WORK SESSION AGENDA
BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street Room 160

Port Angeles, Washington

Monday, November 15, 2021 – 8:00 a.m.

WORK SESSION AND SMALL ACTION ITEM SECTION - NOVEMBER 15, 2021

Modification

Modification added 11/15/21 items 9 and 3a

****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. Review recommended 2022 Developmental Disabilities request for proposals

   Review recommendations

Public Works

3. Briefing on the status of the Road Fund debatable emergencies

   Briefing

Budget

4. Agreement with Black Ball Transport, Inc. for American Rescue Plan Act funds (ARPA) for private marine transportation activities (2a)*

   Agreement

5. Discussion of proposed budget reduction to be considered on November 30 (2b)*

   Budget reductions

6. Discussion of proposed supplemental appropriations to be considered on November 30 (2c)*

   Supplemental appropriations

7. Discussion of proposed budget emergencies to be considered on November (2d)*

   Debatable emergencies

8. Review of draft budget

   Review

Board of Commissioners

9. Resolution for declaration of emergency for a severe weather storm in Clallam County (3a)*

   Resolution

Action Items

Consent Agenda

1a. Approval of vouchers for the weeks of November 8

   Approval of vouchers

1b. Approval of minutes for the week of November 8

   Approval of minutes

Budget

2a. Agreement with Black Ball Transport, Inc. for American Rescue Plan Act funds (ARPA) for private marine transportation activities

   Agreement

2b. Notice that the following budget reductions will be adopted by Resolution on November 30:
Department of Community Development - Lower Dungeness Floodplain - Decrease Dungeness
Floodplain expenditures/revenue expected in 2021/($2,600,000)
Clerk - Correction in error regarding Blake LFO settlements expense was inadvertently requested
twice/($75,000)
Public Works - Roads
• Reduction related to the Growth Management Act and Franchises/($10,100)
• Revenue received is trending lower than projected/($535,000)
• Reduction related to project construction work now scheduled for 2022/($1,040,000)
• Budgeted $70,000 in 2021. $50,00 received from Lloyd J. Allen Trust. Remaining pledge of $20,000 from Peninsula Trails Coalition coming in 2022/($20,000)
• Reduction related to the Streamkeepers Program/($24,279)
• Reduction related to project engineering design work now scheduled for 2022/($65,000)

• Reduction related to project engineering design work and possible construction for 2022/($480,000)
Multiple Funds - 2020 Cost allocation plan true up/($96,987)

Budget reductions

2c. Notice that the following supplemental appropriations will be adopted by Resolution on November 30:
Health and Human Services - Environmental Health - adding funding for emergency preparedness and the onsite services/$42,500
Health and Human Services - Operations - adding funding for COVID-19 vaccination services, Opioid Prevention services, women, infant and children program services (WIC) and Maternal Child Health Services (MCH)/$196,299
Non-Departmental- American Rescue Plan Act (ARPA) - Additional ARPA funding to be used to support the preservation of private marine transportation activities and jobs/$4,950,000
Non-Departmental - Hotel/Motel Tax - Additional Hotel/Motel Tax funding that was not expected when preparing the 2021 budget/$650,000
Sheriff's - Operations - Hours worked to maintain the public safety radio network/$19,111

Supplemental appropriations

2d. Resolution calling for a hearing to be held November 30 at 10:30 a.m. for the following debatable emergencies:
Parks & Facilities - additional expenses related to the COVID-19 virus event that were paid from the Parks and Facilities budget/$13,410
Parks & Facilities - REET - Purchase of a 2.68 acres parcel to be added to the existing Clallam Bay West County Park/$90,555
General Funds Reserve
• Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads Funds in error (1 of 3)/$277,382
• Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads Fund in error (1 of 3)/$5,574
• 2020 cost allocation plan true up/$96,987
• 2020 cost allocation plan true up/$-212,488
Public Works - Clallam Bay Sekiu Sewer - Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$277,382
Public Works - Flood Control - Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$5,574
Public Works - Carlsborg Sewer - Monthly utility charges that were not budgeted for 2021/$15,000
Public Works - Roads
• Transfer of funding from Public Works Flood Control I order reimburse for Flood Control paid time off personnel expenses that were charged to the Public Works Roads Fund 3 of 3)/$5,574
• Transfer of funding from Clallam Bay Sekiu Sewer in order to reimburse for Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road Fund (3 of 3)/$277,382
Public Works - Roads Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (2 of 2)/$1,193,638
Public Works Equipment Rental & Revolving - Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (1 of 2)/$1,193,638
Sheriff - Jail Medical - Additional expenses related to inmate testing COVID 19/$26,100
Sheriff - Operations - Cover overtime shift costs associated with COVID 19/$13,226
Multiple Funds - 2020 cost allocation plan true up/$212,488

Debatable emergencies

Board of Commissioners

3a. Resolution for declaration of emergency for a severe weather storm in Clallam County

Resolution

General Discussion/Items for Future Agendas
A. Department of Natural Resources Meeting (November 30 at 1 p.m.)
B. Continued Work Session - CANCELLED (December 13 at 1 p.m.)
C. Shoreline Master Program update (January 11, 2022)

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

The following meetings are scheduled for the Board of Commissioners November 15 - 19:
Monday, November 15:
9:00 a.m. Work Session and small action item section
Tuesday, November 16:
8:00 a.m. Washington State Association of Counties Leadership Conference
Wednesday, November 17:
8:00 a.m. Washington State Association of Counties Leadership Conference
Thursday, November 18:
8:00 a.m. Washington State Association of Counties Leadership Conference

- 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.

M E M O R A N D U M

LONI GORES
Clerk of the Board

November 15, 2021

TO: Board of Commissioners, Administrator Sill

RE: Agenda Modification(s)

FILE: A14.09.18

- The following item has been added to the November 15, 2021 work session agenda:

BOARD OF COMMISSIONERS
9 Resolution for declaration of emergency for a severe weather storm in Clallam County (3a)*

- The following item has been added to the November 15, 2021 regular agenda:

BOARD OF COMMISSIONERS
3a Resolution for declaration of emergency for a severe weather storm in Clallam County

AGENDA ITEM SUMMARY

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

2
11/15/21

Department: Health & Human Services

WORK SESSION ☒ **Meeting Date:** November 15, 2021

REGULAR AGENDA ☒ **Meeting Date:** November 23, 2021

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 2022 DD RFP Funding Proposals

Documents exempt from public disclosure attached: ☐

Executive summary:
The attached report was submitted to the Developmental Disabilities Advisory Committee (DDAC) on November 4, 2021 after the RFP Review Committee recommended the attached allocations. The full DDAC has reviewed these recommendations and has requested these recommendations be forwarded to the BOCC for their approval.

If these recommendations are approved by the BOCC, Clallam County Health and Human Services Developmental Disabilities will develop statements of work and contracts for final BOCC approval. 2022 Developmental Disabilities RFP recommendations are in the amount of $195,445.09.

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 for proposals are in the HHS Developmental Disabilities Mileage Funds.

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

County Official signature & print name: Kevin LoPiccolo

Name of Employee/Stakeholder attending meeting: Kevin LoPiccolo, Kelley Lawrence, Laura Johns and Carina Robinson

Relevant Departments: Health & Human Services

Date submitted: November 8, 2021

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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

2022 Developmental Disabilities RFP Summaries and Recommendations

Proposals: $200,000 was available for Services and Programs supporting individuals with intellectual and developmental disabilities with designated millage funds. Priorities for this RFP were identified from surveys conducted from stakeholders in the Fall of 2020 by our Clallam County Developmental Disability Program which assessed the current knowledge of services and supports in Clallam County as well as the level of inclusion and quality of life individuals who experience intellectual and developmental disabilities encounter in our community. The information from this survey was provided to the local Developmental Disabilities Advisory Committee (DDAC) and prioritized; and, the following areas of service were recommended for funding by the DDAC:

- **Parent Support Services**
- **Early Intervention Services**
- **Training and Education for Individuals with Intellectual and Developmental Disabilities and/or their families and/or informal supports**

Clallam County Health and Human Services · Developmental Disabilities received "7" proposals (Listed below):

Organization Name	Proposal Title	Description	Requested Funds
Clallam Mosaic	Art Classes	Art classes which allow space for free and creative expression, develop practical skills, teach control and engender self-confidence for individuals with intellectual and developmental disabilities.	$44,790.00
Clallam Mosaic	Clallam Parent to Parent (P2P) Program	A service where individuals with intellectual and developmental disabilities, their families and caregivers can access one source of information, advocacy and support. P2P would facilitate identification of needed services when required and assist in navigating systems to access essential services regarding community, individual supports, family, advocacy, health and planning.	$40,946.00
Clallam Mosaic	Health & Fitness Classes	Health and fitness classes for individuals with intellectual and developmental disabilities.	$25,040.00
First Step Family Support Center	Supported Parenting Program	Supported Parenting Services for families where at least one parent experiences an intellectual and developmental disability. The program will assist a parent(s) in providing a safe living environment for the child to thrive. The goal is for parents to have the chance to be fully included in their children's lives and receive to the assistance they need to help them be successful in their role as their child's parent.	$44,273.57
Morningside	Digital Literacy	An inclusive community-based learning center in partnership with the Sequim PC Users Group which will provide the skills to remove barriers for individuals who experience intellectual and developmental disabilities to access digital technology, provide marketable skills, and build bridges of interpersonal relationships for the people of Clallam County.	$15,037.52

Morningside	Eye on Empowerment Course	A training and educational program to reach adults and youth who experience intellectual and developmental disabilities in an integrated setting to acquire knowledge and skills that will enrich the lives they live and improve their employment opportunities. The intended result for each attendee is to understand the services available in order to become more capable and self-directed in pursuing their adult lives, to confidently seek employment, to interact in their community, and to live fulfilling lives.	$35,895.00
PAVE	Family Navigation and Resources	To increase knowledge of, and access to, State and County based support services, community supports (both established and upcoming), medical and therapeutic resources through family support navigators. This proposal includes building an accessible information/services database for both families and service providers.	$59,293.00

The following individuals were members of the "2022 RFP Development Disabilities Review Committee". Each member had no financial interests in any entity eligible to submit a proposal.

RFP Review Committee

Jessica Garcia: Developmental Disabilities Advisory Committee Member (DDAC)
Laura Johns: Developmental Disabilities Advisory Committee Member (DDAC)
Kelly Oneal: Kitsap County Developmental Disabilities County Coordinator
Carina Robinson: Washington State Department of Social and Health Services (DSHS) Developmental Disabilities Administration (DDA) Administrator, Region 3, Clallam and Jefferson Counties

County Staff (Attending in a Non-Voting Capacity)

Kevin LoPiccolo: Clallam County Health & Human Services Director
Kelley Lawrence: Clallam County Coordinator for Developmental Disabilities
Jennifer Charles: Clallam County Administrative Specialist for Developmental Disabilities

Clallam County Health & Human Services · Developmental Disabilities provided each member of the "RFP Review Committee" a binder of information (approximately 2-weeks prior to the Virtual Interviews) which included: a copy of the RFP, evaluation and scoring forms and a copy of each proposal along with organization audits or financial records. The RFP process followed was similar to previously executed RFP processes performed in Clallam County Health & Human Services.

On November 3, 2021 the RFP Review Committee virtually assembled where the "4" agencies that who submitted proposals provided a short presentation of their proposal and then answered questions posed by the RFP Review Committee members. The information provided by the Proposers helped clarify elements of the proposals which ultimately helped in determining the final recommendations of the RFP Review Committee (i.e. recommended for funding/not recommended for funding).

The RFP Review Committee recommendations are given below:

Organization Name	Proposal Title	Total Score (max 90)	Requested Funds	Recommendation	Comments
Clallam Mosaic	Art Classes	41	$44,790.00	Not Funded	• Does not meet criteria regarding inclusivity • People who work could not attend • Basing time on para-transit • Proposal was more about the work product than the individual • Little information on staff qualifications • Goals person focused not program focused
Clallam Mosaic	Clallam Parent to Parent (P2P) Program	60.5	$40,946.00	Funded	• Positively supporting caregivers • Want to see data and outcomes • Outreach was not strong • Little information on staff qualifications
Clallam Mosaic	Health & Fitness Classes	47.75	$25,040.00	Not funded	• Does not meet criteria regarding inclusivity • Needs a better time • Little information on staff qualifications • Outreach was limited
First Step Family Support Center	Supported Parenting Program	71.75	$44,273.57	Funded	• Inclusive • Assisting and supporting families • A specific target population • Enhanced outreach (included West End) • Kept program going during pandemic • Enhance data collections
Morningside	Digital Literacy	69	$15,037.52	Funded	• Difference in budget request and presentation • Very strong and significant community need • Creative approach in addressing a service gap • Good data collection plan • Inclusive program • Want to use this program as a seed to grow more such services

Morningside	Eye on Empowerment Course	84.75	$35,895.00	Funded	• Fulfills a critical need for targeted population • Inclusive program • Strong outreach process • Evaluation process is strong
PAVE	Family Navigation and Resources	68.75	$59,293.00	Funded	• How does it specifically benefit Clallam County? • More measurable data collection • Included West End and Tribal outreach • Strong staff training • Good focus on continuous program improvement

The total amount of all proposals recommended for funding is $195,445.09.

This report was submitted, reviewed and approved by the Developmental Disabilities Advisory Committee (DDAC) on November 4, 2021. The DDAC, additionally, made a recommendation the report be forwarded to the Board of County Commissioners for funding approval.

If these recommendations are approved by the Board of County Commissioners the Clallam County Health & Human Services Department · Developmental Disabilities will develop statements of work and contracts for final approval from the Board of County Commissioners.

3
11/15/21

AGENDA ITEM SUMMARY

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

Department: Public Works/Road

WORK SESSION ☒ **Meeting Date: 11/15/21**

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 Briefing

Documents exempt from public disclosure attached: ☐

Executive summary: Dating back to 2008, the County Road fund has paid for employee training and paid time off for other Public Works employees that do work not related to the Road Fund. Normally the Public Works funds would then pay the Road Fund back immediately however in 2008 the pay back ceased without any explanation that we can find. We believe that this process was an expedient with the accounting systems that we had at that time. The sudden passing of our Accountant at that time resulted in much unwritten procedure failing to be passed on to her successor.

The State Auditor identified this oversight during the recent audit of 2020. Our current Accountant has been able to identify all of the unpaid amounts back to 2008 and the DE figures are the amounts necessary to repay the Road Fund. The three Public Works funds that owe money to the Road Fund are the Flood Fund, the Clallam Bay/Sekiu Sewer Fund, and the Equipment Rental and Revolving Fund.

Our Accountant was also able to work with the CAMS program used by the Road Fund, and the EDEN program used by the General Fund and has designed an accounting process that no longer uses the Road Fund for these payments. This will ensure that this type of oversight will not happen again in the future.

Both the State Auditor, and the County Road Administration Board have approved of this true up process.

