funds to offset revenue reductions unless spending continued to decline, failing to reflect the actual availability of funds created by a persistent change and limiting the discretion of States and territories. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Treasury chose this approach because while many recipient governments may score budget legislation using projections, spending cuts are readily observable using actual values.

This approach—allowing only spending reductions in areas where the recipient government has not spent Fiscal Recovery Funds to be used as an offset for a reduction in net tax revenue—aims to prevent recipient governments from using Fiscal Recovery Funds to supplant State or territory funding in the eligible use areas, and then use those State or territory funds to offset tax cuts. Such an approach helps ensure that Fiscal Recovery Funds are not used to "indirectly" offset revenue reductions due to covered changes.

In order to help ensure recipient governments use Fiscal Recovery Funds in a manner consistent with the prescribed eligible uses and do not use Fiscal Recovery Funds to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury will monitor changes in spending throughout the covered period. If, over the course of the covered period, a spending cut is subsequently replaced with Fiscal Recovery Funds and used to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury may consider such change to be an evasion of the restrictions of the offset provision and seek recoupment of such amounts.

(5) *Identification of amounts subject to recoupment.* If a recipient government (i) reports covered changes that reduce tax revenue (Step 1); (ii) to a degree greater than the de minimis (Step 2); (iii) has experienced a reduction in net tax revenue (Step 3); and (iv) lacks sufficient revenue from other, permissible sources to pay for the entirety of the reduction (Step 4), then the recipient government will be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of reduction in revenue due to covered changes which a recipient government must cover is capped at the difference between the baseline and actual tax revenue.[169] In the event that the baseline is above actual tax revenue and the difference between them is less than the sum of revenue reducing changes that are not paid for with other, permissible sources, organic revenue growth has implicitly offset a portion of the reduction. For example, if a recipient government reduces tax revenue by $1 billion, makes no other changes, and experiences revenue growth driven by organic economic growth worth $500 million, it need only pay for the remaining $500 million with sources other than Fiscal Recovery Funds. The revenue reduction cap implements this approach for permitting organic revenue growth to cover the cost of tax cuts.

Finally, as discussed further in Section IV of this **SUPPLEMENTARY INFORMATION**, a recipient government may request reconsideration of any amounts identified as subject to recoupment under this framework. This process ensures that all relevant facts and circumstances, including information regarding planned spending cuts and budgeting assumptions, are considered prior to a determination that an amount must be repaid. Amounts subject to recoupment are calculated on an annual basis; amounts recouped in one year cannot be returned if the State or territory subsequently reports an increase in net tax revenue.

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, in each year of the reporting period, each State and territory will report to Treasury the following items:

- Actual net tax revenue for the reporting year;
- Each revenue-reducing change made to date during the covered period and the in-year value of each change;
- Each revenue-raising change made to date during the covered period and the in-year value of each change;
- Each covered spending cut made to date during the covered period, the in-year value of each cut, and documentation demonstrating that each spending cut is covered as prescribed under the interim final rule;

Treasury will provide additional guidance and instructions the reporting requirements at a later date.

Question 28: Does the interim final rule's definition of tax revenue accord with existing State and territorial practice and, if not, are there other definitions or elements Treasury should consider? Discuss why or why not.

Question 29: The interim final rule permits certain spending cuts to cover the costs of reductions in tax revenue, including cuts in a department, agency, or authority in which the recipient government is not using Fiscal Recovery Funds. How should Treasury and recipient governments consider the scope of a department, agency, or authority for the use of funds to ensure spending cuts are not being substituted with Fiscal Recovery Funds while also avoiding an overbroad definition of that captures spending that is, in fact, distinct?

Question 30: Discuss the budget scoring methodologies currently used by States and territories. How should the interim final rule take into consideration differences in approaches? Please discuss the use of

[169] This cap is applied in § 35.8(c) of the interim final rule, calculating the amount of funds used in violation of the tax offset provision.

practices including but not limited to macrodynamic scoring, microdynamic scoring, and length of budget windows.

Question 31: If a recipient government has a balanced budget requirement, how will that requirement impact its use of Fiscal Recovery Funds and ability to implement this framework?

Question 32: To implement the framework described above, the interim final rule establishes certain reporting requirements. To what extent do recipient governments already produce this information and on what timeline? Discuss ways that Treasury and recipient governments may better rely on information already produced, while ensuring a consistent application of the framework.

Question 33: Discuss States' and territories' ability to produce the figures and numbers required for reporting under the interim final rule. What additional reporting tools, such as a standardized template, would facilitate States' and territories' ability to complete the reporting required under the interim final rule?

C. Other Restrictions on Use

Payments from the Fiscal Recovery Funds are also subject to pre-existing limitations provided in other Federal statutes and regulations and may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.[170]

As provided for in the award terms, payments from the Fiscal Recovery Funds as a general matter will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.

D. Timeline for Use of Fiscal Recovery Funds

Section 602(c)(1) and section 603(c)(1) require that payments from the Fiscal Recovery Funds be used only to cover costs incurred by the State, territory, Tribal government, or local government by December 31, 2024. Similarly, the CARES Act provided that payments from the CRF be used to cover costs incurred by December 31, 2021.[171] The definition of "incurred" does not have a clear meaning. With respect to the CARES Act, on the understanding that the CRF was intended to be used to meet relatively short-term needs, Treasury interpreted this requirement to mean that, for a cost to be considered to have been incurred, performance of the service or delivery of the goods acquired must occur by December 31, 2021. In contrast, the ARPA, passed at a different stage of the COVID–19 public health emergency, was intended to provide more general fiscal relief over a broader timeline. In addition, the ARPA expressly permits the use of Fiscal Recovery Funds for improvements to water, sewer, and broadband infrastructure, which entail a longer timeframe. In recognition of this, Treasury is interpreting the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by such date. The interim final rule adopts a definition of "obligation" that is based on the definition used for purposes of the Uniform Guidance, which will allow for uniform administration of this requirement and is a definition with which most recipients will be familiar.

Payments from the Fiscal Recovery Funds are grants provided to recipients to mitigate the fiscal effects of the COVID–19 public health emergency and to respond to the public health emergency, consistent with the eligible uses enumerated in sections 602(c)(1) and 603(c)(1).[172] As such, these funds are intended to provide economic stimulus in areas still recovering from the economic effects of the pandemic. In implementing and interpreting these provisions, including what it means to "respond to" the COVID–19 public health emergency, Treasury takes into consideration pre-pandemic facts and circumstances (*e.g.*, average revenue growth prior to the pandemic) as well as impact of the pandemic that predate the enactment of the ARPA (*e.g.*, replenishing Unemployment Trust balances drawn during the pandemic). While assessing the effects of the COVID–19 public health emergency necessarily takes into consideration the facts and circumstances that predate the ARPA, use of Fiscal Recovery Funds is forward looking.

As discussed above, recipients are permitted to use payments from the Fiscal Recovery Funds to respond to the public health emergency, to respond to workers performing essential work by providing premium pay or providing grants to eligible employers, and to make necessary investments in water, sewer, or broadband infrastructure, which all relate to prospective uses. In addition, sections 602(c)(1)(C) and 603(c)(1)(C) permit recipients to use Fiscal Recovery Funds for the provision of government services. This clause provides that the amount of funds that may be used for this purpose is measured by reference to the reduction in revenue due to the public health emergency relative to revenues collected in the most recent full fiscal year, but this reference does not relate to the period during which recipients may use the funds, which instead refers to prospective uses, consistent with the other eligible uses.

Although as discussed above the eligible uses of payments from the Fiscal Recovery Funds are all prospective in nature, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be the relevant reference point for this purpose. The interim final rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021. This aligns the period for use of Fiscal Recovery Funds with the period during which these funds may not be used to offset reductions in net tax revenue. Permitting Fiscal Recovery Funds to be used to cover costs incurred beginning on this date will also mean that recipients that began incurring costs in the anticipation of enactment of the ARPA and in advance of the issuance of this rule and receipt of payment from the Fiscal Recovery Funds would be able to cover them using these payments.[173]

As set forth in the award terms, the period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with payments from the Fiscal Recovery Funds.

IV. Recoupment Process

Under the ARPA, failure to comply with the restrictions on use contained in sections 602(c) and 603(c) of the Act may result in recoupment of funds.[174] The interim final rule implements these provisions by establishing a process for recoupment.

Identification and Notice of Violations. Failure to comply with the restrictions on use will be identified based on reporting provided by the

[170] *See* 42 CFR 433.51 and 45 CFR 75.306.

[171] Section 1001 of Division N of the Consolidated Appropriations Act, 2021 amended section 601(d)(3) of the Act by extending the end of the covered period for CRF expenditures from December 30, 2020 to December 31, 2021.

[172] Sections 602(a), 603(a), 602(c)(1) and 603(c)(1) of the Act.

[173] Given the nature of this program, recipients will not be permitted to use funds to cover pre-award costs, *i.e.*, those incurred prior to March 3, 2021.

[174] Sections 602(e) and 603(e) of the Act.

recipient. As discussed further in Sections III.B and VIII of this **SUPPLEMENTARY INFORMATION**, Treasury will collect information regarding eligible uses on a quarterly basis and on the tax offset provision on an annual basis. Treasury also may consider other information in identifying a violation, such as information provided by members of the public. If Treasury identifies a violation, it will provide written notice to the recipient along with an explanation of such amounts.

Request for Reconsideration. Under the interim final rule, a recipient may submit a request for reconsideration of any amounts identified in the notice provided by Treasury. This reconsideration process provides a recipient the opportunity to submit additional information it believes supports its request in light of the notice of recoupment, including, for example, additional information regarding the recipient's use of Fiscal Recovery Funds or its tax revenues. The process also provides the Secretary with an opportunity to consider all information relevant to whether a violation has occurred, and if so, the appropriate amount for recoupment.

The interim final rule also establishes requirements for the timing of a request for reconsideration. Specifically, if a recipient wishes to request reconsideration of any amounts identified in the notice, the recipient must submit a written request for reconsideration to the Secretary within 60 calendar days of receipt of such notice. The request must include an explanation of why the recipient believes that the finding of a violation or recoupable amount identified in the notice of recoupment should be reconsidered. To facilitate the Secretary's review of a recipient's request for reconsideration, the request should identify all supporting reasons for the request. Within 60 calendar days of receipt of the recipient's request for reconsideration, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

The process and timeline established by the interim final rule are intended to provide the recipient with an adequate opportunity to fully present any issues or arguments in response to the notice of recoupment.[175] This process will allow the Secretary to respond to the issues and considerations raised in the request for reconsideration taking into account the information and arguments presented by the recipient along with any other relevant information.

Repayment. Finally, the interim final rule provides that any amounts subject to recoupment must be repaid within 120 calendar days of receipt of any final notice of recoupment or, if the recipient has not requested reconsideration, within 120 calendar days of the initial notice provided by the Secretary.

Question 34: Discuss the timeline for requesting reconsideration under the interim final rule. What, if any, challenges does this timeline present?

V. Payments in Tranches to Local Governments and Certain States

Section 603 of the Act provides that the Secretary will make payments to local governments in two tranches, with the second tranche being paid twelve months after the first payment. In addition, section 602(b)(6)(A)(ii) provides that the Secretary may withhold payment of up to 50 percent of the amount allocated to each State and territory for a period of up to twelve months from the date on which the State or territory provides its certification to the Secretary. Any such withholding for a State or territory is required to be based on the unemployment rate in the State or territory as of the date of the certification.

The Secretary has determined to provide in this interim final rule for withholding of 50 percent of the amount of Fiscal Recovery Funds allocated to all States (and the District of Columbia) other than those with an unemployment rate that is 2.0 percentage points or more above its pre-pandemic (*i.e.*, February 2020) level. The Secretary will refer to the latest available monthly data from the Bureau of Labor Statistics as of the date the certification is provided. Based on data available at the time of public release of this interim final rule, this threshold would result in a majority of States being paid in two tranches.

Splitting payments for the majority of States is consistent with the requirement in section 603 of the Act to make payments from the Coronavirus Local Fiscal Recovery Fund to local governments in two tranches.[176] Splitting payments to States into two tranches will help encourage recipients to adapt, as necessary, to new developments that could arise over the coming twelve months, including potential changes to the nature of the public health emergency and its negative economic impacts. While the U.S. economy has been recovering and adding jobs in aggregate, there is still considerable uncertainty in the economic outlook and the interaction between the pandemic and the economy.[177] For these reasons, Treasury believes it will be appropriate for a majority of recipients to adapt their plans as the recovery evolves. For example, a faster-than-expected economic recovery in 2021 could lead a recipient to dedicate more Fiscal Recovery Funds to longer-term investments starting in 2022. In contrast, a slower-than-expected economic recovery in 2021 could lead a recipient to use additional funds for near-term stimulus in 2022.

At the same time, the statute contemplates the possibility that elevated unemployment in certain States could justify a single payment. Elevated unemployment is indicative of a greater need to assist unemployed workers and stimulate a faster economic recovery. For this reason, the interim final rule provides that States and territories with an increase in their unemployment rate over a specified threshold may receive a single payment, with the expectation that a single tranche will better enable these States and territories to take additional immediate action to aid the unemployed and strengthen their economies.

Following the initial pandemic-related spike in unemployment in 2020, States' unemployment rates have been trending back towards pre-pandemic levels. However, some States' labor markets are healing more slowly than others. Moreover, States varied widely in their pre-pandemic levels of unemployment, and some States remain substantially further from their pre-

[175] The interim final rule also provides that Treasury may extend any deadlines.