Hilary Steeby and Mark Lane will be available to answer any questions.

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?** ☐

Yes. These three funds are paying now what they would have paid incrementally so this is not an additional expense, it is normal expense that is getting paid back to the Road Fund later than would have normally happened. Attached are the forms relating to that.

Recommended action: Approve the three debatable emergency fund transfers.

County Official signature & print name: R Tyler ROSS TYLER

Name of Employee/Stakeholder attending meeting: HILARY SHERRY, JOE DONISI

Relevant Departments: Public Works, Finance, HR, BOCC

Date submitted: 11/4/2021

4
11/15/21
29

AGENDA ITEM SUMMARY

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

Department: Finance

WORK SESSION ☒ **Meeting Date:** **11/15/2021**

REGULAR AGENDA ☒ **Meeting Date:** **11/16/2021**

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

Item summary:

☐ Call for Hearing ☒ Contract/Agreement/MOU - Contract # 19961.21.010

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☒ Other Monthly Review

Documents exempt from public disclosure attached: ☐

ARPA DIRECT GRANT ASSISTANCE AGREEMENT BETWEEN CLALLAM COUNTY AND BLACKBALL TRANSPORT INC (FUNDED THROUGH WA STATE COMMERCE ARPA GRANT FUNDING TO SUPPORT PRESERVATION OF PRIVATE MARINE TRANSPORTATION ACTIVITIES)

GRANT FUNDING BACKGROUND

In the last legislative session, the WA State Legislature as part of the 2021/2022 biennium Commerce budget approved the appropriation of $5,000,000 of the Coronavirus State Fiscal Recovery Fund established under the American Rescue Plan Act for provision of economic support to the private marine transportation industry of Clallam County that was directly impacted by the closure of the United States—Canada border during the COVID-19 pandemic.

As provided under Item 125 of Commerce's 2021 Operating Budget ESSB 5092 (Page 72 & 73),

- (a) $5,000,000 of the coronavirus state fiscal recovery fund —federal appropriation is provided solely for the department to provide grant funds to Clallam county to support the preservation of private marine transportation activities and jobs associated with such activities that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic;

- (b) To be eligible for a grant from the county under this subsection the business must: (i) Apply for or have applied for the grant from the county; (ii) Have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue; (iii) Provide documentation to demonstrate that the expense is not funded by any other government or private entity; (iv) Demonstrate

the business was actively engaged in business, and as a result of the border closures the business temporarily totally closed operations; (v) Have experienced at least a significant reduction in business income or activity related to United States-Canada border closures; (vi) Agree to operate in accordance with the requirements of applicable federal, state, and local public regulations including health and safety measures; (vii) Demonstrate significant economic contribution of their business to the state and local economy; and (viii) Be a majority United States owned entity operating a United States flag vessel registered and operated under the laws of the United States;

- (c) Grant funds may be used only for expenses incurred on or after March 1, 2020. Eligible expenses for grant funds include: (i) Upgrading physical workplaces to adhere to new safety or sanitation standards; (ii) Procuring required personal protective supplies for employees and business patrons and clients; (iii) Updating business plans; (iv) Employee costs, including payroll, training, and onboarding; (v) Rent, lease, mortgage, insurance, and utility payments; (vi) Securing inventory, supplies, and services for operations; and (vii) Maintenance and operations costs associated with vessel operations;

On November 9, 2021, the County entered into an Interagency Agreement with WA State Department of Commerce for provision of these Clallam County Marine Transport ARPA grant funds under which Clallam County will serve as a subrecipient. The amount of the Agreement is for total funding $4,950,000, which reflects Commerce's retention of $50,000 of the budget appropriation to cover their administrative costs under this grant.

With this agreement now in place, the County will now need to enter into an ARPA Direct Assistance Grant Agreement with the only eligible recipient in Clallam County meeting all eligibility criteria outlined above—Black Ball Ferry Line. A draft of this grant agreement is attached which is submitted for review and approval by the BOCC. The form of agreement used for this Black Ball grant is consistent with the prior ARPA Direct Assistance Grant Agreement template utilized by the County and approved as to form by the PA Civil Division, with exception that this agreement references the ARPA Marine Transport Grant Funds provided under the Commerce IGA with the County rather than the ARPA Agreement entered into by the County directly with the US Treasury.

The funds to be disbursed under this grant agreement with Blackball will be separately accounted for within the County's American Rescue Plan Act special revenue fund.

BLACK BALL TRANSPORT—NOTABLE FACTS AND THE OPERATIONAL AND FINANCIAL IMPACT OF THE US/CANADA BORDER ON BLACKBALL DURING THE COVID-19 PANDEMIC

- Black Ball Transport, Inc is a Washington State private marine transportation corporation incorporated in 1952 as successor to various entities that have provided marine freight and ferry services serving the Puget Sound, Strait of Juan de Fuca, and Vancouver Island, British Columbia areas dating back to 1902.

- Black Ball has operated its current vessel's international ferry service, the Coho, between Port Angeles of Clallam County and Victoria, British Columbia, Canada since 1959.

- Due to the closure of the United States—Canada border as a result of the COVID-19 pandemic, this ferry service was out of operation from March 30, 2020 through November 8, 2021, a period of over 19 months.

- As the westernmost border crossing in the continental United States and one of the highest volume ports in the State of Washington with annual passenger volume of over 470,000, the MV Coho sailing to and from the Port of Port Angeles is one of the community's vital draws of tourism for the County and the State;

- In addition to providing this key ferry service, Black Ball also provides an array of other services to tourists including rentals at local hotels, ground transportation, and guided tours, as well as promotes and supports tourist participation in a wide range of activities and events including, but not limited to, the Juan de Fuca Festival, Sequim Lavender Festival, the Dungeness Crab and Seafood Festival and many other various arts and draught festivals and tours which in turn support many of the County's other small businesses and event-sponsoring nonprofit organizations and associated jobs;

- Based on a study conducted by Olympus Consulting dated 11/15/2019, an estimated 472,104 riders utilized the MV Coho in 2019, equivalent to 148,384 traveling parties who spent on average $433 into the local economy, translating into approximately $64.3 million being injected into the local economy. In addition, Black Ball pre-pandemic employed 91 people which in turn supported the direct employment of 627 people in businesses ranging from motels/hotels, restaurants and bars, and retail shopping, which in turn supported another 256 people in the supply chain and general economy. In other words, every person employed by the Black Ball supported employment of an estimated 9.7 additional people in the County;

- Upon the cessation of its ferry service, Black Ball lost approximately 99% of its operational revenue for over 19 months as of the date of this Agreement;

- Due to this loss of revenue, Black Ball was forced to furlough much of its staff shortly after ferry service was suspended. While subsequent PPP loan funding enabled Black Ball to bring back its full-time permanent staff in May and June 2020 and again in March, April and May 2021, most staff remained furloughed the remainder of the time since the suspension of ferry service. Since the furloughs began, Black Ball continued to pay the medical benefits of all of its furloughed staff;

- In addition to the severe economic impact caused by the loss of substantially all operating revenue, Black Ball continued to incur significant operating costs relating to employing a minimum level of staff needed to carry out necessary maintenance and administrative tasks, materials and supplies necessary for the upkeep of the vessel, shoreside facilities and IT infrastructure, as well as insurance costs, utilities and other miscellaneous administrative costs;

- Between March 2020 and August 2021, Black Ball incurred approximately $8.0 million of operating expenditures, of which Black Ball was able to secure funding through PPP forgivable loans totaling approximately $2.0 million and CARES Lifeboat 2 grant funding provided by the County of $0.5 million to partially cover such costs, leaving approximately $5.5 million of costs

for which Black Ball had to rely on its reserves and available borrowings under the $0.4 million non-forgivable portion of its first PPP loan and a $6 million Main Street loan to fund;

- Black Ball also has secured CERTS grants totaling $4.012 million as well as a commitment of $0.5 million of ARPA funds from the City of Port Angeles which it intends to fund payroll, benefits and other operating costs incurred beginning in September 2021. Despite this additional funding, Black Ball estimates a monthly operating expense funding gap of approximately $250,000 will continue until ferry service operations and revenues return to pre-COVID levels;

- Although the United States-Canada border reopen in November 2021, allowing Black Ball to resume sailings of the MV Coho beginning on November 9, 2021, heavy COVID mitigation safety and testing protocols enacted by the Canadian government will likely render profitable operation of Black Ball's ferry service unachievable. These strict and costly COVID protocols will likely deter most United States-originating passengers from traveling via this ferry service until such restrictions are significantly eased, resulting in passenger traffic levels not being sufficient to operate the ferry service profitably and worsening Black Ball's already precarious financial position;

- As a result of these negative economic impacts, the Recipient applied for ARPA Funds available under the County's ARPA Private Marine Transport Grant Program through Commerce on September 29, 2021.

The County believes the provision of economic support under the ARPA Commerce Private Marine Transport Grant program to Black Ball is necessary and appropriate given Black Ball's critical role as a key employer and vital component of the tourism industry responsible for over $64 million of economic activity in Clallam County, and given the severe financial impact that the United States-Canada border closure during the COVID-19 pandemic has had on the marine transportation operations and financial condition of Black Ball. The County believes that this provision of such economic support represents an eligible use of ARPA Funds as outlined previously and in accordance with the allowed usage of funds outlined in the IGA.

Under this Agreement, the County has awarded Black Ball the full amount of the Commerce ARPA Private Marine Transport grant, or $4,950,000. As previously discussed with the BOCC, the intent will be that the County will not charge an indirect administration fee to this grant, thereby insuring 100% of funds will be available to reimburse Black Ball for eligible costs it has incurred between March 1, 2020 and June 30, 2023. All costs to be reimbursed must meet the eligibility criteria as outlined in the Commerce Interagency Agreement.

In an effort to expedite the process for getting these funds released by Commerce to the County for provision then to Black Ball, County staff over the past several weeks have been reviewing all invoice and payroll documentation submitted by Black Ball for costs incurred since the onset of the COVID-19 pandemic to verify eligibility for reimbursement under this grant. Once the County completes its review, these eligible costs will then be submitted to Commerce for their review and approval, at which point funds will then be disbursed by Commerce to the County, which will then disburse such funds to Black Ball.

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 contract will enable funds to be disbursed once received under the Commerce Interagency Agreement (contract 19961.21.009) for which a supplemental appropriation was submitted for approval in a public hearing scheduled on Tuesday, November 30th..

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Given the urgent need for funding assistance, we request the Commissioner's approval to proceed in submitting this agreement for approval during the next BOCC meeting scheduled on Tuesday, November 16, 2021.

County Official signature & print name:  Mark Lane_____

Name of Employee/Stakeholder attending meeting: _____Mark Lane _____

Relevant Departments: ____Finance, BOCC _____

Date submitted:

November 9, 2021

19961.21.010

ARPA DIRECT GRANT ASSISTANCE AGREEMENT

This ARPA Direct Grant Assistance Agreement ("Agreement") is dated as of the _____ day of _____, 2021, by and between Clallam County, a Washington political subdivision ("County"), and Black Ball Transport, Inc (Federal Tax 91-0594931, DUNS # 002787919), a Washington state corporation ("Recipient").

WHEREAS, Washington State has allocated to the County $4,950,000 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 602 of Title VI of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act of 2021 ("ARPA Act"), for the limited purposes identified in the Interagency Agreement between the Washington State Department of Commerce ("the State") and Clallam County (Grant Contract # 22-62420-001, the "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 homelessness, 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 IGA, ARPA grant funds provided to the County under this non-R&D federal program must be utilized to support the preservation of private marine transportation activities and jobs associated with such activities that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic. Such funds must be obligated under an initial period of performance no earlier than March 1, 2021 and no later than June 30, 2023, with any unexpended funds, to the extent re-appropriated, being expended no later than the earlier of October 30, 2026 or 30 days prior to the IGA contract end date.

Pursuant to the IGA, to be eligible for a grant from the County under the IGA, a private marine transportation business must: (i) apply for or have applied for the grant from the County; (ii) have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue; (iii) provide documentation to demonstrate that the expense is not funded by any other government or private entity; (iv) demonstrate the business was actively engaged in business, and as a result of the border closures the business temporarily totally closed operations; (v) have experienced at least a significant reduction in business income or activity related to United States-Canada border closures; (vi) agree to operate in accordance with the requirements of applicable federal, state, and local public regulations including health and safety measures; (vii) demonstrate significant economic contribution of their business to the state and local economy; and (viii) be a majority United States owned entity operating a United States flag vessel registered and operated under the laws of the United States.

WHEREAS, the IGA authorizes the County to seek reimbursement from the State for eligible expenses incurred on or after March 1, 2020. Eligible expenses for grant funds under the IGA may include: (i) upgrading physical workplaces to adhere to new safety or sanitation standards; (ii) procuring required personal protective supplies for employees and business patrons and clients; (iii) updating business plans; (iv) employee costs, including payroll, training, and onboarding; (v) rent, lease, mortgage, insurance, and utility payments; (vi) securing inventory, supplies, and services for operations; and (vii) maintenance and operations costs associated with vessel operations (collectively "Reimbursements").

Pursuant to the ARPA Act, the County as a grantee may use funds awarded under ARPA to cover eligible costs incurred by it no earlier than March 3, 2021 and no later than December 31, 2024. All requests for reimbursement of eligible costs incurred between March 3, 2021 and December 31, 2024 payable from ARPA Funds must be submitted to the State by the earlier of October 30, 2026 or 30 days prior to the IGA end date.