[176] With respect to Federal financial assistance more generally, States are subject to the requirements of the Cash Management Improvement Act (CMIA), under which Federal funds are drawn upon only on an as needed basis and States are required to remit interest on unused balances to Treasury. Given the statutory requirement for Treasury to make payments to States within a certain period, these requirements of the CMIA and Treasury's implementing regulations at 31 CFR part 205 will not apply to payments from the Fiscal Recovery Funds. Providing funding in two tranches to the majority of States reflects, to the maximum extent permitted by section 602 of the Act, the general principles of Federal cash management and stewardship of Federal funding, yet will be much less restrictive than the usual requirements to which States are subject.

[177] The potential course of the virus, and its impact on the economy, has contributed to a heightened degree of uncertainty relative to prior periods. *See, e.g.*, Dave Altig et al., Economic uncertainty before and during the COVID–19 pandemic, J. of Public Econ. (Nov. 2020), *available at https://www.sciencedirect.com/science/article/abs/pii/S0047272720301389.*

pandemic starting point. Consequently, Treasury is delineating States with significant remaining elevation in the unemployment rate, based on the net difference to pre-pandemic levels.

Treasury has established that significant remaining elevation in the unemployment rate is a net change in the unemployment rate of 2.0 percentage points or more relative to pre-pandemic levels. In the four previous recessions going back to the early 1980s, the national unemployment rate rose by 3.6, 2.3, 2.0, and 5.0 percentage points, as measured from the start of the recession to the eventual peak during or immediately following the recession.[178] Each of these increases can therefore represent a recession's impact on unemployment. To identify States with significant remaining elevation in unemployment, Treasury took the lowest of these four increases, 2.0 percentage points, to indicate states where, despite improvement in the unemployment rate, current labor market conditions are consistent still with a historical benchmark for a recession.

No U.S. territory will be subject to withholding of its payment from the Fiscal Recovery Funds. For Puerto Rico, the Secretary has determined that the current level of the unemployment rate (8.8 percent, as of March 2021[179]) is sufficiently high such that Treasury should not withhold any portion of its payment from the Fiscal Recovery Funds regardless of its change in unemployment rate relative to its pre-pandemic level. For U.S. territories that are not included in the Bureau of Labor Statistics' monthly unemployment rate data, the Secretary will not exercise the authority to withhold amounts from the Fiscal Recovery Funds.

VI. Transfer

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan cities, and nonentitlement units of local government are collectively referred to as "local governments") to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Specifically, under section 602(c)(3), a State, territory, or Tribal government may transfer funds to a "private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government."[180] Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The interim final rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive. The interim final rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (*e.g.*, a county is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities. This approach is intended to help provide funding to local governments with needs that may exceed the allocation provided under the statutory formula.

State, local, territorial, and Tribal governments that receive a Federal award directly from a Federal awarding agency, such as Treasury, are "recipients." A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding. The recipient remains responsible for monitoring and overseeing the subrecipient's use of Fiscal Recovery Funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the Fiscal Recovery Funds for the duration of the award.

Transfers under sections 602(c)(3) and 603(c)(3) must qualify as an eligible use of Fiscal Recovery Funds by the transferor. Once Fiscal Recovery Funds are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance. For example, if a county transferred Fiscal Recovery Funds to a town within its borders to respond to the COVID–19 public health emergency, the town would be bound by the eligible use requirements applicable to the county in carrying out the county's goal. This also means that county A may not transfer Fiscal Recovery Funds to county B for use in county B because such a transfer would not, from the perspective of the transferor (county A), be an eligible use in county A.

Section 603(c)(4) separately provides for transfers by a local government to its State or territory. A transfer under section 603(c)(4) will not make the State a subrecipient of the local government, and such Fiscal Recovery Funds may be used by the State for any purpose permitted under section 602(c). A transfer under section 603(c)(4) will result in a cancellation or termination of the award on the part of the transferor local government and a modification of the award to the transferee State or territory. The transferor must provide notice of the transfer to Treasury in a format specified by Treasury. If the local government does not provide such notice, it will remain legally obligated to Treasury under the award and remain responsible for ensuring that the awarded Fiscal Recovery Funds are being used in accordance with the statute and program guidance and for reporting on such uses to Treasury. A State that receives a transfer from a local government under section 603(c)(4) will be bound by all of the use restrictions set forth in section 602(c) with respect to the use of those Fiscal Recovery Funds, including the prohibitions on use of such Fiscal Recovery Funds to offset certain reductions in taxes or to make deposits into pension funds.

Question 35: What are the advantages and disadvantages of treating the list of transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive, allowing States and localities to transfer funds to entities outside of the list?

Question 36: Are there alternative ways of defining "special-purpose unit of State or local government" and

[178] Includes the period during and immediately following recessions, as defined by the National Bureau of Economic Research. National Bureau of Economic Research, US Business Cycle Expansions and Contractions, *https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions* (last visited Apr. 27, 2021). Based on data from U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/UNRATE* (last visited Apr. 27, 2021).

[179] U.S. Bureau of Labor Statistics, Economic News Release—Table 1. Civilian labor force and unemployment by state and selected area, seasonally adjusted, *https://www.bls.gov/news.release/laus.t01.htm* (last visited Apr. 30, 2021).

[180] Section 602(c)(3) of the Act.

"public benefit corporation" that would better further the aims of the Funds?

VII. Nonentitlement Units of Government

The Fiscal Recovery Funds provides for $19.53 billion in payments to be made to States and territories which will distribute the funds to nonentitlement units of local government (NEUs); local governments which generally have populations below 50,000. These local governments have not yet received direct fiscal relief from the Federal Government during the COVID–19 public health emergency, making Fiscal Recovery Funds payments an important source of support for their public health and economic responses. Section 603 requires Treasury to allocate and pay Fiscal Recovery Funds to the States and territories and requires the States and territories to distribute Fiscal Recovery Funds to NEUs based on population within 30 days of receipt unless an extension is granted by the Secretary. The interim final rule clarifies certain aspects regarding the distribution of Fiscal Recovery by States and territories to NEUs, as well as requirements around timely payments from the Fiscal Recovery Funds.

The ARPA requires that States and territories allocate funding to NEUs in an amount that bears the same proportion as the population of the NEU bears to the total population of all NEUs in the State or territory, subject to a cap (described below). Because the statute requires States and territories to make distributions based on population, States and territories may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury's implementing regulations and guidance. For example, a State may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU's use of Fiscal Recovery Funds based on the NEU's proposed spending plan or other policies. States and territories are also not permitted to offset any debt owed by the NEU against the NEU's distribution. Further, States and territories may not provide funding on a reimbursement basis—*e.g.*, requiring NEUs to pay for project costs up front before being reimbursed with Fiscal Recovery Funds payments—because this funding model would not comport with the statutory requirement that States and territories make distributions to NEUs within the statutory timeframe.

Similarly, States and territories distributing Fiscal Recovery Funds payments to NEUs are responsible for complying with the Fiscal Recovery Funds statutory requirement that distributions to NEUs not exceed 75 percent of the NEU's most recent budget. The most recent budget is defined as the NEU's most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020. Amounts in excess of such cap and therefore not distributed to the NEU must be returned to Treasury by the State or territory. States and territories may rely for this determination on a certified top-line budget total from the NEU.

Under the interim final rule, the total allocation and distribution to an NEU, including the sum of both the first and second tranches of funding, cannot exceed the 75 percent cap. States and territories must permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the cap. This approach will provide an administrable means to implement the cap for small local governments that do not adopt a formal budget.

Section 603(b)(3) of the Social Security Act provides for Treasury to make payments to counties but provides that, in the case of an amount to be paid to a county that is not a unit of general local government, the amount shall instead be paid to the State in which such county is located, and such State shall distribute such amount to each unit of general local government within such county in an amount that bears the same proportion to the amount to be paid to such county as the population of such units of general local government bears to the total population of such county. As with NEUs, States may not place additional conditions or requirements on distributions to such units of general local government, beyond those required by the ARPA and Treasury's implementing regulations and guidance.

In the case of consolidated governments, section 603(b)(4) allows consolidated governments (*e.g.*, a city-county consolidated government) to receive payments under each allocation based on the respective formulas. In the case of a consolidated government, Treasury interprets the budget cap to apply to the consolidated government's NEU allocation under section 603(b)(2) but not to the consolidated government's county allocation under section 603(b)(3).

If necessary, States and territories may use the Fiscal Recovery Funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local government, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts. If a State or territory requires more time to disburse Fiscal Recovery Funds to NEUs than the allotted 30 days, Treasury will grant extensions of not more than 30 days for States and territories that submit a certification in writing in accordance with section 603(b)(2)(C)(ii)(I). Additional extensions may be granted at the discretion of the Secretary.

Question 37: What are alternative ways for States and territories to enforce the 75 percent cap while reducing the administrative burden on them?

Question 38: What criteria should Treasury consider in assessing requests for extensions for further time to distribute NEU payments?

VIII. Reporting

States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report and thereafter quarterly Project and Expenditure reports through the end of the award period on December 31, 2026. The interim report will include a recipient's expenditures by category at the summary level from the date of award to July 31, 2021 and, for States and territories, information related to distributions to nonentitlement units. Recipients must submit their interim report to Treasury by August 31, 2021. Nonentitlement units of local government are not required to submit an interim report.

The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds. The reports will include the same general data (*e.g.*, on obligations, expenditures, contracts, grants, and subawards) as those submitted by recipients of the CRF, with some modifications. Modifications will include updates to the expenditure categories and the addition of data elements related to specific eligible uses, including some of the reporting elements described in sections above. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Nonentitlement units of local government will be required to submit

annual Project and Expenditure reports until the end of the award period on December 31, 2026. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The Recovery Plan Performance report will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as programmatic data in specific eligible use categories and the specific reporting requirements described in the sections above. The initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, Recovery Plan Performance reports will cover a 12-month period, and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and nonentitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide additional guidance and instructions on the reporting requirements outlined above for the Fiscal Recovery Funds at a later date.

IX. Comments and Effective Date

This interim final rule is being issued without advance notice and public comment to allow for immediate implementation of this program. As discussed below, the requirements of advance notice and public comment do not apply "to the extent that there is involved . . . a matter relating to agency . . . grants." [181] The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. In addition and as discussed below, the Administrative Procedure Act also provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." [182] This good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this interim final rule is effective immediately, comments are solicited from interested members of the public and from recipient governments on all aspects of the interim final rule.

These comments must be submitted on or before July 16, 2021.

X. Regulatory Analyses

Executive Orders 12866 and 13563

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. Treasury, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to act expeditiously to mitigate the current economic conditions arising from the COVID–19 public health emergency. The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866. This rule is necessary to implement the ARPA in order to provide economic relief to State, local, and Tribal governments adversely impacted by the COVID–19 public health emergency.

Under Executive Order 12866, OMB must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory action as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities in a material way (also referred to as "economically significant" regulations);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This regulatory action is an economically significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency:

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available

[181] 5 U.S.C. 553(a)(2).

[182] 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule").

techniques to quantify anticipated present and future benefits and costs as accurately as possible." OMB's Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this interim final rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this interim final rule is consistent with the principles set forth in Executive Order 13563.

Treasury also has determined that this regulatory action does not unduly interfere with States, territories, Tribal governments, and localities in the exercise of their governmental functions.

This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs.

Need for Regulatory Action. This interim final rule implements the $350 billion Fiscal Recovery Funds of the ARPA, which Congress passed to help States, territories, Tribal governments, and localities respond to the ongoing COVID–19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this interim final rule is needed to ensure that recipients of Fiscal Recovery Funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress' mandate for targeted fiscal relief.

This interim final rule is primarily a transfer rule: It transfers $350 billion in aid from the Federal Government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. In making this transfer, Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing its costs. It has done so by aiming to target relief in key areas according to the congressional mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined $350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID–19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.[183] Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007–09 recession.[184]

This interim final rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: Strengthening the response to the COVID–19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the interim final rule can be expected to channel resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

These benefits are achieved in the interim final rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients' overall flexibility, the interim final rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury's approach to key provisions in the interim final rule will contribute to greater realization of benefits from the program.

- *Revenue Loss:* Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury's decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients' pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury's approach provides a more accurate representation of the effect of the pandemic on overall revenues.
- *Premium Pay:* Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the interim final rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker's annual pay above a certain threshold. To set this threshold, Treasury analyzed data

[183] Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, American Econ. J.: Econ. Policy, 4:3 118–45 (Aug. 2012), *available at https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118.*

[184] *See, e.g.,* Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), *https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html;* Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf;* Gordon, *supra* note 9.

from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the interim final rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The interim final rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of financial resources for those who have endured the heightened risk of performing essential work.

- *Withholding of Payments to Recipients:* Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment. Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.
- *Hiring Public Sector Employees:* The interim final rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the interim final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need, particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID–19 crisis. Targeting relief is in line with Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," which laid out an Administration-wide priority to support "equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality."[185] To this end, the interim final rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state and local workforces, where women and people of color are disproportionately represented;[186] and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that most recipients receive direct or indirect funding from Federal Government programs and that many have familiarity with how to administer and report on Federal funds or grant funding provided by other entities. In particular, States, territories, and large localities will have received funds from the CRF and Treasury expects them to rely heavily on established processes developed last year or through prior grant funding, mitigating burden on these governments.