WHEREAS, the Recipient, a Washington State private marine transportation corporation incorporated in 1952 as successor to various entities that have provided marine freight and ferry services serving the Puget Sound, Strait of Juan de Fuca, and Vancouver Island, British

Columbia areas dating back to 1902, has operated its current vessel's international ferry service between Port Angeles of Clallam County and Victoria, British Columbia, Canada since 1959. Due to the closure of the United States—Canada border as a result of the COVID-19 pandemic, this ferry service has been out of operation since March 30, 2020, resulting in the Recipient experiencing significant negative economic impacts due to this border closure. Notable facts regarding the Recipient and the negative financial impacts that closure of the United States—Canada border during the COVID pandemic experienced by the Recipient include the following:

- The Recipient, a 70% United States-owned private business, has provided ferry service between Port Angeles, Washington and Victoria, British Columbia, Canada since 1959 through its ferry vessel the MV Coho, a United States flagged vessel registered and operated under the laws of the United States;

- As the westernmost border crossing in the continental United States and one of the highest volume ports in the State of Washington with annual passenger volume of over 470,000, the MV Coho sailing to and from the Port of Port Angeles is one of the community's vital draws of tourism for the County and the State;

- In addition to providing this key ferry service, the Recipient also provides an array of other services to tourists including rentals at local hotels, ground transportation, and guided tours, as well as promotes and supports tourist participation in a wide range of activities and events including, but not limited to, the Juan de Fuca Festival, Sequim Lavender Festival, the Dungeness Crab and Seafood Festival and many other various arts and draught festivals and tours which in turn support many of the County's other small businesses and event-sponsoring nonprofit organizations and associated jobs;

- Based on a study conducted by Olympus Consulting dated 11/15/2019, an estimated 472,104 riders utilized the MV Coho in 2019, equivalent to 148,384 traveling parties who spent on average $433 into the local economy, translating into approximately $64.3 million being injected into the local economy. In addition, the Recipient pre-pandemic employed 91 people which in turn supported the direct employment of 627 people in businesses ranging from motels/hotels, restaurants and bars, and retail shopping, which in turn supported another 256 people in the supply chain and general economy. In other words, every person employed by the Recipient supported employment of an estimated 9.7 additional people in the County;

- Upon the cessation of its ferry service, the Recipient lost approximately 99% of its operational revenue for over 19 months as of the date of this Agreement;

- Due to this loss of revenue, the Recipient was forced to furlough much of its staff shortly after ferry service was suspended. While subsequent PPP loan funding enabled the Recipient to bring back its full-time permanent staff in May and June 2020 and again in March, April and May 2021, most staff remained furloughed the remainder of the time since the suspension of ferry service. Since the furloughs began, the Recipient continued to pay the medical benefits of all of its furloughed staff;

- In addition to the severe economic impact caused by the loss of substantially all operating revenue, the Recipient continued to incur significant operating costs relating to employing a minimum level of staff needed to carry out necessary maintenance and administrative tasks, materials and supplies necessary for the upkeep of the vessel, shoreside facilities and IT infrastructure, as well as insurance costs, utilities and other miscellaneous administrative costs;

- Between March 2020 and August 2021, the Recipient incurred approximately $8.0 million of operating expenditures, of which the Recipient was able to secure funding through PPP forgivable loans totaling approximately $2.0 million and CARES Lifeboat 2 grant funding provided by the County of $0.5 million to partially cover such costs, leaving approximately $5.5 million of costs for which the Recipient had to rely on its reserves and available borrowings under the $0.4 million non-forgivable portion of its first PPP loan and a $6 million Main Street loan to fund;

- The Recipient also has secured CERTS grants totaling $4.012 million as well as a commitment of $0.5 million of ARPA funds from the City of Port Angeles which it intends to fund payroll, benefits and other operating costs incurred beginning in September 2021. Despite this additional funding, the Recipient estimates a monthly operating expense funding gap of approximately $250,000 will continue until ferry service operations and revenues return to pre-COVID levels;

- Although the United States-Canada border is slated to reopen in November 2021, heavy COVID mitigation safety and testing protocols enacted by the Canadian government will likely render profitable operation of the Recipient's ferry service unachievable. These strict and costly COVID protocols will likely deter most United States-originating passengers from traveling via this ferry service until such restrictions are significantly eased, resulting in passenger traffic levels not being sufficient to operate the ferry service profitably and worsening the Recipient's already precarious financial position;

- As a result of these negative economic impacts, the Recipient applied for ARPA Funds available under the IGA on September 29, 2021.

WHEREAS, the County believes the provision of economic support to the Recipient is necessary and appropriate given the Recipient's critical role as a key employer and vital component of the tourism industry responsible for over $64 million of economic activity in Clallam County, and given the severe financial impact that the United States-Canada border closure during the COVID-19 pandemic has had on the marine transportation operations and financial condition of the Recipient. The County believes that this provision of such economic support represents an eligible use of ARPA Funds as outlined previously and in accordance with the allowed usage of funds outlined in the IGA;

WHEREAS, the County and Recipient desire to enter into this Agreement so that the County may seek ARPA Funds for appropriate and qualifying Reimbursements of grant funds reimbursed to the Recipient by the County for provision of economic support as 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 June 30, 2023, unless extended through grant reappropriation as outlined in the terms of the IGA or terminated by the County in writing.

2. ARPA Funds. The County agrees to provide the Recipient a total sum not to exceed $4,950,000 on a reimbursement basis for eligible costs incurred during the period of March 1, 2020 through June 30, 2023 based on eligibility criteria outlined in Attachment D.

3. Reimbursement Request Support. To facilitate release of ARPA funding to the Recipient and the County's seeking reimbursement of ARPA funding under the IGA, 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, payroll records, 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. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon written prior notice to the Recipient.

5. 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.

6. 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.

7. 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.

8. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction. By signing this Agreement, the Recipient certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any Federal department or agency.

9. 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 six (6) 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.

10. 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
Black Ball Transport, Inc
Attn: David Booth, Chief Financial Officer
820 NE 45th Street, Suite 3
Seattle, WA 98105

Clallam County
Attn: Mark Lane, Chief Financial Officer
223 E 4th St, Suite 4
Port Angeles, WA 98362-3015

11. 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.

12. 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.

13. Time. Time is of the essence in this Agreement.

14. 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.

15. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.

16. 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.

17. 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.

18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

19. 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.

20. 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.

21. 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 the State or 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.

22. 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.

23. 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.

24. 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 8th **day of** November **, 2021.**

RECIPIENT

By: _____

Print Name: David Booth

Its: Chief Financial Officer

DATED this _____ day of _____ _____, 2021.

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 WASHINGTON STATE DEPARTMENT OF COMMERCE AND
CLALLAM COUNTY

ATTACHMENT B

U.S. DEPARTMENT OF TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
INTERIM FINAL RULE
DATED 5-17-2021

ATTACHMENT C

U.S. DEPARTMENT OF TREASURY
COMPLIANCE AND REPORTING GUIDANCE FOR CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
DATED 6-17-2021

ATTACHMENT D

SCOPE OF WORK

The Board of Commissioners is directing up to $4,950,000 to be disbursed to the Recipient 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 available through the IGA to reimburse eligible operating expenses incurred by the Recipient.

The Recipient as an applicant to this grant and costs it incurred for which reimbursement is requested under this grant must meet the following eligibility criteria outlined below:

1. Applicant Eligibility Criteria

To be eligible for ARPA Funds under this Agreement, the Recipient must:

- Apply for or have applied for the grant from the County;
- Demonstrate the business was actively engaged in business, and as a result of the border closures the business temporarily totally closed operations;
- Have experienced at least a significant reduction in business income or activity related to United States-Canada border closures;
- Agree to operate in accordance with the requirements of applicable federal, state, and local public regulations including health and safety measures;
- Demonstrate significant economic contribution of their business to the state and local economy; and
- Be a majority United States owned entity operating a United States flag vessel registered and operated under the laws of the United States.

2. Eligible Costs

Funds will be available to reimburse eligible operating costs incurred by the Recipient from March 1, 2020 thru June 30, 2023.

These costs may include:

- Upgrading physical workplaces to adhere to new safety or sanitation standards;
- Procuring required personal protective supplies for employees and business patrons and clients;
- Updating business plans;
- Employee costs, including payroll, training, and onboarding;
- Rent, lease, mortgage, insurance, and utility payments;
- Securing inventory, supplies, and services for operations; and

- Maintenance and operations costs associated with vessel operations.

Such costs must be necessary to continue business operations and cannot represent a federal, state, or local tax, fee, license, or other governmental revenue. In addition, the Recipient must demonstrate that such costs were not funded by any other government or private entity (i.e. no submission of costs that have been previously reimbursed are permitted under this Agreement).

3. Program Funding and Award Amount

The County shall make $4,950,000 of ARPA funds available under the IGA that will be paid to the Recipient on a reimbursement basis.

All funds are to be disbursed no later than June 30, 2023, unless otherwise extended through reappropriation under the IGA to the earlier of October 30, 2026 or 30 days prior to the IGA contract end date.

4. 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, payroll records, 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 shall ensure the eligibility of the expenditures consistent with the application requirements prior to payment.

Washington State Department of Commerce

Interagency Agreement with

Clallam County

through

America Rescue Plan Act, State and Local Fiscal Recovery Funds

For

Clallam County Marine Transport

Start date: July 1, 2021

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FACE SHEET

Contract Number: 22-62420-00

Washington State Department of Commerce
Local Government Division
Community Assistance & Research Unit
ARPA State and Local Fiscal Recovery Funds Grant

1. Grantee Clallam County 223 E 4th St, Ste. 4 Port Angeles, WA 98362		**2. Grantee Doing Business As (optional)** same	
3. Grantee Representative Mark Lane Chief Financial Officer 360-417-2383 mlane@co.clallam.wa.us		**4. COMMERCE Representative** Connie Rivera CAR-ARPA Section Manager 360-704-9535 Connie.rivera@commerce.wa.gov	PO Box 42525 1011 Plum Street SE Olympia, WA 98504-2525
5. Contract Amount $4,950,000	**6. Funding Source** **Federal:** ☒ **State:** ☐ **Other:** ☐ **N/A:** ☐	**7. Start Date** July 1, 2021	**8. End Date** June 30, 2023
9. Federal Funds (as applicable) $4,950,000	**Federal Agency:** US Dept. Treasury	**CFDA Number:** 21.027	**Indirect Rate (if applicable):**
10. Tax ID # XXXXXX	**11. SWV #** SWV000200-16	**12. UBI #** 254-004-559	**13. DUNS #** 075739235

14. Contract Purpose

Grant funds to Clallam county to support the preservation of private marine transportation activities and jobs associated with such activities that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic.

15. Signing Statement

COMMERCE, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and Attachments and have executed this Grant on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Grant are governed by this Grant and the following documents hereby incorporated by reference: Attachment "A" – Scope of Work – Budget.

FOR GRANTEE	**FOR COMMERCE**
Mark Ozias, Chairman, Board of Clallam County Commissioners	Mark Barkley, Assistant Director, Local Government Division
11/9/21 Date	Date
APPROVED AS TO FORM ONLY	**APPROVED AS TO FORM ONLY**
Elizabeth Stanley, Chief Civil Deputy Prosecuting Attorney Bee Boughton 11/11/2021 Date	Sandra Adix Assistant Attorney General 10/15/2021 Date

DECLARATIONS

CLIENT INFORMATION

GRANTEE Name:	**Clallam County**
Grant Number:	**22-62420-001**

PROJECT INFORMATION

Project Name:	**Clallam County Marine Transport**
Project City:	**Port Angeles**
Project State:	Washington
Project Zip Code:	**98362**

GRANT INFORMATION

Grant Amount:	**$ 4,950,000**
Appropriation Number:	**ESSB 5092, Section 129 (125)**
Re-appropriation Number (if applicable):	
Grant End Date:	June 30, 2023, if funds are not re-appropriated. Grant End Date may be extended **contingent on reappropriation**
Biennium:	2021-2023
Biennium Close Date:	June 30, 2023
Earliest Date for Reimbursement:	**March 3, 2021**
Time of Performance:	in accordance with Special Terms and Conditions No. 4

FUNDING INFORMATION

Federal Funding:	Sec. 602 Coronavirus State Fiscal Recovery Funds of Title VI of Social Security Act as added by American Rescue Plan Act of 2021 (ARPA or "Act"), Title IX, Subtitle M, Sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 et seq.
Federal Awarding Agency:	US Department of Treasury
Amount of Federal Funds Obligated by this Action:	$ 4,950,000

ADDITIONAL SPECIAL TERMS AND CONDITIONS GOVERNING THIS AGREEMENT

Extension of Grant Upon Reappropriation.

Notwithstanding Special Terms and Conditions No. 4, the End Date of this Grant **may be extended upon written notice to Grantee from Commerce** for a period of time consistent with the effective date of any re-appropriation of funds, and/or with terms reflecting new Federal requirements for ARPA funds, if any. In Commerce's sole discretion, after review of any funding re-appropriation terms and applicable Federal law or guidance, a contract amendment in accordance with Special Terms and Conditions No. 4 may be required to extend the End Date.

SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS

1. AUTHORITY

COMMERCE and Grantee enter into this Grant pursuant to the authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW. Funding for this Grant has been provided in the 2021-2023 biennial state Operating Budget, ESSB 5092, pursuant to Federal grants to Washington State under the American Rescue Plan Act of 2021 (ARPA or "Act"), sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 et seq. The parties anticipate that funding under this Grant that is unexpended in the 2021-23 state biennium may be re-appropriated in future biennia, subject to Federal requirements.

2. ACKNOWLEDGMENT OF FEDERAL FUNDS

Total amount of the federal award: $4,950,000
Federal Awarding Agency: US Department of Treasury
Research & Development (R&D): award will not be used for R&D

The Grantee agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Grantee describing programs or projects funded in whole or in part with federal funds under this Grant, shall contain the following statements:

> "This project was supported by funds awarded by the US Department of the Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of the Treasury. Grant funds are administered by the America Rescue Plan Act, State and Local Fiscal Recovery Funds, Washington State Department of Commerce."

3. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

4. PERIOD OF PERFORMANCE

The initial period of performance for this award begins on the date hereof and ends on June 30, 2023. If unexpended funds under this Grant are re-appropriated, the period of performance will be extended to not later than October 30, 2026.

As set forth in Treasury's implementing regulations, Grantee may use funds awarded under ARPA to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

All requests for reimbursement of eligible costs incurred between March 3, 2021 and December 31, 2024 payable from ARPA funds must be submitted to COMMERCE by the **earlier of** October 30, 2026 or 30 days prior to the Contract End Date.

Pursuant to Federal rules, a cost shall be considered to have been incurred if the Grantee has incurred an obligation with respect to such cost by December 31, 2024.

5. COMPENSATION

COMMERCE shall pay an amount not to exceed the total contract amount listed on the contract Face Sheet for the performance of all things necessary for or incidental to the performance of work under this Grant as set forth in the Scope of Work.

6. EXPENSES

Grantee shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by COMMERCE as reimbursable. The maximum amount to be paid to the Grantee for authorized expenses shall not exceed the total contract amount listed on the contract Face Sheet.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. Grantee shall receive compensation for travel expenses at current state travel reimbursement rates.

7. INDIRECT COSTS

Grantee shall provide their indirect cost rate that has been negotiated between their entity and the federal government. If no such rate exists a de Minimis indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

8. BILLING PROCEDURES AND PAYMENT

COMMERCE shall reimburse the GRANTEE for eligible Project expenditures, up to the maximum payable under this Grant. When requesting reimbursement for expenditures made, the GRANTEE shall submit to COMMERCE a signed and completed Invoice Voucher (Form A-19), that documents capitalized Project activity performed for the billing period. The GRANTEE can submit all Invoice Vouchers and any required documentation electronically through COMMERCE's Grants Management System (CMS), which is available through the Secure Access Washington (SAW) portal.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Grant Number listed on the contract Face Sheet. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of $50.00 or more in order to receive reimbursement.

Each request for payment must be accompanied by a Project Status Report, which describes, in narrative form, the progress made on the Project since the last invoice was submitted, as well as a report of Project status to date. COMMERCE will not release payment for any reimbursement request received unless and until the Project Status Report is received. After approving the Invoice Voucher and Project Status Report, COMMERCE shall promptly remit a warrant to the GRANTEE.