Treasury expects to provide technical assistance to defray the costs of administration of Fiscal Recovery Funds to further mitigate burden. In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—States, small cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Treasury lacks data to estimate the precise extent to which this interim final rule generates administrative burden for State, local, and Tribal governments, but seeks comment to better estimate and account for these costs, as well as on ways to lessen administrative burdens.

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This interim final rule does not have federalism implications within the meaning of the Executive order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive order. The compliance costs are imposed on State, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected State, local, and Tribal government officials and associations in the process of developing the interim final rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, generally requires public notice and an opportunity for comment before a rule

[185] Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021) (86 FR 7009, January 25, 2021). *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/* (last visited May 9, 2021).

[186] David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, The Public-Sector Jobs Crisis: Women and African Americans hit hardest by job losses in state and local governments, *https://www.epi.org/publication/bp339-public-sector-jobs-crisis* (last visited May 9, 2021).

becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply "to the extent that there is involved . . . a matter relating to agency . . . grants." The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. The rule is thus "both clearly and directly related to a federal grant program." *National Wildlife Federation* v. *Snow,* 561 F.2d 227, 232 (D.C. Cir. 1976). The rule sets forth the "process necessary to maintain state . . . eligibility for federal funds," *id.,* as well as the "method[s] by which states can . . . qualify for federal aid," and other "integral part[s] of the grant program," *Center for Auto Safety* v. *Tiemann,* 414 F. Supp. 215, 222 (D.D.C. 1976). As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule"). Assuming 5 U.S.C. 553 applied, Treasury would still have good cause under sections 553(b)(3)(B) and 553(d)(3) for not undertaking section 553's requirements. The ARPA is a law responding to a historic economic and public health emergency; it is "extraordinary" legislation about which "both Congress and the President articulated a profound sense of 'urgency.'" *Petry* v. *Block,* 737 F.2d 1193, 1200 (D.C. Cir. 1984). Indeed, several provisions implemented by this interim final rule (sections 602(c)(1)(A) and 603(c)(1)(A)) explicitly provide funds to "respond to the public health emergency," and the urgency is further exemplified by Congress's command (in sections 602(b)(6)(B) and 603(b)(7)(A)) that, "[t]o the extent practicable," funds must be provided to Tribes and cities "not later than 60 days after the date of enactment." *See Philadelphia Citizens in Action* v. *Schweiker,* 669 F.2d 877, 884 (3d Cir. 1982) (finding good cause under circumstances, including statutory time limits, where APA procedures would have been "virtually impossible"). Finally, there is an urgent need for States to undertake the planning necessary for sound fiscal policymaking, which requires an understanding of how funds provided under the ARPA will augment and interact with existing budgetary resources and tax policies. Treasury understands that many states require immediate rules on which they can rely, especially in light of the fact that the ARPA "covered period" began on March 3, 2021. The statutory urgency and practical necessity are good cause to forego the ordinary requirements of notice-and-comment rulemaking.

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the Congressional Review Act or CRA) (5 U.S.C. 804(2) *et seq.*). Under the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3). Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), for the reasons discussed above, Treasury for good cause finds that a 60-day delay to provide public notice is impracticable and contrary to the public interest.

Paperwork Reduction Act

The information collections associated with State, territory, local, and Tribal government applications materials necessary to receive Fiscal Recovery Funds (*e.g.,* payment information collection and acceptance of award terms) have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) emergency processing procedures and assigned control number 1505–0271. The information collections related to ongoing reporting requirements, as discussed in this interim final rule, will be submitted to OMB for emergency processing in the near future. Under the PRA, an agency may not conduct or sponsor and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below. Burden estimates below are preliminary.

Reporting	Number of respondents (estimated)	Number of responses per respondent	Total responses	Hours per response	Total burden in hours	Cost to respondent ($48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes)	1,262.5	$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes)	1,262.5	61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes)	2,525	123,220
Quarterly Project and Expenditure Report.	5,050	4***	20,200	25	505,000	24,644,000
Annual Project and Expenditure Report from NEUs.	TBD	1 per year	†20,000–40,000	15	300,000–600,000	14,640,000–29,280,000
Annual Recovery Plan Performance report.	418	1 per year	418	100	41,800	2,039,840
Total	(**)	N/A	55,768–75,768	141	851,850–1,151,850	41,570,280–56,210,280

*Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the internet at *https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm* (visited March 28, 2020). Base wage of $33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of $48.80.

**5,050–TBD.

***Per year after first year.

† (Estimate only).

Periodic reporting is required by section 602(c) of Section VI of the Social Security Act and under the interim final rule.

As discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, recipients of Fiscal Recovery Funds will be required to submit one interim report and thereafter quarterly Project and Expenditure reports until the end of the award period. Recipients must submit interim reports to Treasury by August

31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year. States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on the all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the *www.regulations.gov* docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to *oira_submission@omb.eop.gov*.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

List of Subjects in 31 CFR Part 35

Executive compensation, Public health emergency, State and local governments, Tribal governments.

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

■ 1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Division N, Title V, Subtitle B, Pub. L. 116–260, 134 Stat. 1182; Section 104A, Pub. L. 103–325, 108 Stat. 2160, as amended (12 U.S.C. 4701 *et seq.*); Pub. L. 117–2, 135 Stat. 4 (42 U.S.C. 802 *et seq.*).

■ 2. Revise the part heading to read as set forth above.

■ 3. Add subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

Sec.

35.1 Purpose.
35.2 Applicability.
35.3 Definitions.
35.4 Reservation of authority, reporting.
35.5 Use of funds.
35.6 Eligible uses.
35.7 Pensions.
35.8 Tax.
35.9 Compliance with applicable laws.
35.10 Recoupment.
35.11 Payments to States.
35.12 Distributions to nonentitlement units of local government and units of general local government.

§ 35.1 Purpose.

This subpart implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Pub. L. 117–2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This subpart applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

As used in this subpart:

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

(1) Begins on March 3, 2021; and

(2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID–19 means the Coronavirus Disease 2019.

COVID–19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID–19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living; family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID–19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID–19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

(1) Is not performed while teleworking from a residence; and

(2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to $13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID–19 public health emergency. Such amount may not exceed $25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to $13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to $13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia.

Small business means a business concern or other organization that:

(1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published by the Bureau of Indian Affairs on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U–3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this subpart shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this subpart, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in section § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID–19 response and prevention.* Expenditures for the mitigation and prevention of COVID–19, including:

(i) Expenses related to COVID–19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

(ii) COVID–19-related expenses of public hospitals, clinics, and similar facilities;

(iii) COVID–19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;

(iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID–19-related operational needs;

(v) Expenses of establishing temporary public medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID–19-related operational needs;

(vi) Costs of providing COVID–19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;

(vii) Emergency medical response expenses, including emergency medical transportation, related to COVID–19;

(viii) Expenses for establishing and operating public telemedicine capabilities for COVID–19-related treatment;

(ix) Expenses for communication related to COVID–19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID–19;

(x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;

(xi) Expenses for disinfection of public areas and other facilities in

response to the COVID–19 public health emergency;

(xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID–19-related threats to public health and safety;

(xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID–19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID–19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public health and safety staff.* Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID–19 public health emergency.

(3) *Hiring State and local government staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to unemployed workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.

(5) *Contributions to State unemployment insurance trust funds.* Contributions to an unemployment trust fund up to the level required to restore the unemployment trust fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021.

(6) *Small businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID–19 public health emergency.

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID–19 public health emergency.

(8) *Assistance to households.* Assistance programs, including cash assistance programs, that respond to the COVID–19 public health emergency.

(9) *Aid to impacted industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID–19 public health emergency.

(10) *Expenses to improve efficacy of public health or economic relief programs.* Administrative costs associated with the recipient's COVID–19 public health emergency assistance programs, including services responding to the COVID–19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's benefits.* Benefits for the surviving family members of individuals who have died from COVID–19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID–19.

(12) *Disproportionately impacted populations and communities.* A program, service, or other assistance that is provided in a qualified census tract, that is provided to households and populations living in a qualified census tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID–19 public health emergency, such as:

(i) Programs or services that facilitate access to health and social services, including:

(A) Assistance accessing or applying for public benefits or services;

(B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID–19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students; and

(iv) Programs or services that address or mitigate the impacts of the COVID–19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID–19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID–19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing government services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (2) of this section.

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as-of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

(2) *Calculation.* A reduction in a recipient's general revenue equals:

$$Max\ \{[Base\ Year\ Revenue * (1 + Growth\ Adjustment)^{\left(\frac{n_t}{12}\right)}] - Actual\ General\ Revenue_t; 0\}$$

Where:

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVD–19 public health emergency;

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID–19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date;

Subscript *t* denotes the specific calculation date.

(e) *To make necessary investments in infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:

(A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii).

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and Executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations*—(1) *In general.* Any amount used in violation of § 35.5, § 35.6, or § 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.5, § 35.6, or § 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

(i) The amount set forth in § 35.8(c); and,

(ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

(1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(2) Any reports required to be filed by that date pursuant to this subpart that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this paragraph (b).

(c) *Units of general local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

Laurie Schaffer,

Acting General Counsel.

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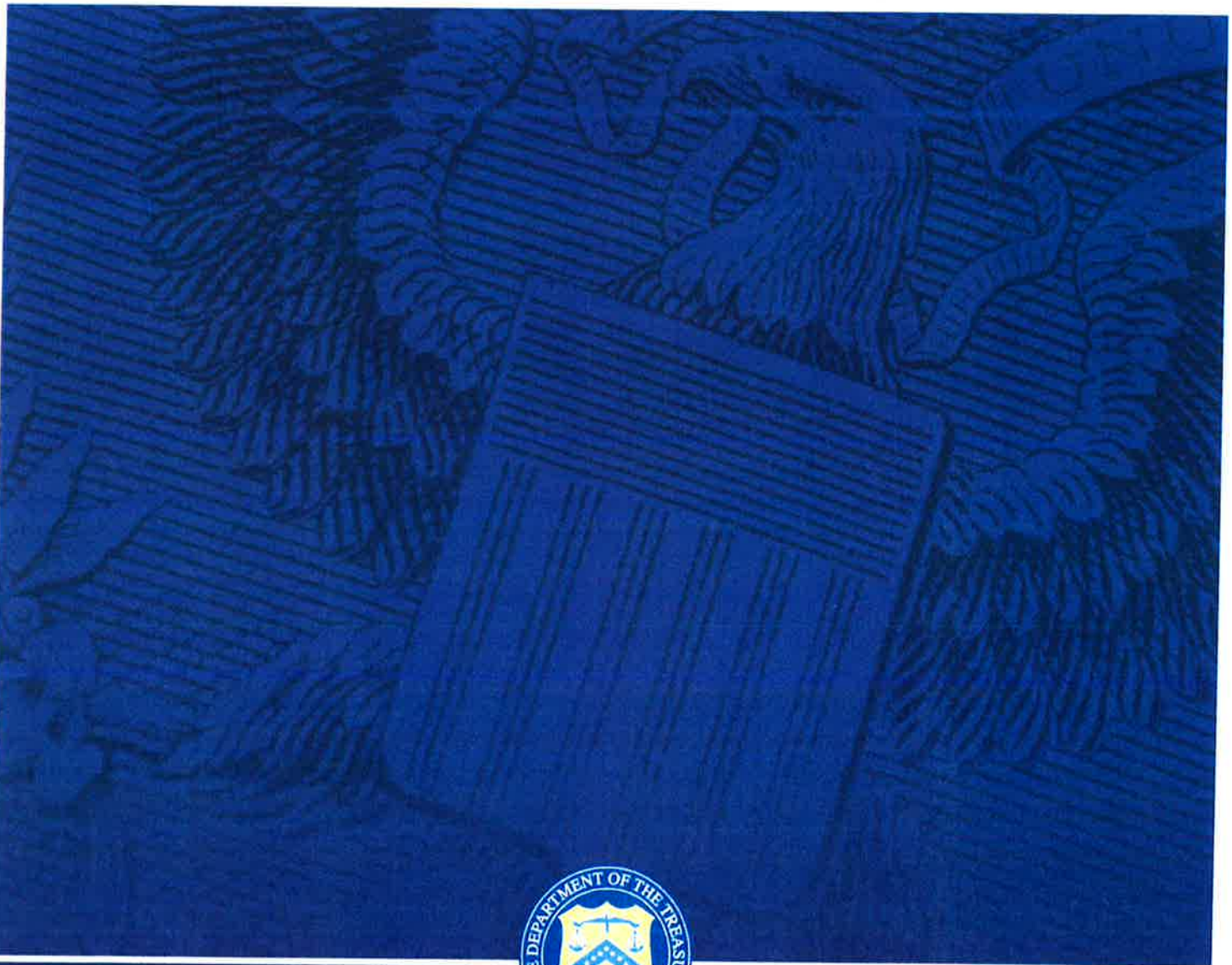
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ATTACHMENT C

U.S. DEPARTMENT OF TREASURY
COMPLIANCE AND REPORTING GUIDANCE FOR CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
DATED 11-5-2021

Compliance and Reporting Guidance

State and Local Fiscal Recovery Funds



November 5, 2021

Version: 2.0

Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities

On March 11, 2021, the American Rescue Plan Act was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, which together make up the Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") program. This program is intended to provide support to State, territorial, local, and Tribal governments in responding to the economic and public health impacts of COVID-19 and in their efforts to contain impacts on their communities, residents, and businesses.

This guidance provides additional detail and clarification for each recipient's compliance and reporting responsibilities under the SLFRF program, and should be read in concert with the Award Terms and Conditions, the authorizing statute, the SLFRF implementing regulation, and other regulatory and statutory requirements, including regulatory requirements under the Uniform Guidance (2 CRF Part 200). Please see the Assistance Listing in SAM.gov under assistance listing number (formerly known as CFDA number), 21.027 for more information.

Please Note: This guidance document applies to the SLFRF program only and does not change nor impact reporting and compliance requirements for the Coronavirus Relief Fund ("CRF") established by the CARES Act.

This guidance includes two parts:

Part 1: General Guidance

This section provides an orientation to recipients' compliance responsibilities and the U.S. Department of the Treasury's ("Treasury") expectations, and recommends best practices where appropriate under the SLFRF Program.

A. Key Principles..... P. 3
B. Statutory Eligible Uses..... P. 3
C. Treasury's Rulemaking..... P. 4
D. Uniform Guidance (2 CFR Part 200)..... P. 6
E. Award Terms and Conditions..... P. 10

Part 2: Reporting Requirements

This section provides information on the reporting requirements for the SLFRF program.

A. Interim Report..... P. 14
B. Project and Expenditure Report..... P. 15
C. Recovery Plan Performance Report..... P. 22

Appendix 1: Expenditure Categories..... P. 30
Appendix 2: Evidenced-Based Intervention Additional Information..... P. 32

Part 1: General Guidance

This section provides an orientation on recipients' compliance responsibilities and Treasury's expectations and recommended best practices where appropriate under the SLFRF program.

Recipients under the SLFRF program are the eligible entities identified in sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 (the "SLFRF statute") that receive a SLFRF award. Subrecipients under the SLFRF program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the SLFRF award on behalf of the recipient.

Recipients are accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Interim Final Rule, and reporting requirements, as applicable.

A. Key Principles

There are several guiding principles for developing your own effective compliance regimes:

- Recipients and subrecipients are the first line of defense, and responsible for ensuring the SLFRF award funds are not used for ineligible purposes, and there is no fraud, waste, or abuse associated with their SLFRF award;
- Many SLFRF-funded projects respond to the COVID-19 public health emergency and meet urgent community needs. Swift and effective implementation is vital, and recipients must balance facilitating simple and rapid program access widely across the community and maintaining a robust documentation and compliance regime;
- Treasury encourages recipients to use SLFRF-funded projects to advance shared interests and promote equitable delivery of government benefits and opportunities to underserved communities, as outlined in Executive Order 13985, On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; and
- Transparency and public accountability for SLFRF award funds and use of such funds are critical to upholding program integrity and trust in all levels of government, and SLFRF award funds should be managed consistent with Administration guidance per Memorandum M-21-20 and Memorandum M-20-21.

B. Statutory Eligible Uses

As a recipient of an SLFRF award, your organization has substantial discretion to use the award funds in the ways that best suit the needs of your constituents – as long as such use fits into one of the following four statutory categories:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to such eligible workers of the recipient, or by providing grants to eligible employers that have eligible workers who performed essential work;
3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID–19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; and
4. To make necessary investments in water, sewer, or broadband infrastructure.

Treasury adopted an Interim Final Rule to implement these eligible use categories and other restrictions on the use of funds under the SLFRF program.[1] It is the recipient's responsibility to ensure all SLFRF award funds are used in compliance with these requirements. In addition, recipients should be mindful of any additional compliance obligations that may apply – for example, additional restrictions imposed upon other sources of funds used in conjunction with SLFRF award funds, or statutes and regulations that may independently apply to water, broadband, and sewer infrastructure projects. Recipients should ensure they maintain proper documentation supporting determinations of costs and applicable compliance requirements, and how they have been satisfied as part of their award management, internal controls, and subrecipient oversight and management.

C. Treasury's Rule

Treasury's Interim Final Rule details recipients' compliance responsibilities and provides additional information on eligible and restricted uses of SLFRF award funds and reporting requirements. Your organization should review and comply with the information contained in Treasury's Interim Final Rule, and any subsequent final rule when building appropriate controls for SLFRF award funds.

1. **Eligible and Restricted Uses of SLFRF Funds.** As described in the SLFRF statute and summarized above, there are four enumerated eligible uses of SLFRF award funds. As a recipient of an award under the SLFRF program, your organization is responsible for complying with requirements for the use of funds. In addition to determining a given project's eligibility, recipients are also responsible for determining subrecipient's or beneficiaries' eligibility and must monitor use of SLFRF award funds.

   To help recipients build a greater understanding of eligible uses, Treasury's Interim Final Rule establishes a framework for determining whether a specific project would be eligible under the SLFRF program, including some helpful definitions. For example, Treasury's Interim Final Rule establishes:

   - A framework for determining whether a project "responds to" a "negative economic impact" caused by the COVID-19 public health emergency;
   - Definitions of "eligible employers", "essential work," "eligible workers", and "premium pay" for cases where premium pay is an eligible use;
   - A definition of "general revenue" and a formula for calculating revenue lost due to the COVID-19 public health emergency;
   - A framework for eligible water and sewer infrastructure projects that aligns eligible uses with projects that are eligible under the Environmental Protection Agency's Drinking Water and Clean Water State Revolving Funds; and
   - A framework for eligible broadband projects designed to provide service to unserved or underserved households, or businesses at speeds sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth.

   Treasury's Interim Final Rule also provides more information on four important restrictions on use of SLFRF award funds: recipients may not deposit SLFRF funds into a pension fund; recipients that are States or territories may not use SLFRF funds to offset a reduction in net tax revenue caused by the recipient's change in law, regulation, or administrative interpretation; and recipients may not use SLFRF funds as non-Federal match where

[1] Treasury's Interim Final Rule is effective as of May 17, 2021, and public comments are due July 16, 2021. This guidance may be clarified consistent with the final rule. https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf

prohibited. In addition, the Interim Final Rule clarifies certain uses of SLFRF funds outside the scope of eligible uses, including that recipients generally may not use SLFRF funds directly to service debt, satisfy a judgment or settlement, or contribute to a "rainy day" fund. Recipients should refer to Treasury's Interim Final Rule for more information on these restrictions.

2. **Eligible Costs Timeframe.** Your organization, as a recipient of an SLFRF award, may use SLFRF funds to cover eligible costs that your organization incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, as long as the award funds for the obligations incurred by December 31, 2024 are expended by December 31, 2026. Costs for projects incurred by the recipient State, territorial, local, or Tribal government prior to March 3, 2021 are not eligible, as provided for in Treasury's Interim Final Rule.

   Recipients may use SLFRF award funds to provide assistance to households, businesses, nonprofits, and individuals within the eligible use categories described in Treasury's Interim Final Rule for costs that those households, businesses, nonprofits, and individuals incurred prior to March 3, 2021. For example,

   a. Public Health/Negative Economic Impacts: Recipients may use SLFRF award funds to provide assistance to households, small businesses, and nonprofits – such as rent, mortgage, or utility assistance – for costs incurred by the household prior to March 3, 2021, provided that the recipient state, territorial, local or Tribal government did not incur the cost of providing such assistance prior to March 3, 2021.
   b. Premium Pay: Recipients may provide premium pay retrospectively for work performed at any time since the start of the COVID-19 public health emergency. Such premium pay must be "in addition to" wages and remuneration already received and the obligation to provide such premium pay must not have been incurred by the recipient prior to March 3, 2021.
   c. Revenue Loss: Treasury's Interim Final Rule gives recipients broad discretion to use funds for the provision of government services to the extent of reduction in revenue. While calculation of lost revenue begins with the recipient's revenue in the last full fiscal year prior to the COVID-19 public health emergency and includes the 12-month period ending December 31, 2020, use of funds for government services must be forward looking for costs incurred by the recipient after March 3, 2021.
   d. Investments in Water, Sewer, and Broadband: Recipients may use SLFRF award funds to make necessary investments in water, sewer, and broadband. Recipients may use SLFRF award funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021, provided that the project costs covered by the SLFRF award funds were incurred by the recipient after March 3, 2021.

   Any funds not obligated or expended for eligible uses by the timelines above must be returned to Treasury, including any unobligated or unexpended funds that have been provided to subrecipients and contractors as part of the award closeout process pursuant to 2 C.F.R. 200.344(d). For the purposes of determining expenditure eligibility, Treasury's Interim Final Rule provides that "incurred" has the same meaning given to "financial obligation" in 2 CFR 200.1.

3. **Reporting.** Generally, recipients must submit one initial interim report, quarterly or annual Project and Expenditure reports which include subaward reporting, and in some cases annual Recovery Plan reports. Treasury's Interim Final Rule and Part 2 of this guidance provide more detail around SLFRF reporting requirements.

Assistance Listing

The Assistance Listing for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) was published May 28, 2021 on SAM.gov under Assistance Listing Number ("ALN"), formerly known as CFDA Number, **21.027**.

The assistance listing includes helpful information including program purpose, statutory authority, eligibility requirements, and compliance requirements for recipients. The ALN is the unique 5-digit number assigned to identify a federal assistance listing, and can be used to search for federal assistance program information, including funding opportunities, spending on USASpending.gov, or audit results through the Federal Audit Clearinghouse.

To expedite payments and meet statutory timelines Treasury issued initial payments under an existing ALN, 21.019, assigned to the CRF. If you have already received funds or captured the initial number in your records, please update your systems and reporting to reflect the new ALN 21.027 for the SLFRF program. **Recipients must use ALN 21.027 for all financial accounting, subawards, and associated program reporting requirements for the SLFRF awards.**

D. Uniform Administrative Requirements

The SLFRF awards are generally subject to the requirements set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (the "Uniform Guidance"). In all instances, your organization should review the Uniform Guidance requirements applicable to your organization's use of SLFRF funds, and SLFRF-funded projects. Recipients should consider how and whether certain aspects of the Uniform Guidance apply.

The following sections provide a general summary of your organization's compliance responsibilities under applicable statutes and regulations, including the Uniform Guidance, as described in the 2020 OMB Compliance Supplement Part 3. Compliance Requirements (issued August 18, 2020). Note that the descriptions below are only general summaries and all recipients and subrecipients are advised to carefully review the Uniform Guidance requirements and any additional regulatory and statutory requirements applicable to the program.

1. **Allowable Activities.** Each recipient should review program requirements, including Treasury's Interim Final Rule and the recipient's Award Terms and Conditions, to determine and record eligible uses of SLFRF funds. Per 2 CFR Part 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.

2. **Allowable Costs/Cost Principles.** As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

SLFRF Funds may be, but are not required to be, used along with other funding sources for a given project. Note that SLFRF Funds may not be used for a non-Federal cost share or match where prohibited by other Federal programs, e.g., funds may not be used for the State share for Medicaid.[2]

Treasury's Interim Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, per 2 CFR 200.425, a reasonably proportionate share of the costs of audits required by the Single Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed in accordance with 2 CFR Part 200, Subpart F are not allowable. Please see 2 CFR Part 200, Subpart E regarding the Cost Principles for more information.

a. Administrative costs: Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements.[3] Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the SLFRF Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the SLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the SLFRF award such as the cost of facilities or administrative functions like a director's office.[4][5] Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs. If a recipient has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).

b. Salaries and Expenses: In general, certain employees' wages, salaries, and covered benefits are an eligible use of SLFRF award funds. Please see Treasury's Interim Final Rule for details.

3. **Cash Management.** SLFRF payments made to recipients are not subject to the requirements of the Cash Management Improvement Act and Treasury's implementing regulations at 31 CFR part 205 or 2 CFR 200.305(b)(8)-(9).

   As such, recipients can place funds in interest-bearing accounts, do not need to remit interest to Treasury, and are not limited to using that interest for eligible uses under the SLFRF award.

4. **Eligibility.** Under this program, recipients are responsible for ensuring funds are used for eligible purposes. Generally, recipients must develop and implement policies and

[2] See 42 CFR 433.51 and 45 CFR 75.306.
[3] Recipients also may use SLFRF funds directly for administrative costs to improve efficacy of programs that respond to the COVID-19 public health emergency. 31 CFR 35.6(b)(10).
[4] 2 CFR 200.413 Direct Costs.
[5] 2 CFR 200.414 Indirect Costs.

procedures, and record retention, to determine and monitor implementation of criteria for determining the eligibility of beneficiaries and/or subrecipients. Your organization, and if applicable, the subrecipient(s) administering a program on behalf of your organization, will need to maintain procedures for obtaining information evidencing a given beneficiary, subrecipient, or contractor's eligibility including a valid SAM.gov registration. Implementing risk-based due diligence for eligibility determinations is a best practice to augment your organization's existing controls.

5. **Equipment and Real Property Management.** Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

6. **Matching, Level of Effort, Earmarking.** There are no matching, level of effort, or earmarking compliance responsibilities associated with the SLFRF award. See Section C.1 (Eligible and Restricted Uses of SLFRF Funds) for a discussion of restrictions on use of SLFRF funds. SLFRF funds may only be used for non-Federal match in other programs where costs are eligible under both SLFRF and the other program and use of such funds is not prohibited by the other program.