COMMERCE will pay GRANTEE upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE **not more often than monthly**.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The grantee must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

9. SUBCONTRACTOR DATA COLLECTION

Grantee will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Agreement performed by subcontractors and the portion of funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

10. AUDIT

If the Grantee is a subrecipient and expends $750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:

A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.

B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to auditreview@commerce.wa.gov.

11. DEBARMENT

A. Grantee, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

ii. Have not within a three-year period preceding this Grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and

iv. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.

B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.

C. The Grantee agrees by signing this Grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.

D. The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

i. The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

ii. Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such contractor shall attach an explanation to this Grant.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

12. INSURANCE

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

13. COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS

A. Grantee 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. Grantee also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Grantee 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 Government wide 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. Government wide 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.

14. FEDERAL EXCLUSION

These terms add to the terms in Section 11 Certification Regarding Debarment, Suspension or Ineligibility and Voluntary Exclusion — Primary and Lower Tier Covered Transactions in General Terms and Conditions. The Grantee also agrees to access the Federal Exclusion List at www.sam.gov and provide Federal Exclusion documentation to Commerce and to keep a copy on file with the Grantee's project records.

15. REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

By signing this Grant, the Grantee accepts the requirements stated in 48 CFR 52.204-7 to register with the System for Award Management at the SAM website (https://www.sam.gov). To register in SAM, a valid Data Universal Numbering System (DUNS) Number is required. The Grantee is responsible for the accuracy and completeness of the data within the SAM database and for any liability resulting from the Government's reliance on inaccurate or incomplete data. The Grantee must remain registered in the SAM database after the initial registration. The Grantee is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in SAM to ensure it is current, accurate and complete. The Grantee shall provide evidence documenting registration and renewal of SAM registration to Commerce.

In the event of the Grantee's noncompliance or refusal to comply with the requirement stated above, Commerce reserves the right to suspend payment until the Grantee cures this noncompliance.

16. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work and Budget

GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS

1. DEFINITIONS

As used throughout this Grant, the following terms shall have the meaning set forth below:

A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.

B. "COMMERCE" shall mean the Department of Commerce.

C. "Grant" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any attachments, documents, or materials incorporated by reference. E-mail or facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.

D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.

E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.

F. "State" shall mean the state of Washington.

G. "Subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate contract with the Grantee. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

3. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4. ASSIGNMENT

Neither this Grant, work thereunder, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;

ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and

iii. All personal information in the possession of the Grantee that may not be disclosed under state or federal law.

B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant

whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

6. COPYRIGHT

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and any applicable federal laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers, and agents.

10. LICENSING, ACCREDITATION AND REGISTRATION

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

11. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

12. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Grantee shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

13. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may suspend or terminate the Grant under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

14. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

15. SUBCONTRACTING

The Grantee may only subcontract work contemplated under this Grant if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Grant; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Grant. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

16. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

17. TERMINATION FOR CAUSE

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

18. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

19. TERMINATION PROCEDURES

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Grantee and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

A. Stop work under the contract on the date, and to the extent specified, in the notice;

B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;

C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Grantee and in which the Authorized Representative has or may acquire an interest.

20. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

A. Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.

B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.

C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.

D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract.

All reference to the Grantee under this clause shall also include Grantee's employees, agents or Subcontractors.

21. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Scope of Work and Budget

$4,950,000 of the coronavirus state fiscal recovery fund —federal appropriation is provided solely to Clallam county to provide grant funds to support the preservation of private marine transportation activities and jobs associated with such activities that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic.

(a) To be eligible for a grant from the county the business must:

(i) Apply for or have applied for the grant from the county;
(ii) Have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue;
(iii) Provide documentation to demonstrate that the expense is not funded by any other government or private entity;
(iv) Demonstrate the business was actively engaged in business, and as a result of the border closures the business temporarily totally closed operations;
(v) Have experienced at least a significant reduction in business income or activity related to United States-Canada border closures;
(vi) Agree to operate in accordance with the requirements of applicable federal, state, and local public regulations including health and safety measures;
(vii) Demonstrate significant economic contribution of their business to the state and local economy; and
(viii) Be a majority United States owned entity operating a United States flag vessel registered and operated under the laws of the United States.

(b) Grant funds may be used only for expenses incurred on or after March 1, 2020. Eligible expenses for grant funds include:

(i) Upgrading physical workplaces to adhere to new safety or sanitation standards;
(ii) Procuring required personal protective supplies for employees and business patrons and clients;
(iii) Updating business plans;
(iv) Employee costs, including payroll, training, and onboarding;
(v) Rent, lease, mortgage, insurance, and utility payments;
(vi) Securing inventory, supplies, and services for operations; and
(vii) Maintenance and operations costs associated with vessel operations.

(c) The county must submit a report to the Department of Commerce by June 30, 2022, outlining the use of funds, specific expenditures of the grantees, and revenue and expenses of the grantees including additional government or private funds or grants received.

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

[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.

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

[20] Sections 602(c)(1)(A), 603(c)(1)(A) of the Act.

[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.counciloncj.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

[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 Rebount? (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.*

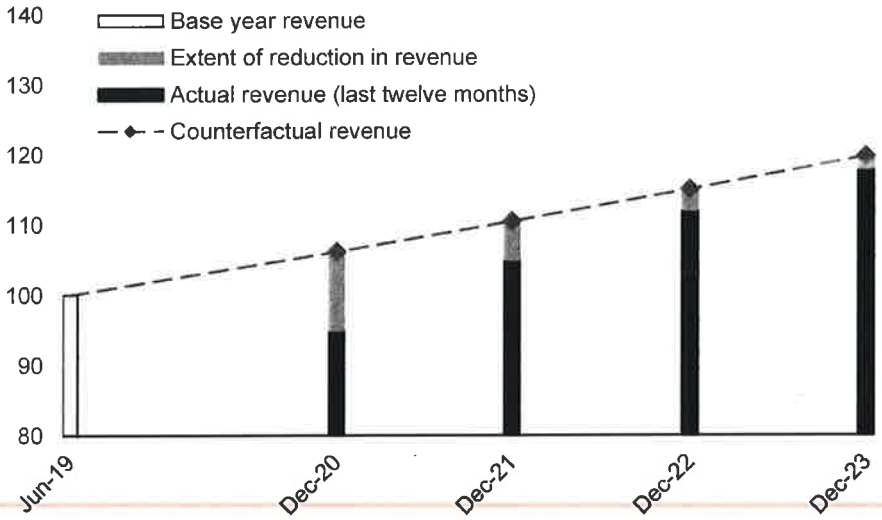
years prior to the COVID–19 public health emergency.

- *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 COVID–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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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.

5
11/15/21
26

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 11/15/21**

REGULAR AGENDA ☒ **Meeting Date: 11/15/21**

Item summary:

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

Executive summary:

Board of Clallam County Commissioners will consider adopting by Resolution the attached budget reduction on November 30, 2021
Budget reductions – a reduction in revenues and/or expenditures.

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?** ☐

Department of Community Development – Lower Dungeness Floodplain -($2,600,000)
Clerk –/($75,000)
Public Works – Roads

- ($10,100)
- 535,000)
- 1,040,000)
- 20,000)
- ($24,279)
- ($65,000)
- ($480,000)

Multiple Funds – $96,987

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve the attached notice – Budget reductions.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

Date submitted: November 9, 2021

* 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

NOTICE OF BUDGET REDUCTION

Notice is hereby given Clallam County will adopt by Resolution of the Board the budget reduction shown below on November 30, 2021 at 10 a.m. in the Commissioners' Meeting Room (160), Clallam County Courthouse.

Department of Community Development – Lower Dungeness Floodplain – Decrease Dungeness Floodplain expenditures/revenue expected in 2021/($2,600,000)
Clerk – Correction in error regarding Blake LFO settlements expense was inadvertently requested twice/($75,000)
Public Works – Roads

- Reduction related to the Growth Management Act and Franchises/($10,100)
- Revenue received is trending lower than projected/($535,000)
- Reduction related to project construction work now scheduled for 2022/($1,040,000)
- Budgeted $70,000 in 2021. $50,00 received from Lloyd J. Allen Trust. Remaining pledge of $20,000 from Peninsula Trails Coalition coming in 2022/($20,000)
- Reduction related to the Streamkeepers Program/($24,279)
- Reduction related to project engineering design work now scheduled for 2022/($65,000)
- Reduction related to project engineering design work and possible construction for 2022/($480,000)

Multiple Funds – 2020 Cost allocation plan true up/$96,987

A copy of the budget change form may be reviewed at the office of the Board of County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Date: November 15, 2021

Mark Ozias, Chair

Publish: November 21 and 28, 2021
Bill: Commissioners' Office

c: Budget Director
Department(s)
Treasurer

DRAFT

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OCT 13 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 10-12-21 **Budget Hearing/Meeting Date** 11-30-21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

X ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	30301.331 ✓	**Budget Name**	DCD Lwr Dungeness Floodplain ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
30301.331 ✓	DCD Lwr Dungeness Fldpln ✓	33403.10.3146 ✓	Lwr Dungeness Floodplain Enhancement Imp.	1,690,150
30301.331 ✓	DCD Lwr Dungeness Fldpln ✓	33315.61.4000 ✓	USFWS Lwr Dung Floodplain Reconnection	802,925
30301.331 ✓	DCD Lwr Dungeness Fldpln ✓	33403.30.0030 ✓	RCO Lwr Dungeness Floodplain Restoration	106,925
Total				2,600,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
30301.331 ✓	DCD Lwr Dungeness ✓ Floodplain	55310.41.0020 ✓	Professional Services	2,600,000
Total				2,600,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Decrease Dungeness Floodplain expenditures/revenue expected in 2021.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

Revised: C:\Users\lkennedy\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\3Z2L62FV\FBD BUDGET REDUCTION_.docx

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NOV 03 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/03/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
X ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.891 ✓	**Budget Name**	Clerk ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.891 ✓	Clerk ✓	51230.49.0190 ✓	Blake LFO Settlements	75,000
Total				75,000

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	75,000
Total				75,000

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

This Budget Reduction is to correct an error: Blake LFO Settlements expense was inadvertently requested twice. Once as a Debatable Emergency from the General Fund, then as a Supplemental Appropriation with grant funding. This Budget Reduction returns funding to the General Fund Reserves since it will now be grant funded.

County Official Approval: N. Bothen
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

11/05/2021

Date Submitted: ~~11.0.21~~ **Budget Hearing/Meeting Date:** 11.30.21 ✓

___ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

___ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

___ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

___ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	34585.00.0010 ✓	Growth Management Act	$1,600 ✓
10101.611 ✓	PW – Roads ✓	34589.00.0010 ✓	Franchise Planning Fees	$8,500 ✓
Total				$10,100 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	54330.41.7777 ✓	Other Services and Charges	$10,100 ✓
Total				$10,100 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Revenue and expenditure reduction related to the Growth Management Act and Franchises, which we no longer administer.

County Official Approval: R Tyler

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11.05.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

___ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
___ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
___ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
___ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT	
10101.611 ✓	PW – Roads ✓	31740.00.0000 ✓	Timber Excise Tax	$200,000	✓
10101.611 ✓	PW – Roads ✓	33600.89.0000 ✓	Motor Vehicle Fuel Tax	$225,000	✓
10101.611 ✓	PW – Roads ✓	36250.00.0000 ✓	DNR Other Than Timber	$10,000	✓
10101.611 ✓	PW – Roads ✓	39510.00.0030 ✓	Sale of County Timber	$100,000	✓
Total				$535,000	✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT	
10101.611 ✓	PW – Roads ✓	54290.41.7777 ✓	Other Services and Charges	$535,000	✓
Total				$535,000	✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Revenue received is trending lower than projected.

County Official Approval: R Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

Revised: C:\Users\hsteeby\Desktop\BUDGET CHANGE\10101 BR 11.05 TIMBER EXCISE TAX.docx

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NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11.04.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	33320.20.5004 ✓	WSDOT Clallam Sough Bridge Replacement	$340,000 ✓
10101.611 ✓	PW – Roads ✓	33403.70.1601 ✓	Dry Creek Rd. Safety Improvement	$700,000 ✓
Total				$1,040,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	59530.63.7777	PW Capital Other Improvements	$1,040,000 ✓
Total				$1,040,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Revenue and expenditure reduction related to project construction work now scheduled to occur in 2022.

County Official Approval: R Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

RECEIVED
CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: ~~11.0.21~~ 11/05/2021 **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	36719.00.0000 ✓	Other Prviate Contributions/Donations	$20,000 ✓
Total				$20,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	59520.61.7777 ✓	Capital Land	$20,000 ✓
Total				$20,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Budgeted $70,000 for 2021. Will be receiving $50,000 from the Lloyd J. Allen Trust in November. The remaining pledge of $20,000 from the Peninsula Trails Coalition will not be coming in until 2022.

County Official Approval: R. Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

160

CLALLAM COUNTY BUDGET CHANGE FORM

RECEIVED
CLALLAM CO. FINANCE
NOV 05 2021

Date Submitted: 11.04.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	34511.00.0010 ✓	Soil and Water Conservation Services	$24,279 ✓
Total				$24,279 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME ✓	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads	55310.41.7777	Other Services and Charges	$24,279 ✓
Total				$24,279 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Revenue and expenditure reduction related to the Streamkeepers Program, which we no longer administer.

County Official Approval: R. Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

159

RECEIVED
CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11.04.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	33320.20.5000 ✓	WSDOT ODT Forks Calawah Rvr Pk – A Road	$65,000 ✓
Total				$65,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	59510.41.7777 ✓	Other Services and Charges	$65,000 ✓
Total				$65,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Revenue and expenditure reduction related to project engineering design work now scheduled to occur in 2022.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

Revised: C:\Users\hsteeby\Desktop\BUDGET CHANGE\10101 BR 11.04 ODT CALAWAH.docx

RECEIVED
CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11.04.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

___ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

___ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

___ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

___ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	33403.70.1610 ✓	CRAB Rural Arterial Program	$480,000 ✓
Total				$480,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	59510.41.7777 ✓	Other Services and Charges	$480,000 ✓
Total				$480,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Revenue and expenditure reduction related to project engineering design work and possible construction now scheduled to occur in 2022.

County Official Approval: R Tyler

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

Revised: C:\Users\hsteeby\Desktop\BUDGET CHANGE\10101 BR 11.04 ODT CRAB RAP.docx

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/04/2021 **Budget Hearing/Meeting Date:** 11/30/2021

— **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

— **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

— **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

— **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

X **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.		**Budget Name**	Multiple Funds

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11008.811	Sheriff – OPNET Drug	52123.99.0010	Indirect Cost Charges	13,290
11068.811	Sheriff – Operation Stonegarden	52120.99.0010	Indirect Cost Charges	4,792
11322.511	HHS – Homeless Task Force	56540.99.0010	Indirect Cost Charges	12,561
11331.511	HHS – Developmental Dis	56800.99.0010	Indirect Cost Charges	3,437
11701.841	Pros Att – Local Crime Victim	51570.99.0010	Indirect Cost Charges	926
12241.231	Treasurer – Land Assessment	51422.99.0010	Indirect Cost Charges	48
13051.381	Noxious Weed – LMD#2	55360.99.0010	Indirect Cost Charges	98
10101.611	PW – Roads	51820.99.0010	Indirect Cost Charges	21,158
50301.611	PW – ER&R	54820.99.0010	Indirect Cost Charges	26,560
50401.461	HR – Risk Management	51960.99.0010	Indirect Cost Charges	7,583
50701.461	HR Unemployment Comp	51771.99.0010	Indirect Cost Charges	504
41401.611	PW C/B Sekiu Sewer	53510.99.0010	Indirect Cost Charges	4.461
42401.611	PW – Carlsborg Sewer	53510.99.0010	Indirect Cost Charges	1,569
Total				96,987

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
	Multiple Funds	50800.00.0000	Ending Fund Balance	96,987
Total				96,987

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

2020 Cost Allocation Plan true up.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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11/15/21
2C

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 11/15/21**

REGULAR AGENDA ☒ **Meeting Date: 11/15/21**

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract #

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☒ Other - Notice

Executive summary:
Board of Clallam County Commissioner will consider adopting by Resolution the attached supplemental appropriations on November 30, 2021
Supplemental appropriations – increased expenditures due to unanticipated federal, state, and local funds.

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?** ☐

HHS EH - $42,500
HHS Operations - $196,299
Non Departmental American Rescue Plan Act (ARPA) - $4,950,000
Non-Departmental Hotel/Motel - $650,000
Sheriff's Operation - $19,111

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve the attached notice of supplemental appropriations.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

Date submitted: November 9, 2021

NOTICE OF SUPPLEMENTAL APPROPRIATIONS BUDGET MEETING

Notice is hereby given Clallam County will adopt by Resolution of the Board, the supplemental budget appropriations in the following funds pursuant to RCW 36.40.100, at 10 a.m. on November 30, 2021 in the Commissioners' Meeting Room (160) of the Clallam County Courthouse.

Health and Human Services – Environmental Health – adding funding for emergency preparedness and the onsite services/$42,500
Health and Human Services – Operations – adding funding for COVID-19 vaccination services, Opioid Prevention services, women, infant and children program services (WIC) and Maternal Child Health Services (MCH)/$196,299
Non-Departmental- American Rescue Plan Act (ARPA) – Additional ARPA funding to be used to support the preservation of private marine transportation activities and jobs/$4,950,000
Non-Departmental – Hotel/Motel Tax – Additional Hotel/Motel Tax funding that was not expected when preparing the 2021 budget/$650,000
Sheriff's – Operations – Hours worked to maintain the public safety radio network/$19,111

Copies of the budget change forms may be viewed at the office of the Board of Clallam County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Date: 15 November 2021

Mark Ozias, Chair

Publish: November 21 and 28
Bill: Commissioners

c: Budget Director
Treasurer
Department(s)

DRAFT

RECEIVED
CLALLAM CO. FINANCE
OCT 07 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: Oct 7, 2021 ✓ **Budget Hearing/Meeting Date:** Nov 30, 2021 ✓

_X_✓ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.511 ✓	**Budget Name**	HHS – Environmental Health ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.511 ✓	HHS Env. Health ✓	33393.06.0000 ✓	PHRPR LHJ Funding	20,000
00100.511 ✓	HHS Env. Health ✓	33404.93.0040 ✓	On-site Implementation Con Con	22,500
Total				42,500 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.511 ✓	HHS Env. Health ✓	56254.31.0010 ✓	Office Supplies	1,000
00100.511 ✓	HHS Env. Health ✓	56254.31.0020 ✓	Operating Supplies	1,000
00100.293 ✓	General Fund ✓ Reserves	50800.00.0000 ✓	Ending Fund Balance	40,500
Total				42,500 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Department of Health Consolidated Contract #23 is adding funding for Emergency Preparedness and the Onsite services.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

RECEIVED
CLALLAM CO. FINANCE
OCT 11 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: ~~10/8/21~~ 10/11/2021 **Budget Hearing/Meeting Date:** 11/30/21

_X_ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	11301.511	**Budget Name**	HHS Operations

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11301.511	HHS OPS	33310.55.0010	WIC	6,956
11301.511	HHS OPS	33310.57.0010	WIC Farmers Market	570
11301.511	HHS OPS	33393.06.0000	PHEPR LHJ Funding	15,387
11301.511	HHS OPS	33393.13.6000	DOH Prescription Drug Overdose Prevention	87,000
11301.511	HHS OPS	33393.26.8015	DOH COVID-19 Vaccine Services	5,000
11301.511	HHS OPS	33393.99.0000	MCH Block Grant	16,729
11301.511	HHS OPS	33604.25.0000	DOH FPHS Services	64,657
Total				196,299

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11301.511	HHS OPS	50800.00.0000	Ending Fund Balance	167,299
11301.511	HHS OPS	56210.10.0500	Overtime	5,000
11301.511	HHS OPS	56210.43.0010	Travel Business	1,000
11301.511	HHS OPS	56210.31.0020	Operating Supplies	20,000
11301.511	HHS OPS	56210.31.0010	Office Supplies	3,000
Total				196,299

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Department of Health Consolidated Contract amendment #23 is adding funding for Covid-19 Vaccination Services, Opioid Prevention Services, Women, Infant and Children program services (WIC), and Maternal Child Health services (MCH). The remainder of the contact amendment budget increase is already in the 2021 budget.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/01/2021 **Budget Hearing/Meeting Date:** 11/30/2021

X **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	19961.291	**Budget Name**	NonDept – American Rescue Plan Act

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19961.291	NonDept – American Rescue Plan Act	33321.02.7000	ARPA DOC Private Marine Transportation	4,950,000
Total				4,950,000

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19961.291	NonDept – American Rescue Plan Act	51420.41.0581	Black Ball Transportation, Inc.	4,950,000
Total				4,950,000

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Additional ARPA funding in the amount of $4,950,000 to be used to support the preservation of private marine transportation activities and jobs that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

148

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 10/25/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

X ✓ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	19925.291✓	**Budget Name**	NonDept – Hotel/Motel Tax ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19925.291 ✓	NonDept – Hotel/Motel Tax ✓	31331.00.0030 ✓	Hotel/Motel Transient Lodging Tax	325,000
19925.291 ✓	NonDept – Hotel/Motel Tax ✓	31331.00.0040 ✓	Hotel/Motel Transient Lodging Tax Additional	325,000
Total				650,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19925.291 ✓	NonDept – Hotel/Motel Tax ✓	50800.00.0000 ✓	Ending Fund Balance	650,000
Total				650,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Additional Hotel/Motel Tax funding that was not expected when preparing the 2021 Budget.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

RECEIVED
CLALLAM CO. FINANCE
NOV 03 2021

Date Submitted: 11/02/21 ✓ **Budget Hearing/Meeting Date:** 11/30/21 ✓

X ✓ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or revisions within departments

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.811 ✓	**Budget Name**	Sheriff - Operations ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.811 ✓	Sheriff -Operations ✓	34210.00.0155 ✓	OPSCAN Radio Tech Services	19,111
				19,111 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.811 ✓	Sheriff -Operations ✓	52123.10.0010 ✓	Regular Time	12,423
	Sheriff -Operations ✓	52123.20.0020 ✓	Benefits	6,688
				19,111 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

For hours worked August-October to maintain the public safety radio network that exceeded the budgeted amount.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

7
11/16/21
2d

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 11/15/21**

REGULAR AGENDA ☒ **Meeting Date: 11/15/21**

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract #

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☒ Other - Notice

Executive summary:

Board of Clallam County Commissioner will consider adopting by Resolution the attached debatable emergencies on November 30, 2021

Debatable emergency – Public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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?** ☐

Parks & Facilities – additional expenses related to the COVID-19 virus event that were paid from the Parks and Facilities budget/$13,410

Parks & Facilities – REET – Purchase of a 2.68 acres parcel to be added to the existing Clallam Bay West County Park/$90,555

General Funds Reserve

- Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads Funds in error (1 of 3)/$277,382
- Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads Fund in error (1 of 3)/$5,574
- 2020 cost allocation plan true up/$96,987
- 2020 cost allocation plan true up/$-212,488

Public Works – Clallam Bay Sekiu Sewer – Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$277,382

Public Works – Flood Control – Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$5,574

Public Works – Carlsborg Sewer – Monthly utility charges that were not budgeted for 2021/$15,000

Public Works – Roads

- Transfer of funding from Public Works Flood Control I order reimburse for Flood Control paid time off personnel expenses that were charged to the Public Works Roads Fund 3 of 3)/$5,574
- Transfer of funding from Clallam Bay Sekiu Sewer in order to reimburse for Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road Fund (3 of 3)/$277,382

Public Works – Roads Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (2 of 2)/$1,193,638

Public Works Equipment Rental & Revolving – Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (1 of 2)/$1,193,638

Sheriff – Jail Medical – Additional expenses related to inmate testing COVID 19/$26,100
Sheriff – Operations – Cover overtime shift costs associated with COVID 19/$13,226
Multiple Funds – 2020 cost allocation plan true up/$212,488

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?) Approve the attached notice of debatable emergencies.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

Date submitted: November 15, 2021

BUDGET RESOLUTION _____, 2021

CALL FOR HEARING FOR DEBATABLE EMERGENCIES IN THE FUNDS LISTED BELOW

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. Pursuant to RCW 36.40.140, the following facts constitute a public emergency that could not reasonably have been foreseen at the time of making the budget:

Parks & Facilities – additional expenses related to the COVID-19 virus event that were paid from the Parks and Facilities budget/$13,410
Parks & Facilities – REET – Purchase of a 2.68 acres parcel to be added to the existing Clallam Bay West County Park/$90,555
General Funds Reserve

- Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads Funds in error (1 of 3)/$277,382
- Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads Fund in error (1 of 3)/$5,574
- 2020 cost allocation plan true up/$96,987
- 2020 cost allocation plan true up/$-212,488

Public Works – Clallam Bay Sekiu Sewer – Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$277,382
Public Works – Flood Control – Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$5,574
Public Works – Carlsborg Sewer – Monthly utility charges that were not budgeted for 2021/$15,000
Public Works – Roads

- Transfer of funding from Public Works Flood Control I order reimburse for Flood Control paid time off personnel expenses that were charged to the Public Works Roads Fund 3 of 3)/$5,574
- Transfer of funding from Clallam Bay Sekiu Sewer in order to reimburse for Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road Fund (3 of 3)/$277,382

Public Works – Roads Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (2 of 2)/$1,193,638
Public Works Equipment Rental & Revolving – Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (1 of 2)/$1,193,638
Sheriff – Jail Medical – Additional expenses related to inmate testing COVID 19/$26,100
Sheriff – Operations – Cover overtime shift costs associated with COVID 19/$13,226
Multiple Funds – 2020 cost allocation plan true up/$212,488

NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

1. A public hearing on the debatable emergencies listed above will be held November 30, 2021 at 10:30 a.m. in Room 160 of the Clallam County Courthouse.
2. A copy of the budget change forms may be viewed at the office of the Board of Clallam County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

PASSED AND ADOPTED this 15th day of November 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

_____
Bill Peach

ATTEST:

_____
Loni Gores, CMC, Clerk of the Board

Publish: November 21, 2021
Bill: Commissioners
c: Budget Director, Treasurer, Department(s)

RECEIVED
CLALLAM CO. FINANCE
OCT 15 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: October 15, 2021 **Budget Hearing/Meeting Date:** November 30, 2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.911.	**Budget Name**	Parks & Facilities

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Reserves	50800.00.0000	Ending Fund Balance	$ 13,410
Total				$ 13,410

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.911.	Parks & Facilities	57680.31.0035	Cleaning and Sanitation Supplies	$ 3,749
00100.911.	Parks & Facilities	57680.31.0045	Building Supplies and Materials	$ 2,575
00100.911.	Parks & Facilities	57680.41.1030	Personnel Services	$ 7,086
Total				$ 13,410

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

To pay for additional expenses related to the Covid 19 virus event in Clallam County that were paid from the Parks and Facilities budget in 2021. This is to cover the goods and services expenditures incurred in October 2021, and are expected to be reimbursed through FEMA reimbursements.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

KA5

RECEIVED
CLALLAM CO. FINANCE
NOV 08 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: November 8, 2021 **Budget Hearing/Meeting Date:** November 30, 2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	30101.911.	**Budget Name**	Parks and Facilities - REET

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
30101.911	Parks and Facilities - REET	50800.00.0000	Ending Fund Balance	$90,555
Total				$90,555

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
30101.911	Parks and Facilities - REET	59419.61.1013	Clallam Bay Land Acquisition	$90,555
Total				$90,555

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

For the purchase of 2.68 acres parcel to be added to the existing Clallam Bay West County Park 8.64 acres to increase public access to saltwater beaches, as approved by the Clallam County Board of Commissioners.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

172

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

— **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

— **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

— **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

— **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.293 ✓	**Budget Name**	General Funds Reserves ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	277,382
Total				277,382

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	59735.00.0015 ✓	Transfer to Clallam Bay Sekiu Sewer	277,382
Total				277,382 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from General Fund Reserves to Clallam Bay Sekiu Sewer in order to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (1 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.293 ✓	**Budget Name**	General Funds Reserve ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund ✓ Reserves	50800.00.0000 ✓	Ending Fund Balance	5,574
Total				5,574 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund ✓ Reserves	59768.00.0000 ✓	Transfer to PW – Flood Control	5,574
Total				5,574 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from General Fund Reserves to PW-Flood Control in order to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error in 2020. (1 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 **Budget Hearing/Meeting Date:** 11/30/2021

— **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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— **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.293	**Budget Name**	General Fund Reserves

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Reserves	50800.00.0000	Ending Fund Balance	96,987
Total				96,987

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Res.	51890.49.0501	Indirect Costs-Roads	21,158
00100.293	General Fund Res.	51890.49.0504	Indirect Costs-OPNET Drug	13,290
00100.293	General Fund Res.	51890.49.0507	Indirect Costs-Operation Stonegarden	4,792
00100.293	General Fund Res.	51890.49.0510	Indirect Costs-Homeless Task Force	12,561
00100.293	General Fund Res.	51890.49.0512	Indirect Costs-Dev. Disabilities	3,437
00100.293	General Fund Res.	51890.49.0514	Indirect Costs-Crime Victim Comp Local	926
00100.293	General Fund Res.	51890.49.0517	Indirect Costs-Land Assessment	48
00100.293	General Fund Res.	51890.49.0520	Indirect Costs-LMD#2 Lake Sutherland	98
00100.293	General Fund Res.	51890.49.0526	Indirect Costs-Clallam Bay Sekiu Sewer	4,461
00100.293	General Fund Res.	51890.49.0527	Indirect Costs-Carlsborg Sewer	1,569
00100.293	General Fund Res.	51890.49.0528	Indirect Costs-ER&R	26,560
00100.293	General Fund Res.	51890.49.0529	Indirect Costs-Risk Management	7,583
00100.293	General Fund Res.	51890.49.0531	Indirect Costs-Unemployment Comp.	504
Total				96,987