7. **Period of Performance.** Your organization should also develop and implement internal controls related to activities occurring outside the period of performance. For example, each recipient should articulate each project's policy on allowability of costs incurred prior to award or start of the period of performance. All funds remain subject to statutory requirements that they must be used for costs incurred by the recipient during the period that begins on March 3, 2021, and ends on December 31, 2024, and that award funds for the financial obligations incurred by December 31, 2024 must be expended by December 31, 2026. Any funds not used must be returned to Treasury as part of the award closeout process pursuant to 2 C.F.R. 200.344(d).

8. **Procurement, Suspension & Debarment.** Recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable. The Uniform Guidance establishes in 2 CFR 200.319 that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320, which allows for non-competitive procurements only in circumstances where at least one of the conditions below is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, competition is determined inadequate.[6] Recipients must have and use documented procurement procedures that are consistent with the standards outlined in 2 CFR 200.317 through 2 CFR 200.320. The Uniform Guidance requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred parties. Your organization must ensure adherence to all applicable local, State, and federal procurement laws and regulations.

9. **Program Income.** Generally, program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under

[6] 2 CFR 200.320(c)(1)-(3) and (5)

Federal awards and principal and interest on loans made with Federal award funds. Program income does not include interest earned on advances of Federal funds, rebates, credits, discounts, or interest on rebates, credits, or discounts. Recipients of SLFRF funds should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.

The Uniform Guidance outlines the requirements that pertain to program income at 2 CFR 200.307. Treasury intends to provide additional guidance regarding program income and the application of 2 CFR 200.307(e)(1), including with respect to lending programs.

10. **Reporting.** All recipients of federal funds must complete financial, performance, and compliance reporting as required and outlined in Part 2 of this guidance. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied. Reporting must be consistent with the definition of expenditures pursuant to 2 CFR 200.1. Your organization should appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with appropriate accounting standards and principles.

    In addition, where appropriate, your organization needs to establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting. See Part 2 of this guidance for a full overview of recipient reporting responsibilities.

11. **Subrecipient Monitoring.** SLFRF recipients that are pass-through entities as described under 2 CFR 200.1 are required to manage and monitor their subrecipients to ensure compliance with requirements of the SLFRF award pursuant to 2 CFR 200.332 regarding requirements for pass-through entities.

    First, your organization must clearly identify to the subrecipient: (1) that the award is a subaward of SLFRF funds; (2) any and all compliance requirements for use of SLFRF funds; and (3) any and all reporting requirements for expenditures of SLFRF funds.

    Next, your organization will need to evaluate each subrecipient's risk of noncompliance based on a set of common factors. These risk assessments may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Ongoing monitoring of any given subrecipient should reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

    Accordingly, your organization should develop written policies and procedures for subrecipient monitoring and risk assessment and maintain records of all award agreements identifying or otherwise documenting subrecipients' compliance obligations.

    Recipients should note that non-entitlement units of local government (NEUs) are not subrecipients under the SLFRF program. They are SLFRF recipients that will report directly to Treasury.

    Recipients should also note that subrecipients do not include individuals and organizations that received SLFRF funds as end users to respond to the negative economic impacts of COVID-19 on these organizations. Such individuals and organizations are beneficiaries and not subject to audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, Subpart F.

Separately or in addition, many recipients may choose to provide a subaward (e.g., via contract or grant) to other entities to provide services to other end—users. For example, a recipient may provide a grant to a nonprofit to provide homeless services to individuals experiencing homelessness. In this case, the subaward to a nonprofit is based on the services that the Recipient intends to provide, assistance to households experiencing homelessness, and the nonprofit is serving as the subrecipient, providing services on behalf of the recipient. Subrecipients are subject to audit pursuant to the Single Audit Act and 2 CFR part 200, subpart F regarding audit requirements.

12. **Special Tests and Provisions.** Treasury has received comments on the Interim Final Rule and will adopt a final rule after responding to these comments. In addition, Treasury may add clarifications to the Final Rule and other subregulatory guidance as well as frequently asked questions.

Across each of the compliance requirements above, Treasury described some best practices for development of internal controls. The table below provides a brief description and example of each best practice.

Table 1: Internal controls best practices

Best Practice	Description	Example
Written policies and procedures	Formal documentation of recipient policies and procedures	Documented procedure for determining worker eligibility for premium pay
Written standards of conduct	Formal statement of mission, values, principles, and professional standards	Documented code of conduct / ethics for subcontractors
Risk-based due diligence	Pre-payment validations conducted according to an assessed level of risk	Enhanced eligibility review of subrecipient with imperfect performance history
Risk-based compliance monitoring	Ongoing validations conducted according to an assessed level of risk	Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics
Record maintenance and retention	Creation and storage of financial and non-financial records.	Storage of all subrecipient payment information.

E. Award Terms and Conditions

The Award Terms and Conditions of the SLFRF financial assistance agreement sets forth the compliance obligations for recipients pursuant to the SLFRF statute, the Uniform Guidance, and Treasury's Interim Final Rule. Recipients should ensure they remain in compliance with all Award Terms and Conditions. These obligations include the following items in addition to those described above:

1. **SAM.gov Requirements.** All eligible recipients are also required to have an active registration with the System for Award Management (SAM) (https://www.sam.gov). To ensure timely receipt of funding, Treasury has stated that Non-entitlement Units of Government (NEUs) who have not previously registered with SAM.gov may do so after receipt of the award, but before the submission of mandatory reporting.[7]

2. **Recordkeeping Requirements.** Generally, your organization must maintain records and financial documents for five years after all funds have been expended or returned to Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may

[7] See flexibility provided in https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf.

request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

Your organization must agree to provide or make available such records to Treasury upon request, and to the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and their authorized representative in order to conduct audits or other investigations.

3. **Single Audit Requirements.** Recipients and subrecipients that expend more than $750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.[8] Recipients and subrecipients may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.

4. **Civil Rights Compliance**. Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

   In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, Treasury will collect and review information from non-Tribal recipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury's implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406). Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status. Treasury will provide a forthcoming update regarding civil rights compliance certifications for Tribal Governments.

[8] For-profit entities that receive SLFRF subawards are not subject to Single Audit requirements. However, they are subject to other audits as deemed necessary by authorized governmental entities, including Treasury, the GAO, and Treasury's OIG.

Part 2: Reporting Guidance

There are three types of reporting requirements for the SLFRF program.

- **Interim Report:** Provide initial overview of status and uses of funding. This is a one-time report. **See Section A, page 14.**

- **Project and Expenditure Report:** Report on projects funded, expenditures, and contracts and subawards over $50,000, and other information. **See Section B, page 15.**

- **Recovery Plan Performance Report:** The Recovery Plan Performance Report (the "Recovery Plan") will provide information on the projects that large recipients are undertaking with program funding and how they plan to ensure program outcomes are achieved in an effective, efficient, and equitable manner. It will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury. The Recovery Plan will be posted on the website of the recipient as well as provided to Treasury. **See Section C, page 22.**

The reporting threshold is based on the total award amount allocated by Treasury under the SLFRF program, not the funds received by the recipient as of the time of reporting.

States and territories are also required to submit information on their distributions to NEUs. Please refer to Section D for additional details.

Table 2: Reporting requirements by recipient type

Tier	Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
1	States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021 or 60 days after receiving funding if funding was received by October 15, with expenditures by category	By January 31, 2022, and then 30 days after the end of each quarter thereafter[9]	By August 31, 2021 or 60 days after receiving funding, and annually thereafter by July 31[10]
2	Metropolitan cities and counties with a population below 250,000 residents which received more than $10 million in SLFRF funding			Not required
3	Tribal Governments which received more than $30 million in SLFRF funding			
4	Tribal Governments which received less than $30 million in SLFRF funding		By April 30, 2022, and then annually thereafter[11]	
5	Metropolitan cities and counties with a population below 250,000 residents which received less than $10 million in SLFRF funding			
6	NEUs	Not required		

Note: Based on the period of performance, reports will be collected through April 30, 2027. See the specific due dates listed in Sections B and C.

The remainder of this document describes these reporting requirements. User guides describing how and where to submit required reports will be posted at www.treasury.gov/SLFRPReporting and updated on a regular basis.

[9] Interim Final Rule Page 111
[10] Interim Final Rule page 112
[11] Interim Final Rule Page 111

Comparison to reporting for the CRF

This guidance does not change the reporting or compliance requirements pertaining to the CRF. Reporting and compliance requirements for the SLFRF are separate from CRF reporting requirements. Changes from CRF to SLFRF include:

- **Project, Expenditure, and Subaward Reporting**: The SLFRF reporting requirements leverage the existing reporting regime used for CRF to foster continuity and provide many recipients with a familiar reporting mechanism. The data elements for the Project and Expenditure Report will largely mirror those used for CRF, with some minor exceptions noted in this guidance. The users' guide will describe how reporting for CRF funds will relate to reporting for the SLFRF.
- **Timing of Reports**: CRF reports were due within 10 days of each calendar quarter end. For quarterly reporters, SLFRF reporting will be due 30 days from quarter end. For annual reporters, SLFRF reporting will be due on an annual schedule (see table below).
- **Program and Performance Reporting**: The CRF reporting did not include any program or performance reporting. To build public awareness and accountability and allow Treasury to monitor compliance with eligible uses, some program and performance reporting is required for SLFRF.

A. Interim Report

States, U.S. territories, metropolitan cities, counties, and Tribal governments are required to submit a one-time interim report with expenditures[12] by Expenditure Category covering the period from March 3rd to July 31, 2021, by August 31, 2021 or sixty (60) days after first receiving funding if the recipient's date of award is between July 15, 2021 and October 15, 2021. The recipient will be required to enter obligations[13] and expenditures and, for each, select the specific expenditure category from the available options. See Appendix 1 for Expenditure Categories (EC).

1. Required Programmatic Data

Recipients will also be required to provide the following information if they have or plan to have expenditures in the following Expenditure Categories.

a. Revenue replacement (EC 6.1[14]): Key inputs into the revenue replacement formula in the Interim Final Rule and estimated revenue loss due to the Covid-19 public health emergency calculated using the formula in the Interim Final Rule as of December 31, 2020.

- Base year general revenue (e.g., revenue in the last full fiscal year prior to the public health emergency)
- Fiscal year end date
- Growth adjustment used (either 4.1 percent or average annual general revenue growth over 3 years prior to pandemic)
- Actual general revenue as of the twelve months ended December 31, 2020

[12] For purposes of reporting in the SLFRF portal, an expenditure is the amount that has been incurred as a liability of the entity (the service has been rendered or the good has been delivered to the entity).
[13] For purposes of reporting in the SLFRF portal, an obligation is an order placed for property and services, contracts and subawards made, and similar transactions that require payment.
[14] See Appendix 1 for the full Expenditure Category (EC) list. References to Expenditure Categories are identified by "EC" followed by numbers from the table in Appendix 1.

- Estimated revenue loss due to the Covid-19 public health emergency as of December 31, 2020
- An explanation of how revenue replacement funds were allocated to government services (Note: additional instructions and/or template to be provided in users' guide)

In calculating general revenue and the other items discussed above, recipients should use audited data if it is available. When audited data is not available, recipients are not required to obtain audited data if substantially accurate figures can be produced on an unaudited basis. Recipients should use their own data sources to calculate general revenue, and do not need to rely on revenue data published by the Census Bureau. Treasury acknowledges that due to differences in timing, data sources, and definitions, recipients' self-reported general revenue figures may differ from those published by the Census Bureau. Recipients may provide data on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology throughout the covered period and until reporting is no longer required. Recipients' reporting should align with their own financial reporting.

In calculating general revenue, recipients should exclude all intergovernmental transfers from the federal government. This includes, but is not limited to, federal transfers made via a State to a locality pursuant to the CRF or SLFRF. To the extent federal funds are passed through States or other entities or intermingled with other funds, recipients should attempt to identify and exclude the federal portion of those funds from the calculation of general revenue on a best-efforts basis.

Consistent with the broad latitude provided to recipients to use funds for government services to the extent of reduction in revenue, recipients will be required to submit a description of services provided. This description may be in narrative or in another form, and recipients are encouraged to report based on their existing budget processes and to minimize administrative burden. For example, a recipient with $100 in revenue replacement funds available could indicate that $50 were used for law enforcement operating expenses and $50 were used for pay-go building of sidewalk infrastructure. As discussed in the Interim Final Rule, these services can include a broad range of services but may not be used directly for pension deposits or debt service.

Reporting requirements will not require tracking the indirect effects of Fiscal Recovery Funds, apart from the restrictions on use of Fiscal Recovery Funds to offset a reduction in net tax revenue. In addition, recipients must indicate that Fiscal Recovery Funds were not used to make a deposit in a pension fund.

B. Project and Expenditure Report

All recipients are required to submit Project and Expenditure Reports.

1. Quarterly Reporting

The following recipients are required to submit quarterly Project and Expenditure Reports:

- States and U.S. territories
- Tribal governments that received more than $30 million in SLFRF funding
- Metropolitan cities and counties with a population that exceeds 250,000 residents
- Metropolitan cities and counties with a population below 250,000 residents that are allocated more than $10 million in SLFRF funding

For these recipients, the initial quarterly Project and Expenditure Report will cover three calendar quarters from March 3, 2021 to December 31, 2021 and must be submitted to Treasury by January 31, 2022. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 calendar days after the end of each calendar quarter. Quarterly reports are not due concurrently with applicable annual reports. The table below summarizes the quarterly report timelines:

Report	Year	Quarter	Period Covered	Due Date
1	2021	2 - 4	March 3 – December 31	January 31, 2022
2	2022	1	January 1 – March 31	April 30, 2022
3	2022	2	April 1 – June 30	July 31, 2022
4	2022	3	July 1 – September 30	October 31, 2022
5	2022	4	October 1 – December 31	January 31, 2023
6	2023	1	January 1 – March 31	April 30, 2023
7	2023	2	April 1 – June 30	July 31, 2023
8	2023	3	July 1 – September 30	October 31, 2023
9	2023	4	October 1 – December 31	January 31, 2024
10	2024	1	January 1 – March 31	April 30, 2024
11	2024	2	April 1 – June 30	July 31, 2024
12	2024	3	July 1 – September 30	October 31, 2024
13	2024	4	October 1 – December 31	January 31, 2025
14	2025	1	January 1 – March 31	April 30, 2025
15	2025	2	April 1 – June 30	July 31, 2025
16	2025	3	July 1 – September 30	October 31, 2025
17	2025	4	October 1 – December 31	January 31, 2026
18	2026	1	January 1 – March 31	April 30, 2026
19	2026	2	April 1 – June 30	July 31, 2026
20	2026	3	July 1 – September 30	October 31, 2026
21	2026	4	October 1 – December 31	March 31, 2027

2. Annual Reporting

The following recipients are required to submit annual Project and Expenditure Reports:

- Tribal governments that received less than $30 million in SLFRF funding
- Metropolitan cities and counties with a population below 250,000 residents that are allocated less than $10 million in SLFRF funding
- NEUs. To facilitate reporting, each NEU will need a NEU Recipient Number. This is a unique identification code for each NEU assigned by the State or territory to the NEU as part of its request for funding.

For these recipients, the initial Project and Expenditure Report will cover from March 3, 2021 to March 31, 2022 and must be submitted to Treasury by April 30, 2022. The subsequent annual reports will cover one calendar year and must be submitted to Treasury by April 30. The table below summarizes the report timelines:

Report	Period Covered	Due Date
1	March 3, 2021 – March 31, 2022	April 30, 2022
2	April 1, 2022 – March 31, 2023	April 30, 2023
3	April 1, 2023 – March 31, 2024	April 30, 2024
4	April 1, 2024 – March 31, 2025	April 30, 2025
5	April 1, 2025 – March 31, 2026	April 30, 2026
6	April 1, 2026 – December 31, 2026	April 30, 2027

3. Required Information

The following information will be required in Project and Expenditure Reports for both quarterly and annual reporting:

a. Projects: Provide information on all SLFRF funded projects. Projects are new or existing eligible government services or investments funded in whole or in part by SLFRF funding. For each project, the recipient will be required to enter the project name, identification number (created by the recipient), project expenditure category (see Appendix 1), description, and status of completion. Project descriptions must describe the project in sufficient detail to provide understanding of the major activities that will occur, and will be required to be between 50 and 250 words. Projects should be defined to include only closely related activities directed toward a common purpose. Recipients should review the Required Programmatic Data described in 3.g. below and define their projects at a sufficient level of granularity.

Note: For each project, the recipient will be asked to select the appropriate Expenditure Category based on the scope of the project (see Appendix 1). Projects should be scoped to align to a single Expenditure Category. For select Expenditure Categories, the recipient will also be asked to provide additional programmatic data (described further below).

b. Expenditures: Once a project is entered the recipient will be able to report on the project's obligations and expenditures. Recipients will be asked to report:
- Current period obligation
- Cumulative obligation
- Current period expenditure
- Cumulative expenditure

c. Project Status: Once a project is entered the recipient will be asked to report on project status each reporting period, in four categories:
- Not Started
- Completed less than 50 percent
- Completed 50 percent or more
- Completed

d. Adopted Budget (States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents only): Each state, territory and metropolitan city and county with a population that exceeds 250,000 residents will provide the budget adopted for each project by its jurisdiction associated with SLFRF funds. Treasury will use this information to better understand the intended impact, identify opportunities for technical assistance, and understand the recipient's progress in program implementation. Treasury is not approving or pre-approving projects or budgets.
- Recipients will enter the Adopted Budget based on information that exists currently in the recipient's financial systems and the recipient's established budget process. Treasury understands that recipients may use different budget processes. For example, a recipient may consider a project budgeted once a legislature has appropriated funds; whereas another recipient may consider a project budgeted at the moment when the funds have been obligated.
- Additional information will be provided on the differences between Adopted Budget, Obligations, and Expenditures as part of the forthcoming User Guide.

e. Project Demographic Distribution – *Collection of this data will be phased in; no data will be collected in this area before April 2022:* Recognizing the disproportionate impact of the pandemic-related recession on low-income and economically disadvantaged communities,

the Interim Final Rule encourages recipients to direct Fiscal Recovery Funds toward disproportionately impacted communities. Recipients are encouraged to design projects that prioritize economic and racial equity and promote equitable outcomes. Treasury is committed to supporting recipients in executing and reporting on projects that promote equity. In a subsequent version of the Reporting Guidance and User Guide, which will be released after the issuance of the Fiscal Recovery Fund Final Rule, Treasury will issue detailed requirements for reporting the project demographic distribution of Fiscal Recovery Fund projects.

f. Subawards: Each recipient shall also provide detailed obligation and expenditure information for any contracts and grants awarded, loans issued, transfers made to other government entities, and direct payments made by the recipient that are greater than $50,000.

Recipients do not also need to submit separate monthly subaward reports to FSRS.gov as required pursuant to the 2 CFR Part 170, Appendix A award term regarding reporting subaward and executive compensation, which is included in the SLFRF Award Terms and Conditions. Treasury will submit this reporting on behalf of recipients using the $50,000 reporting threshold, timing, and data elements discussed in this guidance. If recipients choose to continue reporting to FSRS.gov in addition to reporting directly to Treasury on these funds, they may do so and will be asked to notify Treasury as part of their quarterly submission.

In general, recipients will be asked to provide the following information for each Contract, Grant, Loan, Transfer, or Direct Payment greater than $50,000:

- Subrecipient identifying and demographic information (e.g., DUNS number and location)
- Award number (e.g., Award number, Contract number, Loan number)
- Award date, type, amount, and description
- Award payment method (reimbursable or lump sum payment(s))
- For loans, expiration date (date when loan expected to be paid in full)
- Primary place of performance
- Related project name(s)
- Related project identification number(s) (created by the recipient)
- Period of performance start date
- Period of performance end date
- Quarterly obligation amount
- Quarterly expenditure amount
- Project(s)
- Additional programmatic performance indicators for select Expenditure Categories (see below)

Aggregate reporting is required for contracts, grants, transfers made to other government entities, loans, direct payments, and payments to individuals that are below $50,000. This information will be accounted for by expenditure category at the project level.

As required by the 2 CFR Part 170, Appendix A award term regarding reporting subaward and executive compensation, recipients must also report the names and total compensation of their five most highly compensated executives and their subrecipients' executives for the preceding completed fiscal year if (1) the recipient received 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as provided by 2 CFR 170.320 (and subawards), and received $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the

Transparency Act (and subawards), and (2) if the information is not otherwise public. In general, most SLFRF Recipients are governmental entities with executive salaries that are already disclosed, so no additional information must be reported. The recipient is responsible for the subrecipients' compliance with registering and maintaining an updated profile on SAM.gov.

g. Civil Rights Compliance: Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964, as applicable, on an annual basis. This information may include a narrative describing the recipient's compliance with Title VI, along with other questions and assurances. Treasury will provide a forthcoming update regarding civil rights compliance certifications for Tribal Governments.

h. Ineligible Activities: Tax Offset Provision (States and territories only): Treasury may collect additional information related to the Tax Offset Provision as described in section 602(c)(2) of the Social Security Act and implemented under 31 CFR 35.8 as part of the Project and Expenditure Report, such as but not limited to revenue reducing covered changes. Please see Section C.11 (Recovery Plan, Ineligible Activities: Tax Offset Provision) for more information.

i. Required Programmatic Data (other than infrastructure projects): For all projects listed under the following Expenditure Categories (see Appendix 1), the information listed must be provided in each report.

1. Payroll for Public Health and Safety Employees (EC 1.9) – *Collection to begin in January 2022*:
   - Number of government FTEs responding to COVID-19 supported under this authority

2. Household Assistance (EC 2.1-2.5) – *Collection to begin January 2022*:
   - Brief description of structure and objectives of assistance program(s) (e.g., nutrition assistance for low-income households)
   - Number of households served (by program if recipient establishes multiple separate household assistance programs)
   - Brief description of recipient's approach to ensuring that aid to households responds to a negative economic impact of Covid-19, as described in the Interim Final Rule

3. Small Business Economic Assistance (EC 2.9) – *Collection of this data will be phased in; no data will be collected in this area before April 2022*:
   - Brief description of the structure and objectives of assistance program(s) (e.g., grants for additional costs related to Covid-19 mitigation)
   - Number of small businesses served (by program if recipient establishes multiple separate small businesses assistance programs)
   - Brief description of recipient's approach to ensuring that aid to small businesses responds to a negative economic impact of COVID-19, as described in the Interim Final Rule

4. Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (EC 2.11-2.12) – *Collection of this data will be phased in; no data will be collected in this area before April 2022*:
   - If aid is provided to industries other than travel, tourism, and hospitality (EC 2.12), a description of pandemic impact on the industry and rationale for providing aid to the industry

- Brief narrative description of how the assistance provided responds to negative economic impacts of the COVID-19 pandemic
- For each subaward:
  - Sector of employer (Note: additional detail, including list of sectors to be provided in a users' guide)
  - Purpose of funds (e.g., payroll support, safety measure implementation)

5. Rehiring Public Sector Staff (EC 2.14) – *Collection to begin in January 2022*:
   - Number of FTEs rehired by governments under this authority

6. Education Assistance (EC 3.1-3.5) – *Collection to begin in January 2022*:
   - The National Center for Education Statistics ("NCES") School ID or NCES District ID. List the School District if all schools within the school district received some funds. If not all schools within the school district received funds, list the School ID of the schools that received funds. These can allow evaluators to link data from the NCES to look at school-level demographics and, eventually, student performance.[15]

7. Premium Pay (both Public Sector EC 4.1 and Private Sector EC 4.2) – *Collection to begin in January 2022*:
   - List of sectors designated as critical to the health and well-being of residents by the chief executive of the jurisdiction, if beyond those included in the Interim Final Rule (Note: a list of sectors will be provided in the forthcoming users' guide).
   - Number of workers to be served
   - Employer sector for all subawards to third-party employers (i.e., employers other than the State, local, or Tribal government) (Note: a list of sectors will be provided in the forthcoming users' guide).
   - For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, for whom premium pay would increase total pay above 150 percent of their residing State's average annual wage, or their residing county's[16] average annual wage, whichever is higher, on an annual basis:
     - A brief written narrative justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19, and why the recipient government determined that the premium pay was responsive to workers performing essential work during the pandemic. This description should not include personally identifiable information; when addressing individual workers, recipients should be careful not to include this information. Recipients may consider describing the workers' occupations and duties in a general manner as necessary to protect privacy.

8. Revenue replacement (EC 6.1) – *Collection began in August 2021*:
   Under the Interim Final Rule, recipients calculate revenue loss using data as of four discrete points during the program: December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023. Revenue loss calculated as of December 31, 2020 will be reported in the Interim Report, as described above. For future calculation dates, revenue loss will be reported only in the Quarter 4 reports

[15] For more information on NCES identification numbers see https://nces.ed.gov/ccd/districtsearch/ (districts) and https://nces.ed.gov/ccd/schoolsearch/ (schools).
[16] *County* means a county, parish, or other equivalent county division (as defined by the Census Bureau). See 31 CFR 35.3.

due January 31, 2022, January 31, 2023, and January 31, 2024. Reporting on revenue loss should include:

- General revenue collected over the past 12 months as of the most recent calculation date, as outlined in the Interim Final Rule (for example, for the January 31, 2022 report, recipients should provide 12 month general revenue as of December 31, 2021).
- Calculated revenue loss due to the Covid-19 public health emergency; and
- An explanation of how the revenue replacement funds were allocated to government services (note: additional instructions and/or template to be provided in user guide).

In calculating general revenue and the revenue loss due to the COVID-19 public health emergency, recipients should follow the same guidance as described above for the Interim Report.

j. Required Programmatic Data for Infrastructure Projects (EC 5): For all projects listed under the Water, Sewer, and Broadband Expenditure Categories (see Appendix 1), more detailed project-level information is required. Each project will be required to report expenditure data as described above, but will also report the following information:

1. All infrastructure projects (EC 5) – *Collection to begin in January 2022:*
   - Projected/actual construction start date (month/year)
   - Projected/actual initiation of operations date (month/year)
   - Location (for broadband, geospatial location data)
   - For projects over $10 million (based on expected total cost):
     a. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
        - The number of employees of contractors and sub-contractors working on the project;
        - The number of employees on the project hired directly and hired through a third party;
        - The wages and benefits of workers on the project by classification; and
        - Whether those wages are at rates less than those prevailing.[17]

        Recipients must maintain sufficient records to substantiate this information upon request.
     b. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:

[17] As determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed.