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

2020 Cost Allocation Plan true up.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 **Budget Hearing/Meeting Date:** 11/30/2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.293	**Budget Name**	General Fund Reserves

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Reserves	50800.00.0000	Ending Fund Balance	-212,488
Total				-212,488

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Res.	51890.49.0502	Indirect Costs-Flood Control	-5,185
00100.293	General Fund Res.	51890.49.0506	Indirect Costs-OPSCAN Operations	-1,232
00100.293	General Fund Res.	51890.49.0508	Indirect Costs-24/7 Sobriety Program	-1,515
00100.293	General Fund Res.	51890.49.0509	Indirect Costs-HHS Operations	-107,325
00100.293	General Fund Res.	51890.49.0511	Indirect Costs-CD/MH	-9,052
00100.293	General Fund Res.	51890.49.0513	Indirect Costs-Law Library	-1,393
00100.293	General Fund Res.	51890.49.0516	Indirect Costs-Treasurers REET	-125
00100.293	General Fund Res.	51890.49.0518	Indirect Costs-Document Preservation	-65
00100.293	General Fund Res.	51890.49.0519	Indirect Costs-Noxious Weed Control	-1,849
00100.293	General Fund Res.	51890.49.0521	Indirect Costs-Veterans Relief	-6,250
00100.293	General Fund Res.	51890.49.0522	Indirect Costs-Opportunity Fund	-25,001
00100.293	General Fund Res.	51890.49.0524	Indirect Costs-Lwr Dung Floodplain	-26,530
00100.293	General Fund Res.	51890.49.0525	Indirect Costs-Solid Waste	-380
00100.293	General Fund Res.	51890.49.0530	Indirect Costs-Workers Compensation	-26,586
Total				-212,488

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

2020 Cost Allocation Plan true up.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	41401.611 ✓	**Budget Name**	PW – Clallam Bay Sekiu Sewer ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
41401.611 ✓	PW – Clallam Bay Sekiu Sewer ✓	39735.00.0015 ✓	Transfer from General Fund Reserves	277,382
Total				277,382

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
41401.611 ✓	PW – Clallam Bay Sekiu Sewer ✓	59770.00.0020 ✓	Transfer to Roads	277,382
Total				277,382 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from General Fund Reserves to Clallam Bay Sekiu Sewer in order to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (2 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10135.611 ✓	**Budget Name**	PW – Flood Control ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10135.611 ✓	PW – Flood Control ✓	39768.00.0000 ✓	Transfer from General Fund Reserves	5,574
Total				5,574 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10135.611 ✓	PW – Flood Control ✓	59770.00.0010 ✓	Transfer to Roads	5,574
Total				5,574 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from General Fund Reserves to PW-Flood Control in order to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error in 2020. (2 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

RECEIVED
CLALLAM CO. FINANCE
OCT 25 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: ~~10.21.21~~ 10/25/2021 **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

_X_ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	42401.611 ✓	**Budget Name**	Public Works – Carlsborg Sewer ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
42401.611 ✓	PW – Carlsborg Sewer ✓	50800.00.0000	Ending Fund Balance	$15,000
Total				$15,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
42401.611 ✓	PW – Carlsborg Sewer ✓	53550.41.7777 ✓	Other Services and Charges	$15,000
Total				$15,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Monthly utility charges that were not budgeted for 2021.

County Official Approval: R Tyler

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

147

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	PW – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	39770.00.0010 ✓	Transfer from PW – Flood Control	5,574
Total				5,574 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	50800.00.0000	Ending Fund Balance	5,574
Total				5,574

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from PW-Flood Control in order reimburse for Flood Control paid time off personnel expenses that were charged to the PW-Roads fund in error in 2020. (3 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	PW – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	39770.00.0020 ✓	Transfer from Clallam Bay Sekiu Sewer	277,382
Total				277,382

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	50800.00.0000	Ending Fund Balance	277,382
Total				277,382 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from Clallam Bay Sekiu Sewer in order to reimburse for Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (3 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	PW – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	39770.00.0030 ✓	Transfer from ER&R	1,193,638
Total				1,193,638 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	50800.00.0000 ✓	Ending Fund Balance	1,193,638
Total				1,193,638 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (2 of 2)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	50301.611 ✓	**Budget Name**	PW – Equipment Rental & Revolving ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
50301.611 ✓	PW – Equipment ✓ Rental & Revolving	50800.00.0000 ✓	Ending Fund Balance	1,193,638
Total				1,193,638

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
50301.611 ✓	PW – Equipment ✓ Rental & Revolving	59770.00.0030 ✓	Transfer to Roads	1,193,638
Total				1,193,638

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (1 of 2)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

RECEIVED
CLALLAM CO. FINANCE
NOV 03 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/02/21 ✓ **Budget Hearing/Meeting Date:** 11/30/21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.816 ✓	**Budget Name**	Sheriff – Jail Medical ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	26,100
Total				26,100 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.816 ✓	Sheriff – Jail Medical ✓	52360.41.0086 ✓	Inmate Medical	26,100
Total				26,100 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

To pay for additional expenses related to COVID 19. This is to cover the inmate testing expenditures incurred September-October and projected for November-December 2021.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

150

RECEIVED
CLALLAM CO. FINANCE
OCT 29 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: ~~10/26/~~10/29/2021 **Budget Hearing/Meeting Date:** 11/30/21

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.811	**Budget Name**	Sheriff - Operations

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Reserves	50800.00.0000	Ending Fund Balance	13,226
Total				13,226

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.811	Sheriff - Operations	52122.10.0500	Overtime	13,226
Total				13,226

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

This is to cover overtime shift costs associated with COVID 19 during August and September 2021.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/04/2021 **Budget Hearing/Meeting Date:** 11/30/2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.		**Budget Name**	Multiple Funds

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
	Multiple Funds	50800.00.0000	Ending Fund Balance	212,488
Total				212,488

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10135.611	PW - Flood Control	55310.99.0010	Indirect Cost Charges	5,185
11065.811	Sheriff – OPSCAN	52880.99.0010	Indirect Cost Charges	1,232
11070.811	Sheriff – 24/7 Sobriety Program	52130.99.0010	Indirect Cost Charges	1,515
11301.511	HHS – Operations	56210.99.0010	Indirect Cost Charges	107,325
11323.511	HHS – CD/MH	56611.99.0010	Indirect Cost Charges	9,052
11401.821	Law Library	51270.99.0010	Indirect Cost Charges	1,393
12231.231	Treasurer – REET Electronic Tech	51422.99.0010	Indirect Cost Charges	125
12401.221	Auditor – Document Pres	51489.99.0010	Indirect Cost Charges	65
13001.381	Noxious Weed Control	55360.99.0010	Indirect Cost Charges	1,849
19914.291	NonDept – Veterans Relief	56520.99.0010	Indirect Cost Charges	6,250
19941.291	NonDept - Opportunity Fund	55210.99.0010	Indirect Cost Charges	25,001
30301.331	DCD – Lwr Dungeness Floodplain	55310.99.0010	Indirect Cost Charges	26,530
40201.611	PW – Solid Waste	53780.99.0010	Indirect Cost Charges	380
50501.461	HR – Workers Comp	51768.99.0010	Indirect Cost Charges	26,586
Total				212,488

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

2020 Cost Allocation Plan true up.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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11/15/21

AGENDA ITEM SUMMARY

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

Department: Finance

WORK SESSION ☒ **Meeting Date: 11/15/2021**

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: ☐

EXECUTIVE SUMMARY:

As required by the Clallam County Charter, attached for review and discussion is the 2022 Draft Budget for Clallam County. The submission of this Draft budget is the next step in the budget adoption process, with the following key dates to follow:

- Tuesday, November 30th—Public Hearing at 10:30am to Certify County Property Tax Levy for 2022;
- Monday, December 6th—Small Action Item at end of BOCC Work Session for Certification of Property Tax Levy of Junior Taxing Districts;
- Tuesday, December 7th—Public Hearings at 10:30am and 6pm in the Board Room to adopt final budget by resolution.
- Tuesday, December 14th—Possible extension of hearing for the Board to adopt the final budget by resolution (if needed)

The following materials have been provided to accompany this summary:

- 2022 Draft Budget Summary—All Funds;
- General Fund 4 Year Comparison of 2022 Draft Budget to Projected/Actual Results for 2021-2019;
- General Fund 4 Year Comparison of 2022 Draft Budget to Adopted Budgets for 2021-2019;
- General Fund Breakdown Analysis of the Change in Operating Surplus/Deficit between the 2022 Draft Budget Deficit and 2021 Forecasted Surplus;

- General Fund Bridge Analysis Summarizing the Changes Made between the 2022 Recommended Budget and the Draft Budget;

- 2022 Draft Budget General Fund Revenue, Expenditure and Staffing Charts by Type and by Program;

- 2022 Budget Salary Worksheet Breakdown by Department/Fund; and

- 2022 Department Requests Over Base Draft Budget, as marked to show those items approved for inclusion in the Draft budget based on BOCC feedback and those items to be deferred;

- 2022 Budgeted General Fund Indirect Cost Charges by Fund;

- 2022 Budgeted Transfers between Funds; and

- 2022 Draft Capital Outlay Budget reflecting BOCC feedback received during the 5 Year Capital Plan discussion held on October 18, 2021.

As noted in prior budget discussions, all departments have budgeted that all positions are assumed filled for the entire year in accordance with how policy currently requires us to budget, which has not historically mirrored the County's actual payroll spending trends where the County has underspent its personnel budgets in the General Fund between $1.6 million and $1.9 million each year due to open positions, turnover and retirements (further discussion below). This initial budget also reflects estimates for 2022 revenue which are partly dependent on the current revenue forecast assumptions for 2021, as well as many additional variables (any resurgent economic disruptions due to the COVID emergency, GDP growth and inflationary growth expectations based on most recent state economic forecasts, local economic conditions, continuance of supply of chain disruptions, changes in long term and short term interest rates, and other revenue guidance available thru MRSC and other sources, etc). Sales tax assumptions used in the 2022 Draft budget have been tempered considerably from the 16%+ growth forecasted in 2021, but at a 5% assumed growth appear achievable given the current economic outlook, inflationary expectations, and are consistent with projected 2022 retail sales and state GDP growth projected for the state in their last economic forecast report.

Several changes have been made to the 2022 Recommended Budget in arriving at the 2022 Draft Budget. While outlined in more detail in the attached schedule called "Bridge Analysis Between Recommended Budget & Draft Budget", these changes at a high level include:

- **REVENUE CHANGES—increased $1,117k**, including increases made to:

    - Taxes--+$400k reflecting effect of increases made to 2021 forecasted sales taxes on which 5% budgeted growth for 2022 is assumed, as offset by a $129k decrease in budgeted property taxes to reflect the updated 2022 levy rate calculations based on new construction and assessed values from the Assessor);

    - Intergovernmental Revenue--+$280k increase mainly relating to new grant revenue added to District Court 1 for the AOC Mental Health Court grant recently awarded and in Superior Court for an AOC Uniform Guardian grant awarded for 2022, and additional grant funding added in other areas;

- Charges for Goods & Services—decreased ($56k) due to elimination of $200k of Hargrove tax funding to District Court 1 for the Mental Health Court (due to new AOC grant funding secured for 2022 to fund the first year of operating the mental health court), elimination of $18k in services revenue from WSU Extension's Olympic Peninsula Health Communities Coalition, as offset by $162k of Foundational Public Health services revenue added to the HHS Environmental Health budget;

- Miscellaneous Revenue—decreased $107k due to elimination of DCD Long Range Planning's Puget Sound Partnership Agreement for 2022;

- Transfers In--+$600k increase includes $350k of additional transfers from the Lower Dungeness Floodplain project based on revised cost and grant reimbursement projections for the project, and addition of $250k relating to reimbursement of bridge funding to be provided to Clallam Bay/Sekiu Sewer as DOE grant/loan reimbursements are received relating to the sewer collection system rebuild project.

- **EXPENDITURE CHANGES—increased $4,129k**, primarily driven by the following:

  - Payroll & Benefits—increased $189k and $72k, respectively, due mainly to Assessor extra help added to fund transitional staff needed for a pending GIS specialist planned retirement, the addition of the Treasurer Fiscal Specialist II position in 2021, the transfer of a 1 FTE Customer Service staff position from HHS Ops to HHS Environmental Health in support of new foundational public health grant-funded activities, and adding $82k of District Court 1 extra help funding relating to support of the new Mental Health Court (previously reflected as a placeholder in services/supplies);

  - Services—decreased ($216k) mainly due to a $166k increase in indirect charges assessed by the General Fund to other funds based on true up of the 2020 indirect cost allocation plan, the elimination of $107k in DCD-Long Range Planning professional services due to the elimination of the Puget Sound Partnership Agreement, recharacterization of $56k of placeholder services costs for DC1's mental health court to salaries costs, and other decreases, as offset by increases in services in other areas (including the addition of AOC Guardianship-grant funded costs in Superior Court, and additional WSU-Contract Services costs relating to the approval of a FT Animal Agriculture Agent position);

  - Capital Outlays—increased $363k due to the inclusion of the 2022-slotted capital outlays included in the updated 5 Year Capital Plan, with $274k relating to Sheriff's Ops, Jail, Jail Medical and Emergency Services outlays, $70k of planned copier replacements spanning multiple departments, and other capital outlays; and

  - Transfers Out—increased $3,063k, reflecting the addition of:
    - **Parks & Facilities Capital Projects Transfer--$1,915k**--as covered during the recent 5 Year Capital Plan discussion, funding is to support the first half of the $4.5 million EOC relocation project (of which $588k of county grant funding has been awarded), the addition of a $250k placeholder for department office

relocation/move costs, $70k for a building security safety assessment study, and $215k for unanticipated projects and the Camp David Jr repainting project;

- **Lower Dungeness Floodplain Project Transfer-- $1,250k** increase (bringing total budgeted transfers for the project from General Fund to $2.75 million in 2022) to provide bridge funding to the project based on recently revised cash need projections of this project as it enters its heavy construction phase in late 2021 which will continue through 2022. These transfers will be recovered by the General Fund by the spring of 2023 after heavy construction is completed and all grant reimbursement funds have been received;
- **IT Capital Projects Transfer--$424k**--as covered during the recent 5 Year Capital Plan discussion, funding is to support several IT projects, including redesign of the County website, VEEM network back-up, AVAYA VOIP phone system upgrade, and implementation of Office365k, as well as funding for scheduled PC replacements, and other small IT capital outlays;
- **Clallam Bay Sekiu Sewer Fund Transfer--$250k**—added to address short-term bridge funding needs during the sewer collection system rebuild project funded through DOE grant/loans (offset by a corresponding increase in transfers in from this fund as grant/loan reimbursement funds are received);
- **HHS Operations Transfer Out**—reduced by $239k to reflect the shifting of funding source of 4 planned additional HHS FTEs from the General Fund to the HHS Foundational Public Health special revenue fund.