- How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
- How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
- How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
- Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
- Whether the project has completed a project labor agreement.

c. Whether the project prioritizes local hires.
d. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

2. Water and sewer projects (EC 5.1-5.15) *Collection to begin in January 2022 and required once the project starts:*
   - National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
   - Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)

3. Broadband projects (EC 5.16-5.17) *Collection to begin in January 2022:*
   - Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
     - If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
     - Confirm that the project is designed to, upon completion, meet or exceed symmetrical 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
   - Please note: additional programmatic data will be required for broadband projects beginning in July 2022 and will be defined in a subsequent version of the Reporting Guidance.

k. NEU Documentation (NEUs only): Each NEU will also be asked to provide the following information once their accounts are established in Treasury's Reporting Portal and prior to the due date for their first annual Project and Expenditure Report (due April 30, 2022):
   - Copy of the signed award terms and conditions agreement (which was signed and submitted to the State as part of the request for funding)
   - Copy of the signed assurances of compliance with Title VI of the Civil Rights Act of 1964 (which was signed and submitted to the State as part of the request for funding)
   - Copy of actual budget documents validating the top-line budget total provided to the State as part of the request for funding

NEU accounts will be established in Treasury's Portal based on information provided by the States or territories, as further described in Section Part 2 D below.

C. Recovery Plan Performance Report

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to publish and submit to Treasury a Recovery Plan performance report ("Recovery Plan"). Each Recovery Plan must be posted on the public-facing website of

the recipient by the same date the recipient submits the report to Treasury. This reporting requirement includes uploading a link to the publicly available document report along with providing data in the Treasury reporting portal.

The Recovery Plan will provide the public and Treasury information on the projects recipients are undertaking with program funding and how they are planning to ensure program outcomes are achieved in an effective, efficient, and equitable manner. While this guidance outlines some minimum requirements for the Recovery Plan, each recipient is encouraged to add information to the plan they feel is appropriate to provide information to their constituents on efforts they are taking to respond to the pandemic and promote economic recovery. Each jurisdiction may determine the general form and content of the Recovery Plan, as long as it includes the minimum information determined by Treasury. Treasury will provide a recommended template but recipients may modify this template as appropriate for their jurisdiction. The Recovery Plan will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury.

The initial Recovery Plan will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021, or 60 days after receiving funding. Thereafter, the Recovery Plan will cover a 12-month period and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period (by July 31). The table below summarizes the report timelines:

Annual Report	Period Covered	Due Date
1	Award Date – July 31, 2021	August 31, 2021
2	July 1, 2021 – June 30, 2022	July 31, 2022
3	July 1, 2022 – June 30, 2023	July 31, 2023
4	July 1, 2023 – June 30, 2024	July 31, 2024
5	July 1, 2024 – June 30, 2025	July 31, 2025
6	July 1, 2025 – June 30, 2026	July 31, 2026
7	July 1, 2026 – December 31, 2026	March 31, 2027

The Recovery Plan will include, at a minimum, the following information:

1. Executive Summary

Provide a high-level overview of the jurisdiction's intended and actual uses of funding including, but not limited to: the jurisdiction's plan for use of funds to promote a response to the pandemic and economic recovery, key outcome goals, progress to date on those outcomes, and any noteworthy challenges or opportunities identified during the reporting period.

2. Uses of Funds

Describe in further detail your jurisdiction's intended and actual uses of the funds, such as how your jurisdiction's approach would help support a strong and equitable recovery from the COVID-19 pandemic and economic downturn. Describe any strategies employed to maximize programmatic impact and effective, efficient, and equitable outcomes. Given the broad eligible uses of funds and the specific needs of the jurisdiction, please also explain how the funds would support the communities, populations, or individuals in your jurisdiction. Your description should address how you are promoting each of the following, to the extent they apply:

a. Public Health (EC 1): As relevant, describe how funds are being used to respond to COVID-19 and the broader health impacts of COVID-19 and the COVID-19 public health emergency.

b. Negative Economic Impacts (EC 2): As relevant, describe how funds are being used to respond to negative economic impacts of the COVID-19 public health emergency, including to households and small businesses.
c. Services to Disproportionately Impacted Communities (EC 3): As relevant, describe how funds are being used to provide services to communities disproportionately impacted by the COVID-19 public health emergency.
d. Premium Pay (EC 4): As relevant, describe the approach, goals, and sectors or occupations served in any premium pay program. Describe how your approach prioritizes low-income workers.
e. Water, sewer, and broadband infrastructure (EC 5): Describe the approach, goals, and types of projects being pursued, if pursuing.
f. Revenue Replacement (EC 6): Describe the loss in revenue due to the COVID-19 public health emergency and how funds have been used to provide government services.

Where appropriate, recipients should also include information on your jurisdiction's use (or planned use) of other federal recovery funds including other programs under the American Rescue Plan such as Emergency Rental Assistance, Housing Assistance, and so forth, to provide broader context on the overall approach for pandemic recovery.

3. Promoting equitable outcomes

Describe efforts to promote equitable outcomes, including how programs were designed with equity in mind. Please include in your description how your jurisdiction will consider and measure equity at the various stages of the program, including:

a. Goals: Are there particular historically underserved, marginalized, or adversely affected groups that you intend to serve within your jurisdiction?
b. Awareness: How equal and practical is the ability for residents or businesses to become aware of the services funded by the SLFRF?
c. Access and Distribution: Are there differences in levels of access to benefits and services across groups? Are there administrative requirements that result in disparities in ability to complete applications or meet eligibility criteria?
d. Outcomes: Are intended outcomes focused on closing gaps, reaching universal levels of service, or disaggregating progress by race, ethnicity, and other equity dimensions where relevant for the policy objective?

Treasury encourages uses of funds that promote strong, equitable growth, including racial equity. Please describe how your jurisdiction's planned or current use of funds prioritizes economic and racial equity as a goal, names specific targets intended to produce meaningful equity results at scale, and articulates the strategies to achieve those targets. In addition, please explain how your jurisdiction's overall equity strategy translates into the specific services or programs offered by your jurisdiction in the following Expenditure Categories:

a. Negative Economic Impacts (EC 2): assistance to households, small businesses, and non-profits to address impacts of the pandemic, which have been most severe among low-income populations. This includes assistance with food, housing, and other needs; employment programs for people with barriers to employment who faced negative economic impacts from the pandemic (such as residents of low-income neighborhoods, minorities, disconnected youth, the unemployed, formerly incarcerated people, veterans, and people with disabilities); and other strategies that provide disadvantaged groups with access to education, jobs, and opportunity.

b. Services to Disproportionately Impacted Communities (EC 3): services to address health disparities and the social determinants of health, build stronger neighborhoods and communities (e.g., affordable housing), address educational disparities (e.g., evidence-based tutoring, community schools, and academic, social-emotional, and mental health

supports for high poverty schools), and promote healthy childhood environments (e.g., home visiting, child care).

The initial report must describe efforts to date and intended outcomes to promote equity. Each annual report thereafter must provide an update, using qualitative and quantitative data, on how the recipients' approach achieved or promoted equitable outcomes or progressed against equity goals during the performance period. Please also describe any constraints or challenges that impacted project success in terms of increasing equity. In particular, this section must describe the geographic and demographic distribution of funding, including whether it is targeted toward traditionally marginalized communities.

For the purposes of the SLFRF, equity is described in the Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, as issued on January 20, 2021.

4. Community Engagement

Please describe how your jurisdiction's planned or current use of funds incorporates written, oral, and other forms of input that capture diverse feedback from constituents, community-based organizations, and the communities themselves. Where relevant, this description must include how funds will build the capacity of community organizations to serve people with significant barriers to services, including people of color, people with low incomes, limited English proficient populations, and other traditionally underserved groups.

5. Labor Practices

Describe workforce practices on any infrastructure projects being pursued (EC 5). How are projects using strong labor standards to promote effective and efficient delivery of high-quality infrastructure projects while also supporting the economic recovery through strong employment opportunities for workers? For example, report whether any of the following practices are being utilized: project labor agreements, community benefits agreements, prevailing wage requirements, and local hiring.

6. Use of Evidence

The Recovery Plan should identify whether SLFRF funds are being used for evidence-based interventions[18] and/or if projects are being evaluated through rigorous program evaluations that are designed to build evidence. Recipients must briefly describe the goals of the project, and the evidence base for the interventions funded by the project. Recipients must specifically identify the dollar amount of the total project spending that is allocated towards evidence-based interventions for each project in the Public Health (EC 1), Negative Economic Impacts (EC 2), and Services to Disproportionately Impacted Communities (EC 3) Expenditure Categories.[19]

Recipients are exempt from reporting on evidence-based interventions in cases where a program evaluation is being conducted. Recipients are encouraged to use relevant evidence Clearinghouses, among other sources, to assess the level of evidence for their interventions and identify evidence-based models that could be applied in their jurisdiction; such evidence clearinghouses include the U.S. Department of Education's What Works Clearinghouse, the U.S. Department of Labor's CLEAR, and the Childcare & Early Education Research Connections and the Home Visiting Evidence of Effectiveness clearinghouses from

[18] As noted in Appendix 2, evidence-based refers to interventions with strong or moderate levels of evidence.

[19] Of note, recipients are only required to report the amount of the total funds that are allocated to evidence-based interventions in the areas of Public Health, Negative Economic Impacts, and Services to Disproportionately Impacted Communities that are marked by an asterisk in Appendix 1: Expenditure Categories.

Administration for Children and Families, as well as other clearinghouses relevant to particular projects conducted by the recipient. In such cases where a recipient is conducting a program evaluation in lieu of reporting the amount of spending on evidence-based interventions, they must describe the evaluation design including whether it is a randomized or quasi-experimental design; the key research questions being evaluated; whether the study has sufficient statistical power to disaggregate outcomes by demographics; and the timeframe for the completion of the evaluation (including a link to completed evaluation if relevant).[20] Once the evaluation has been completed, recipients must post the evaluation publicly and link to the completed evaluation in the Recovery Plan. Once an evaluation has been completed (or has sufficient interim findings to determine the efficacy of the intervention), recipients should determine whether the spending for the evaluated interventions should be counted towards the dollar amount categorized as evidence-based for the relevant project.

For all projects, recipients may be selected to participate in a national evaluation, which would study their project along with similar projects in other jurisdictions that are focused on the same set of outcomes. In such cases, recipients may be asked to share information and data that is needed for the national evaluation.

Recipients are encouraged to consider how a Learning Agenda, either narrowly focused on SLFRF or broadly focused on the recipient's broader policy agenda, could support their overarching evaluation efforts in order to create an evidence-building strategy for their jurisdiction.[21]

Appendix 2 contains additional information on evidence-based interventions for the purposes of the Recovery Plan.

7. Table of Expenses by Expenditure Category

Please include a table listing the amount of funds used in each Expenditure Category (See Appendix 1). The table should include cumulative expenses to date within each category, and the additional amount spent within each category since the last annual Recovery Plan.

8. Project Inventory

List the name and provide a brief description of all SLFRF funded projects. Projects are new or existing eligible government services or investments funded in whole or in part by SLFRF funding. For each project, include the project name, funding amount, identification number (created by the recipient and used thereafter in the quarterly Program and Expenditure Report), project Expenditure Category (see Appendix 1), and a description of the project which includes an overview of the main activities of the project, the approximate timeline, primary delivery mechanisms and partners, if applicable, and intended outcomes. Include a link to the website of the project if available. This information will provide context and additional detail for the information reported quarterly in the Project and Expenditure Report.

For infrastructure investment projects (EC 5), project-level reporting will be more detailed, as described for the Project and Expenditure Report above. Projects in this area may be grouped by Expenditure Category if needed, with further detail (such as the specific project name and identification number) provided in the Project and Expenditure Report. For infrastructure projects, descriptions should note how the project contributes to addressing climate change.

9. Performance Report

The Recovery Plan must include key performance indicators for the major SLFRF funded projects undertaken by the recipient. The recipient has flexibility in terms of how this information is presented in the Recovery Plan, and may report key performance indicators for

[20] For more information on the required standards for program evaluation, see OMB M-20-12.
[21] For more information on learning agendas, please see OMB M-19-23

each project, or may group projects with substantially similar goals and the same outcome measures. In some cases, the recipient may choose to include some indicators for each individual project as well as crosscutting indicators.

Performance indicators should include both output and outcome measures. Output measures, such as number of students enrolled in an early learning program, provide valuable information about the early implementation stages of a project. Outcome measures, such as the percent of students reading on grade level, provide information about whether a project is achieving its overall goals. Recipients are encouraged to use logic models[22] to identify their output and outcome measures. While the initial report will focus heavily on early output goals, recipients must include the related outcome goal for each project and provide updated information on achieving these outcome goals in annual reports. In cases where recipients are conducting a program evaluation for a project (as described above), the outcome measures in the performance report should be aligned with those being evaluated in the program. To support their performance measurement and program improvement efforts, recipients are permitted to use funds to make improvements to data or technology infrastructure and data analytics, as well as program evaluations.