GENERAL FUND BUDGET OVERVIEW

At a high level, the 2022 Draft Budget projects a beginning General Fund Balance of approximately $15.6 million, Revenues totaling $46.612 million, Expenditures (including Transfers Out to the Lower Dungeness and Dungeness Off-Channel Reservoir Capital Projects, HHS, Flood Control, Capital Projects funds, and other funds) of $51.658 million, resulting in a budgeted use Reserves of ($5.046) million, and leaving an ending General Fund Balance of $10.555 million, representing an ending reserve level of 20% of total operating expenditures. However, when adjusted for historic average payroll underspend to budget of approximately $1.728 million, the projected operating deficit for 2022 is expected to total ($3,318), leaving an ending General Fund reserves of $12.283 million.

Below are the revenue and expenditure highlights behind these results:

REVENUE BUDGET HIGHLIGHTS

In this Draft roll up of the 2022 budget, General Fund Revenues (excluding COVID-related reimbursements) are projected to total $46,512k, representing a $4,241k or 10% increase over 2021 projected revenue expected, and a $5,489k or 13.3% increase over the 2021 originally adopted budget. When you further exclude Transfers In revenue (which consist mainly of cash flow timing difference transfers from the Lower Dungeness Floodplain and Dungeness Off-Channel Reservoir projects), General Fund Revenues are projected to increase $2,371k or 5.7% from 2021 projected revenues.

In projecting revenues for 2022, while there are certain revenue streams that were significantly impacted by the COVID public health emergency in 2021 that are expected to partially or fully recover fully in 2022 (the most notable being revenues generated by the assumed resumption of the County

Fair in 2022), certain of our revenue streams tied to retail sales activity are assumed to return to a more moderate level of growth (5%) as compared to the 24%+ growth projected currently in 2021 when we experienced a significant economic rebound as the COVID pandemic's effect on the economy began to subside.

While we see this economic recovery continuing into 2022, we do not believe it will be at the levels witnessed in 2021. Other revenue streams, particularly interest income, licensing and permits, and fines & penalties, are expected to decline in 2022 due to the impact of COVID on the interest rate environment that is expected to continue through 2022, a slowdown in building permit revenues from the 30%+ growth levels seen in 2021, and recent changes in RCW that will impact the County's ability to assess certain penalties and fines.

TAX REVENUES

Tax revenues are projected to increase $858k or 3.69%. Property taxes are projected to increase $180k or 1.6% as we assumed the County takes its allowed for 1% annual levy growth limit, as adjusted for new construction assumed captured, as allowed for under statute. Sales-driven taxes (local retail, juvenile correction sales and use taxes and local criminal/public safety taxes) are projected to increase a combined $583k or 5%, which again reflects our assumption that sales taxes grow at a more moderate rate as compared to the +24% growth seen in 2021. Timber excise tax is also projected to increase $91k or 32% from 2021 projections based on a true-up adjustment assessed the County by the Department of Revenue in 2021 due to an error discovered in prior years' timber excise tax remittances.

LICENSES & PERMITS

Licenses & Permits are currently projected to decrease $51k or -4.6% from 2021 projections mainly due to an assumed decline in building permit revenues from the 30%+ growth since in 2021 that was being driven by high demand for permits prior to new building code requirements taking effect in mid-2021 as well as the robust building activity occurring in 2021.

INTERGOVERNMENTAL REVENUES

Budgeted to increase $1,126k or 18.5%, Intergovernmental revenues' growth is entirely due to $1,388k growth in Intergovernmental tax revenues from PILT ("payment in lieu of taxes" payments the County receives from Federal usage of County lands in lieu of property taxes the County would otherwise have collected), with the increase mainly due to additional PILT the County expects to receive from additional funding made available under the American Rescue Plan Act ("ARPA"), along with 3.3% growth assumed from non-ARPA funded PILT, PUD Privilege Tax, Criminal Justice, Marijuana and Liquor related excise taxes. These Intergovernmental tax revenue increases are partly offset by a projected decrease in Intergovernmental Grant revenues of ($263k) mainly due to a $299k one-time state appropriate grant received in 2021 in support of law enforcement costs, and decreased grant revenues budgeted for HHS Environmental Quality, Juvenile Services, and in other areas, as partly offset by new grant funding from the Administrative Office of the Courts in support of expanded guardianship services within the Superior Court and in support of the County's establishment of a mental health court within District Court 1.

CHARGES FOR GOODS & SERVICES

Charges for Goods & Services are projected to increase $775k or 10.3% in 2022 driven mainly due to recovery of certain COVID-impacted revenue streams, including the resumption of the County Fair (+$205k), partial improvement in Sheriff Jail revenues derived from the provision of excess jail bed space to the State Department of Corrections which are expected to continue to be negatively impacted during 2021 and 2022 due to COVID jail capacity restrictions and DOC operational challenges ($100k improvement over 2021 expected), and additional HHS Environmental Health services revenue to be funded through new state Foundational Public Health funds ($162k). We also expect continued growth in title-related filing, DOL licensing revenues, and excise admin fees in 2022.

FINES & PENALTIES

Fines & Penalties are budgeted to decrease -$150k or -15.2% over 2021, mainly due to a reduction in property tax penalties and certain indigent fines due to recent changes in RCW that restrict the County's ability to assess such fines in 2022.

MISCELLANEOUS REVENUE

Miscellaneous Revenue, consisting mainly of interest income and parks camping fees, is projected to decrease ($396k) or -18.2%, driven mainly by a $365k drop in budgeted interest income driven by the collapse of 2-year CD and the LGIP investment pool interest rates in 2020 and continuing into 2021 due to the aggressive economic stimulus measures taken by the Federal Reserve at the onset of the COVID emergency in 2021, coupled with the remainder of the County's 2-year CD investment portfolio maturing in 2021 and 2022 and being reinvested at substantially lower interest rates. Interest rates are assumed to not begin to meaningfully recover until 2023. Campground revenue is budgeted to moderate from the unprecedented growth seen in 2021 due to COVID's favorable impact on usage of County campgrounds in 2021, offset by an expected increase in campground fees. Partially offsetting are higher expected revenues earned from sales of unclaimed property, and approximately $91k in higher revenue from the resumption of the County Fair in 2022.

OTHER FINANCING SOURCES (TIMBER SALES)

Other Financing Sources, consisting mainly of timber revenues to the General Fund, are budgeted to increase $220k or 42% based on an August Draft DNR timber harvest sales projection received for 2022, with the year-over-year increase being driven by the rise in timber prices for timber sales auctions that occurred in 2021 that will be harvested in 2022-2023, as well as spill over 2021 budgeted timber revenues to 2022 due to DNR delays in harvesting certain areas in 2021 due to road building and weather-related delays.

TRANSFERS IN

Transfers In to the General Fund are projected to total $2.44 million in 2022, an increase of $1.87 million from 2021. Budgeted Transfers In consist of $1.85 million from the Lower Dungeness Floodplain Restoration project, $300k related to the Dungeness Off-Channel Reservoir project and $250k from the Clallam Bay Sekiu Sewer Fund. This increase is largely due to spill over of $1.5 million of 2021 transfers in from the Lower Dungeness Floodplain project relating to bridge funding provided by the General Fund primarily in late 2021 as the heavy construction phase of this project

began, for which grant reimbursement of these costs will not be received until the spring of 2022. The increase is also due to the provision of $250k in bridge funding for the Clallam Bay Sekiu Sewer fund collection system rebuild project which is assumed repaid to the General Fund as grant/loan funds for the project are received during the year. These increases are partly offset by the General Fund's provision of $300k in bridge funding to HHS in support of the Serenity House bathroom remodel project required for Serenity House to open its expanded shelter space for which Serenity House is still seeking grant funding from which to reimburse the County, a reimbursement that given current uncertainty is not budgeted to be received in 2022. While unchanged from 2021, the Transfers In from the Dungeness Off Channel Reservoir fund of $300k are again reflected in the 2022 budget, representing return of estimated bridge funding provided by the General Fund of the same amount.

INTERGOVERNMENTAL—COVID REIMBURSEMENTS

Consisting of our centrally administered COVID-related reimbursement grants including FEMA and CARES, this revenue category is budgeted to total $100k in 2022, consisting of spill-over of 2021 anticipated reimbursements of FEMA COVID-related expenditures. This represents a decrease of $910k from 2021 when the bulk of FEMA reimbursements for 2020 and 2021 are projected to be received, as well as $529k related to the AOC CAREs-funded JAVs courtroom technology project received in 2021.

EXPENDITURE BUDGET HIGHLIGHTS

Turning to expenditures for the General Fund, our Draft expenditure budget, excluding COVID-related costs) currently stands at $51,658k, an increase of $9,453k or 22.4% from our 2021 projected expenditures, and an increase of $7,008k or 15.7% over the adopted 2021 budget. When you exclude Transfers Out expenditures (totaling $6,288k which consist mainly of cash flow timing difference transfers to the Lower Dungeness Floodplain, Dungeness Off-Channel Reservoir and Clallam Bay/Sekiu sewer rebuild projects along with capital outlay related transfers to various capital projects funds), General Fund Expenditures are projected to increase $5,164k or 12.8% from 2021.

SALARIES, WAGES & BENEFITS

Excluding Transfers Out, the largest driver of the increase over 2021 projected expenditures is in Payroll and Benefits costs. Representing approximately 67% of our total expenditure budget, Payroll and Benefits are up $3,075k or 14.3% and $1,314k or 15.1%, respectively, to the 2021 forecast. These increases are mainly due to the fact that the budget assumes all budgeted staff positions are filled for the entire year as required under current policy, which clearly was not the case in 2021 where due to retirements, voluntary terminations, delays in filling positions during the year, and the partial hiring freeze put in place beginning in March 2020 that continued through the first of quarter of 2021, the County had more open positions during 2021. This resulted in a projected budget underspend in payroll and benefits in 2021 of approximately $1.896 million. Based on 3-year and 5-year historical average payroll/benefits budget underspend of $1.88 million and $1.67 million, respectively, we anticipate a similar level of personnel budget underspend, while not reflected in the current 2022 Draft budget due to policy, is nevertheless likely in 2022. If you adjust our 2022 personnel cost budget for this average $1.7 million average budget underspend, our combined personnel costs in reality are expected to increase $2.661 million or 8.8% in 2022 as compared to 2021.

This 8.8% increase in overall payroll/benefits costs is largely being driven by the full year impact of collective bargaining-related COLAs of 1% implemented in July 2021 and 2.5% in January 2022, the addition of accreditation pay and implementation of a 9-step restructured pay scale affecting our law enforcement deputies, sergeants and correction officer collective bargaining units, a $50-per-month increase in County-paid health premium increases for most collective bargaining units, and the addition of longevity-based medical premium pay beginning in January 2022 as provided for in the collective bargaining agreements renewed in July 2021. Position step increases, promotions, salary-study-based adjustments for certain positions, the approval of new positions in 2021 (including the Mental Health Court Coordinator, Treasurer Fiscal Specialist II, and other positions), and the filling of positions held open during 2021 (including the HHS Deputy Director position) also contributed to the increase. Finally, the payroll cost increase in 2022 also reflects new FTEs requested by the following departments in the 2022 Department Requests Over Base Budget, including Auditor (+1.63 FTEs), BOCC Non Departmental (+1 FTE), and Prosecuting Attorney Coroner (+1.5 FTEs), as well as the addition of $122k of extra help funding to support administration of the new Mental Health Court and fund transition staffing costs for a planned position retirement in the Assessor's office. These increases were partially offset by an approximate $500k annualized decrease in DRS pension benefit costs paid by the County as a result of substantial decreases in employer-paid contribution rates assessed to the County by DRS beginning in July 2021 for multiple pension plans based on stronger than expected pension plan performance.

Overall, we have budgeted 10.7 more FTEs in 2022 as compared to the 2021 budget, with additions in Auditor (+1.63 FTE), Treasurer (+1.0 FTE), BOCC Operations (+.7 FTE), BOCC—NonDepartmental (Finance) (+1.0 FTE), DCD Environmental Quality (+.25 FTE), DCD Permit Center (+1.0 FTE), DCD Long Range Planning (+.37 FTE), HHS Environmental Health (+0.6 FTE), HHS Admin (+1.4 FTE), Sheriff Operations (+1.54 FTE), Prosecuting Attorney-Coroner (+1.0 FTE), and District Court 1 (+1.0 FTE), as offset by reductions in DCD Admin (-.86 FTE).

SUPPLIES

Supplies are projected to increase $460k or 43.5% compared to 2021 non-COVID projected supplies costs, and increase $276k or 22.2% compared to the 2021 adopted budget. This increase is mainly due to the new Tyler Permit Plan system annual SAAS license entered into in 2021 ($111k), IT SRF requests across multiple departments as outlined in the "2022 Department Requests Over Base Draft Budget-Draft" ($122k), additional supply costs in support of new FTEs added to the budget, and due to the 2021 projected underspend to budget ($185k).

SERVICES

Services in 2022 are projected to increase $1,576k or 26.3% over 2021 projected non-COVID services, and increase $1,033k or 15.8% compared to the 2021 original budget. These increases are mainly due to the following:

- Ending of the ER&R holiday for vehicle replacements implemented in 2021 as a precautionary cost savings measure (driving approx. $244k of the increase mainly in Sheriff Ops and Parks/Facilities);
- Estimated Blake Decision LFO Refunds placeholder added ($150k);
- Resumption of Assessor PACs software maintenance costs being funded by the General Fund rather than the Treasurer REET Technology fund ($67k);

- A $57k increase in DCD—Environmental Quality Salmon Recovery services;
- Higher IT infrastructure-related network monitoring services costs ($34k) resulting from the County's IT infrastructure refresh project of 2020/2021;
- Additional Services costs included in the 2022 budgeted as outlined in the "2022 Department Requests Over Base Draft Budget", including:
    - Assessor ($83k—primarily for the Eagleview High Resolution Oblique Imagery service);
    - IT ($220k—consisting of $186k for MS Office365 and $34k for additional costs of maintaining high speed voice/data communications needed to support remote working/Zoom);
    - HR ($27k—for expanding NEOGOV usage for onboarding/orientation, higher subscription costs, and increased online job posting advertising);
    - Prosecuting Attorney ($81k—mainly relating to higher coroner services costs, certifications, and restoration of in-person training budget);
    - Superior Court ($51k relating to securing additional conflict attorney, guardian ad litem services needed);
    - District Court 1—additional funding for conflict attorney for criminal cases ($12k);
    - Park & Facilities—increase in building repair and maintenance budget to reflect higher costs being experienced as facilities age ($17k); and
    - WSU—addition of a full-time Animal Agriculture Agent WSU Contract position ($55k), increase in contract salary of 4H Agent and WSU MOA increase ($4k).