10. Required Performance Indicators and Programmatic Data

While recipients have discretion on the full suite of performance indicators to include, a number of mandatory performance indicators and programmatic data must be included. These are necessary to allow Treasury to conduct oversight as well as understand and aggregate program outcomes across recipients. This section provides an overview of the mandatory performance indicators and programmatic data. This information may be included in each recipient's Recovery Plan as they determine most appropriate, including combining with the section above, but this data will also need to be entered directly into the Treasury reporting portal. Below is a list of required data for each Expenditure Category:

a. Household Assistance (EC 2.2 & 2.5) and Housing Support (EC 3.10-3.12):
   - Number of people or households receiving eviction prevention services (including legal representation)
   - Number of affordable housing units preserved or developed

b. Negative Economic Impacts (EC 2):
   - Number of workers enrolled in sectoral job training programs
   - Number of workers completing sectoral job training programs
   - Number of people participating in summer youth employment programs

c. Education Assistance (EC 3.1-3.5):
   - Number of students participating in evidence-based tutoring programs[23]

d. Healthy Childhood Environments (EC 3.6-3.9):
   - Number of children served by childcare and early learning (pre-school/pre-K/ages 3-5)
   - Number of families served by home visiting

The initial report should include the key indicators above. Each annual report thereafter should include updated data for the performance period as well as prior period data, and a brief

[22] A logic model is a tool that depicts the intended links between program investments and outcomes, specifically the relationships among the resources, activities, outputs, outcomes, and impact of a program.

[23] For more information on evidence-based tutoring programs, refer to the U.S. Department of Education's 2021 ED COVID-19 Handbook (Volume 2), which summarizes research on evidence-based tutoring programs (see the bottom of page 20.

narrative adding any additional context to help the reader interpret the results and understand the any changes in performance indicators over time. To the extent possible, Treasury also encourages recipients to provide data disaggregated by race, ethnicity, gender, income, and other relevant factors.

11. Ineligible Activities: Tax Offset Provision (States and territories only)
The following information is required for Treasury to ensure SLFRF funding is not used for ineligible activities.

In each reporting year, States and territories will report certain items related to the Tax Offset Provision as described in section 602(c)(2) of the Social Security Act and implemented by 31 CFR 35.8. Additional guidance will be forthcoming for reporting requirements regarding the tax offset provision and additional information that Recipients will report once the Final Rule goes into effect.

a. Revenue-reducing Covered Changes: *Collection began August 2021:*
For each reporting year, a recipient must report the value of covered changes that the recipient predicts will have the effect of reducing tax revenue in a given reporting year (revenue-reducing covered changes), similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Estimation approaches should not use dynamic methodologies that incorporate the projected effects of the policies on macroeconomic growth. In general, and where possible, reported values should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Recipients must maintain records regarding the identification and predicted effects of revenue-reducing covered changes. The term "covered change,"" and "tax revenue" are described in the Interim Final Rule, 31 CFR 35.3. For additional information, see 602(c)(2) of the Social Security Act, the Interim Final Rule, and 31 CFR 35.8.

D. Distributions to NEUs

Each State and territory is asked to provide regular updates on their NEU distribution as well as their distributions to units of general local government within counties that are not units of general local government (Non-UGLG). The distribution template generally requests information on whether the local government has (1) received funding; (2) declined funding and requested a transfer to the State under Section 603(c)(4) of the Act; or (3) not taken action on its funding or declined funding.

For NEUs, states and territories should be prepared to report on their information, including the following:

- NEU name
- NEU DUNS number
- NEU Taxpayer Identification Number (TIN)
- NEU Recipient Number (a unique identification code for each NEU assigned by the State or territory to the NEU as part of the request for funding)
- NEU contact information (e.g., address, point of contact name, point of contact email address, and point of contact phone number)
- NEU authorized representative name and email address

- Initial allocation and, if applicable, subsequent allocation to the NEU (before application of the 75 percent cap)
- Total NEU reference budget (as submitted by the NEU to the State or territory as part of the request for funding)
- Amount of the initial and, if applicable, subsequent allocation above 75 percent of the NEU's reference budget which will be returned to Treasury
- Payment amount(s)
- Payment date(s)

States with "weak" minor civil divisions (i.e., Illinois, Indiana, Kansas, Missouri, Nebraska, North Dakota, Ohio, and South Dakota) should also list any minor civil divisions that the State deemed ineligible.

For each eligible NEU that declined funding and requested a transfer to the State under Section 603(c)(4), the State or territory must also attach a form signed by the NEU, as detailed in the Guidance on Distributions of Funds to Non-Entitlement Units of Local Government.

Appendix 1: Expenditure Categories

The Expenditure Categories (EC) listed below must be used to categorize each project as noted in Part 2 above. The term "Expenditure Category" refers to the detailed level (e.g., 1.1 COVID-10 Vaccination). When referred to as a category (e.g., EC 1) it includes all Expenditure Categories within that level.

1: Public Health	
1.1	COVID-19 Vaccination ^
1.2	COVID-19 Testing ^
1.3	COVID-19 Contact Tracing
1.4	Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, etc.)*
1.5	Personal Protective Equipment
1.6	Medical Expenses (including Alternative Care Facilities)
1.7	Capital Investments or Physical Plant Changes to Public Facilities that respond to the COVID-19 public health emergency
1.8	Other COVID-19 Public Health Expenses (including Communications, Enforcement, Isolation/Quarantine)
1.9	Payroll Costs for Public Health, Safety, and Other Public Sector Staff Responding to COVID-19
1.10	Mental Health Services*
1.11	Substance Use Services*
1.12	Other Public Health Services
2: Negative Economic Impacts	
2.1	Household Assistance: Food Programs* ^
2.2	Household Assistance: Rent, Mortgage, and Utility Aid* ^
2.3	Household Assistance: Cash Transfers* ^
2.4	Household Assistance: Internet Access Programs* ^
2.5	Household Assistance: Eviction Prevention* ^
2.6	Unemployment Benefits or Cash Assistance to Unemployed Workers*
2.7	Job Training Assistance (e.g., Sectoral job-training, Subsidized Employment, Employment Supports or Incentives)* ^
2.8	Contributions to UI Trust Funds
2.9	Small Business Economic Assistance (General)* ^
2.10	Aid to Nonprofit Organizations*
2.11	Aid to Tourism, Travel, or Hospitality
2.12	Aid to Other Impacted Industries
2.13	Other Economic Support* ^
2.14	Rehiring Public Sector Staff
3: Services to Disproportionately Impacted Communities	
3.1	Education Assistance: Early Learning* ^
3.2	Education Assistance: Aid to High-Poverty Districts ^
3.3	Education Assistance: Academic Services* ^
3.4	Education Assistance: Social, Emotional, and Mental Health Services* ^
3.5	Education Assistance: Other* ^
3.6	Healthy Childhood Environments: Child Care* ^
3.7	Healthy Childhood Environments: Home Visiting* ^
3.8	Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System* ^

3.9	Healthy Childhood Environments: Other* ^
3.10	Housing Support: Affordable Housing* ^
3.11	Housing Support: Services for Unhoused Persons* ^
3.12	Housing Support: Other Housing Assistance* ^
3.13	Social Determinants of Health: Other* ^
3.14	Social Determinants of Health: Community Health Workers or Benefits Navigators* ^
3.15	Social Determinants of Health: Lead Remediation ^
3.16	Social Determinants of Health: Community Violence Interventions* ^
4: Premium Pay	
4.1	Public Sector Employees
4.2	Private Sector: Grants to Other Employers
5: Infrastructure[24]	
5.1	Clean Water: Centralized Wastewater Treatment
5.2	Clean Water: Centralized Wastewater Collection and Conveyance
5.3	Clean Water: Decentralized Wastewater
5.4	Clean Water: Combined Sewer Overflows
5.5	Clean Water: Other Sewer Infrastructure
5.6	Clean Water: Stormwater
5.7	Clean Water: Energy Conservation
5.8	Clean Water: Water Conservation
5.9	Clean Water: Nonpoint Source
5.10	Drinking water: Treatment
5.11	Drinking water: Transmission & Distribution
5.12	Drinking water: Transmission & Distribution: Lead Remediation
5.13	Drinking water: Source
5.14	Drinking water: Storage
5.15	Drinking water: Other water infrastructure
5.16	Broadband: "Last Mile" projects
5.17	Broadband: Other projects
6: Revenue Replacement	
6.1	Provision of Government Services
7: Administrative	
7.1	Administrative Expenses
7.2	Evaluation and Data Analysis
7.3	Transfers to Other Units of Government
7.4	Transfers to Non-entitlement Units (States and territories only)

*Denotes areas where recipients must identify the amount of the total funds that are allocated to evidence-based interventions (see Use of Evidence section above for details)

^Denotes areas where recipients must report on whether projects are primarily serving disadvantaged communities (see Project Demographic Distribution section above for details)

[24] Definitions for water and sewer Expenditure Categories can be found in the EPA's handbooks. For "clean water" expenditure category definitions, please see: https://www.epa.gov/sites/production/files/2018-03/documents/cwdefinitions.pdf. For "drinking water" expenditure category definitions, please see: https://www.epa.gov/dwsrf/drinking-water-state-revolving-fund-national-information-management-system-reports.

Appendix 2: Evidenced-Based Intervention Additional Information

What is evidence-based?
For the purposes of the SLFRF, evidence-based refers to interventions with strong or moderate evidence as defined below:

Strong evidence means that the evidence base can support causal conclusions for the specific program proposed by the applicant with the highest level of confidence. This consists of one or more well-designed and well-implemented experimental studies conducted on the proposed program with positive findings on one or more intended outcomes.

Moderate evidence means that there is a reasonably developed evidence base that can support causal conclusions. The evidence base consists of one or more quasi-experimental studies with positive findings on one or more intended outcomes OR two or more non-experimental studies with positive findings on one or more intended outcomes. Examples of research that meet the standards include: well-designed and well-implemented quasi-experimental studies that compare outcomes between the group receiving the intervention and a matched comparison group (i.e., a similar population that does not receive the intervention).

Preliminary evidence means that the evidence base can support conclusions about the program's contribution to observed outcomes. The evidence base consists of at least one non-experimental study. A study that demonstrates improvement in program beneficiaries over time on one or more intended outcomes OR an implementation (process evaluation) study used to learn and improve program operations would constitute preliminary evidence. Examples of research that meet the standards include: (1) outcome studies that track program beneficiaries through a service pipeline and measure beneficiaries' responses at the end of the program; and (2) pre- and post-test research that determines whether beneficiaries have improved on an intended outcome.

Revision Log

Version	Date Published	Summary of changes
1.0	June 17, 2021	Initial publication
1.1	June 24, 2021	• Pg. 12, removed references to "summary" level with respect to reporting by Expenditure Categories in the Interim Report to avoid confusion. • Pg. 13, revised the coverage period end date for the Interim Report from June 30, 2021 to July 31, 2021 to align with the IFR. • Pg. 13, removed references to "summary" level with respect to reporting by Expenditure Categories in the Interim Report to avoid confusion. • Pg. 31, removed references to "summary level" with respect to Expenditure Categories in Appendix 1 to avoid confusion.
1.1	September 30, 2021	• Announced the extension in the Project and Expenditure Report submission date, originally due on October 31, 2021.
2.0	November 5, 2021	• Updated Subrecipient Monitoring section to clarify beneficiaries and recipients. • Updated references to Interim Final Rule comment period as comment period is closed. • Updated reporting tiers, thresholds and timelines in Part 2 Table 2, Reporting Requirements by recipient type, as well as Part 2 A and Part 2 B. • Updated reporting periods for Interim Report and Project and Expenditure reports. • Added concept of Adopted Budget to Project and Expenditure Report data fields. • Noted phase in of Required Programmatic Data in the Project and Expenditure Report. • Removed certain data fields from the Ineligible Activities: Tax Offset Provision under the Recovery Plan. • Separated reporting of NEU Distributions (for States and territories) from the Interim Report and Project and Expenditure Reports as information will be provided on an ongoing basis.

ATTACHMENT D

SCOPE OF WORK

The Board of Commissioners is directing to provide the Recipient a total sum not to exceed $6,500 of ARPA Funds which May be used by the Recipient to augment fundraising and sponsorship support to:

- Continue funding an unlimited one-for-one match for low-income shoppers for the purchase of healthy food choices through the *SNAP Market Match Program*;
- Provide funding needed to support a $10.00 incentive to the *S-FMNP and WIC-FMNP* program users.

Expenses under this grant must meet the eligibility criteria outlined below:

1. Eligible Costs

Funds are to be used for the augmenting of fundraising and sponsorship funds that have diminished due to the COVID-19 public health emergency. All costs must be incurred beginning no earlier than the effective date of this agreement and cannot be applied retroactively for expenses incurred prior to the effective date of this agreement to insure funds have not been, nor will be, reimbursed under any other government or private entity program. Eligible costs reimbursed under this agreement include those costs incurred by the recipient;

- To fund the one-to-one matching for eligible food purchases made under the guidelines of the *SNAP Market Match Program* after reaching the individual monthly maximum grant allowance provided by the Department of Health for this purpose; and

- To fund matching costs incurred to support a $10.00 incentive within the *S-FMNP and WIC-FMNP* users' coupon booklets.

2. Program Funding and Award Amount

The County shall make $6,500 of ARPA funds available that will be paid to the Recipient on a reimbursement basis.

All funds are to be disbursed no later than December 31, 2024.

3. Reimbursement Process:

The ARPA funding will be provided via reimbursement to the Recipient upon its submission to the County of expenditure details, together with copies of invoices, ledgers, receipts and other supporting documentation for each expense for which reimbursement is requested, along with a signed certification by the Recipient that such expenses represent eligible

expenses incurred by the Recipient based on the eligibility criteria outlined above and that such expenses have not been nor will be reimbursed under any other government or private entity program. The Recipient may only submit one request for Reimbursement per month.

This process shall ensure the eligibility of the expenditures consistent with the application requirements prior to payment.