- These increases are partially offset by 2021 projected budget underspend in Services in multiple other areas, the most notable being lower Superior Court and Prosecuting Attorney expert witness, indigent defense and other services incurred in 2021 relating to the multi-homicide cases of late 2018/early 2019 that were slated to be tried in 2021, with all but one case pleading out resulting in substantial savings to the 2021 services budget.

TRANSFERS OUT

Transfers Out are budgeted to total $6.288 million, a $3,430k or 120% increase from 2021. These increases were mainly due to the following:

Parks & Facilities Capital Projects Transfer--$1,558k increase over 2021. As covered during the recent 5 Year Capital Plan discussion, with the increase mainly driven by the additional funding needed to support the first half of the $4.5 million EOC relocation project (of which $588k of county grant funding has been awarded)—for more details see Capital Outlay section at the end of this presentation;

Lower Dungeness Floodplain Project Transfer-- $1,250k increase to provide bridge funding to the project based on recently revised cash need projections of this project as it enters its heavy construction phase in late 2021 which will continue through 2022. These transfers will be recovered by the General Fund by the spring of 2023 after heavy construction is completed and all grant reimbursement funds have been received;

IT Capital Projects Transfer--$348k increase reflecting funding to support several IT 2022 projects, including the redesign of the County website, VEEM network back-up, AVAYA VOIP phone

system upgrade, and implementation of Office365k, as well as scheduled PC replacements, and other small IT capital outlays;

Clallam Bay Sekiu Sewer Fund Transfer--$250k—added to address short-term bridge funding needs during the sewer collection system rebuild project funded through DOE grant/loans (offset by a corresponding increase in transfers in from this fund as grant/loan reimbursement funds are received);

Transfers Out from the General Fund included in the 2022 Draft budget include the following:

• Lower Dungeness Floodplain	$2,750,000
• Parks/Facilities Capital Projects	1,915,465
• IT Capital Projects	424,424
• Dungeness Off-Channel Reservoir	300,000
• Clallam Bay Sekiu Sewer	250,000
• HHS Operations	530,000
• PW--Flood Control	46,351
• Local Crime Victim Comp	17,000
• Employee Healthcare	19,000
• Law Library	23,723
• PW--Solid Waste	6,500
• HHS Chemical Dependency/Mental Health	5,887
TOTAL TRANSFERS OUT—2022	**$6,288,350**

NOTE REGARDING CASH FLOW TIMING IMPACT TO GENERAL FUND OF THE LOWER DUNGENESS FLOODPLAIN RESTORATION PROJECT

As noted earlier in this presentation and in prior years, the General Fund has needed to provide bridge funding for the Lower Dungeness Floodplain Restoration Project during different phases of this project in order to provide the project with sufficient liquidity for project costs to be paid timely until such time that grant reimbursements for this 100% grant-funded project are received, at which point the General Fund can be repaid from these grant reimbursements. Because of a number of factors including the duration and total cost of different phases of the project, the timing of when those phases start and end within each calendar year, and the timing of receipt of grant reimbursement (typically 45-60 days after costs are paid), there can be considerable impact and variation to how much and when funding is needed from the General Fund and when it can be returned to the General Fund.

On the next page at a high level is the amount of transfer funding paid by the General Fund for this project by year since the Lower Dungeness Floodplain project began, and how much in funding has been and is projected to be paid back to the General Fund by year. The projected outflows and inflows of funding from/to the General Fund are based on the latest monthly projections of project costs for Q3- 2021 though the end of 2022 provided by the DCD outside consulting firm managing this project. The construction phase for this project is currently projected to conclude at the end of 2022.

As demonstrated below, the General Fund should be made whole for the funding provided for the Lower Dungeness Floodplain project in 2023:

Year	Transfers Paid Out	Transfers Paid Back	Cash Flow Impact by Year
2019	$ 450,000	$ -0-	($ 450,000)
2020	$ 295,000	$ 521,000	$ 226,000
2021 Proj	$ 1,500,000	$ 230,000	($ 1,270,000)
2022 Proj	$ 2,750,000	$ 1,850,000	($ 900,000)
2023 Proj	$ -0-	$ 2,394,000	$ 2,394,000
TOTAL	**$ 4,995,000**	**$ 4,995,000**	

ESTIMATED NET FUNDING IMPACT TO GENERAL FUND— $-0-

CONCLUSION/TAKE-AWAYS

Based on this Draft revenue and expenditure budget, the budget reflects utilizing ($5,046k) of General Fund reserves to fully fund the 2022 budget. However, as discussed previously and as outlined in the attached "Breakdown of Draft Budget Deficit", based on historical average underspend to our personnel and benefits budgets of $1.7 million, it is likely the Draft budget deficit for 2022 is closer to ($3,318k), as compared to 2021's projected surplus of $828k (excluding COVID-related revenues/expenditures).

As compared to the projected operating deficit for 2022 of ($1,602k) previously presented as part of the Recommended Budget as adjusted to include capital outlays/transfers, this represents a $1,716 increase in budget deficit. This increase in budgeted operating deficit is caused principally by (1) the $1,250k increase in Lower Dungeness Floodplain Transfer Out funding previously discussed which again is expected to be fully reimbursed to the General Fund in 2023; and (2) Adjusting the amount of the EOC Relocation grant available to fund that project to properly reflect the County's share of that grant ($588k impact).

Based on this projected use of reserves of ($3,318k), the General Fund is projected to end 2022 with fund reserves of $12,283k, representing 25% of total expenditures.

As outlined in an analysis at the end of the included schedule "Breakdown of Draft 2002 Budget Deficit vs 2021 Projected Surplus", when one adjusts for the $900k negative cash flow impact of the Lower Dungeness Project net funding required in 2022 due to cash flow timing differences of that project that will ultimately resolve themselves in 2023 when all remaining grant reimbursements are received and the General Fund is made whole, and also adjust for the $1,512k of net one-time cost of the EOC project for which additional state funding may be secured, the General Fund 2022 operating deficit would total approximately ($906k).

2022 CAPITAL OUTLAYS

- Consistent with the 5 Year Capital Plan and 2022 Proposed Capital Budget that was presented to the BOCC at a continued work session scheduled for October 18, 2021 and was subsequently adjusted for feedback provided from that discussion, we are proposing a total $15,802,730 of capital outlays for the 2022 budget, and deferring $1,790,000 of requests

identified in the 2022 capital plan. The Draft capital outlays are assumed funded through the following sources (source: "Proposed Capital Requests to Include in 2022 Budget" attachment):

- Parks & Facilities Capital Projects Fund--$2,835,000 (consisting of the first half of the EOC construction phase plus estimated carryover of unspent design costs ($2.3 million), of which $0.588 million is funded through the County's assumed 50% share of a Dept of Commerce Grant approved as part of the 2021-23 biennium that must be accepted by 6/30/2023 to guarantee the funds are available; also included are $115k for PFF Unanticipated Projects, $70k to fund a Building Facility Security and Safety Study, a $250k placeholder to fund various department office space renovation/move needs (i.e. Auditor, other to-be-determined departments) and $100k for the painting of Camp David Jr); as discussed previously, the capital outlays from this fund will require a Transfer from the General Fund of $1,915k.

- IT Capital Projects Fund--$653,030 (mainly relating to fund the redesign and replacement of the County website—$100k, upgrading the County's tape backup system to a VEEM-Network Data Back Up system which will reduce the County's disaster recovery time from 45-60 days to a few days--$125k, upgrading the County's AVAYA VOIP phone system ($185k), implementation costs of the County's transition to MS Office 365--$30k, and funding for recurring replacement cycle for PCs/laptops and UPS battery backup); the capital outlays from this fund will require a Transfer from the General Fund of $424k.

- REET 1--$2,913,408 (consisting of $2,478,000 of capital outlays, with major items including the completion of the Jail Control Board project budgeted originally in 2021 (using $750k of carryover funding), continued replacement of the Courthouse VAV HVAC air system boxes ($800k), a Fairgrounds Site and Security Lighting and Power Project ($100k); rebuilding of the Courthouse HVAC SF-1 system ($100k), replacement of the PLC door controls at the Juvie facility to address a safety issue ($200k), and to replace and expand the Courthouse Access Control Card Readers, Recording and Camera systems to enhance facility monitoring, security and address safety concerns ($300k). Also to be funded through REET are $435k of transfers to the Carlsborg Deep Water Well ($185k) and Carlsborg Sewer fund ($250k) to fund completion of the Gupster Road sewer extension project approved in the 2021 budget);

- REET 2--$2,331,319 (consisting of $1,465k of capital outlays (including $1,100k to Roads to fund 2022 road projects which includes an additional $400k ask in 2022 to help fund the rebuild of Towne Road on the new Lower Dungeness Levy, installation of 3 electric car charging stations at the Courthouse ($100k, of which $68k is grant funded), and $225k of carryover Courthouse irrigation/planter/sidewalk replacements), plus $866k of transfers to the Clallam Bay Sekiu Sewer fund ($718k) to fund a 5 year project to replace each of the systems five pump stations ($470k), replace the drive bearings for the systems' remaining four biological contactors ($80k), as well as subsidize this fund to fully cover its operating costs ($168k));

- General Fund--$330,800 (consisting primarily $251k of Sheriff Operations/Jail/Emergency Services items ($177k of which is for vehicle equipment and ER&R-related vehicle replacement funding needed for the scheduled replacement of 5 patrol vehicles, with the

remainder used for ballistic vests replacements, patrol rifle upgrades, and various IT hardware and software related criminal investigations forensics, Cellebrite mobile forensics, ARES, and C-Trac), Auditor ($27k), and Prosecuting Attorney ($35k). As noted earlier, Transfers from General Fund will be needed for the Parks & Facilities Capital Projects fund ($1,915k) and IT Capital Projects fund ($424k) to fully fund the 2022 capital projects in these funds;

- Other Funds Capital Outlays
  - OPSCAN--$175k
  - Operation Stonegarden--$33k
  - Carlsborg Sewer--$613k (including $250k for the previously approved Gupster project (REET funded), and $240k for the Savannah/Village Lane extension (proposed to use Opportunity Funds)
  - Clallam Bay Sekiu--$2,150k (includes $1.6 million DOE grant funded collection system rebuild project, $470k to replace one of five pump stations (REET 2 transfer funded), and $80k to replace all bearings on remaining four biological contactors (REET 2 transfer funded);
  - ER&R--$550k, consisting of vehicle and equipment replacements for the General Fund of $420k with the remainder for ERR general site maintenance and ER&R funded equipment replacement;
  - ARPA--$250k for Bipolar Ionization Air Purification System for County facilities to reduce airborne illness risks (BOCC approved usage of ARPA funds); and
  - Dungeness Off Channel Reservoir--$3.7 million of next phase of Dungeness Off Channel Reservoir Project (100% grant funded through grants rec'd to date).

In summarizing the total Draft capital spend by the key strategic initiative or summary categories we grouped our 2022-2026 capital plans according to, the 2022 Administrator Draft budget proposes the following spending by key initiative/grouping:

- **EOC Relocation**--$2,300,000
- **Courthouse Space Assessment and Re-Alignment--**$250,000
- **Courthouse/Juvenile Services Building Security**--$370,000
- **Courthouse Facility Aging Infrastructure Initiatives**--$840,000 (consisting of $800k for VAV Air System Box replacements);
- **Disaster Recovery/Business Continuity**--$137,000
- **IT Infrastructure Initiatives**, including**:**
  - **Applications**--$149,000
- **Sewer System Repair/Replacement Initiatives**--$2,150,000 (relating to Clallam Bay/Sekiu collection overflow project which will be 100% funded through Ecology grant/loan ($1.6 million), pump station replacement ($470k), and biological contactor bearing replacement ($80k))
- **Deep Water Well/Water Mitigation**--$3,950,000 ($250k Carlsborg Water Mitigation, $3.7 million Dungeness Off Channel Reservoir (100% grant funded)
- **Other Non-Recurring Capital Outlay**—$618,000 (fairgrounds security lighting project ($100k), courthouse HVAC re-build ($100k), Juvie replacement of PLC Door Controls ($200k), Electric Car Charging Stations ($100k, 68% grant funded)
- **Mandatory/Recurring/Regular Replacement**--$1,039,830
- **Previously Approved Carry Over Capital Outlays**—$1,591,000

- **Road Projects Supported Thru REET**—$1,100,000
- **Non-Recurring Capital Fully Funded through Grants/Dedicated Funds (No General Fund/REET Funding Needed)**—$508,300
- **ER&R Funded Capital Outlays**--$549,600
- **ARPA Funded Capital Outlays**--$250,000 (building HVAC air purification system).

    - **TOTAL--$15,802,730**

- **DEPARTMENT REQUESTS FOR 2022**—as outlined in the attached "2022 Department Requests Over the Base Budget—Draft Budget", a total of $1,173,747 of the $1,470,404 of additional General Fund spending requests are included in the Draft Budget based on BOCC feedback, with the remaining $296,657 to be deferred until a later date. Of the Other Non-General Fund requests of $540,498, we have included a total $474,670 based on BOCC feedback received.

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?** ☐

This is the Draft rolled up budget for 2022. No budgetary impact until the final adopted budget is approved in December 2021.

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

County Official signature & print name: _____Mark Lane_____

Name of Employee/Stakeholder attending meeting: _____Mark Lane_____

Relevant Departments: _____

Date submitted:

November 9, 2021

Exhibit A

CLALLAM COUNTY 2022 Draft Budget

NUMBER FUND & DEPT		TYPE	FUND/ACCOUNT NAME	BEGINNING FUND BALANCE	REVENUES	EXPENDITURES	ENDING FUND BALANCE	TOTAL
			GENERAL FUND					
00100.	211	G	Assessor	0	5,280	2,032,121	0	-2,026,841
00100.	221	G	Auditor	0	1,222,550	1,646,789	0	-424,239
00100.	231	G	Treasurer	0	28,905,422	777,581	0	28,127,841
00100.	241	G	Board of County Commissioners - Operations	0	110	863,549	0	-863,439
00100.	242	G	BOCC - Boundary Review Board	0	150	1,780	0	-1,630
00100.	243	O	BOCC - Port Crescent Cemetery	0	500	3,000	0	-2,500
00100.	244	G	BOCC - Board of Equalization	0	0	83,052	0	-83,052
00100.	291	G	NonDepartmental	0	109,010	2,742,949	0	-2,633,939
00100.	293	~	General Fund Reserves	0	2,400,000	4,409,870	0	-2,009,870
00100.	331	D	Comm Dev - Administration	0	6,000	538,239	0	-532,239
00100.	332	D	Comm Dev - Environmental Quality	0	387,911	427,115	0	-39,204
00100.	333	D	Comm Dev - Permit Center	0	1,250,000	1,285,056	0	-35,056
00100.	334	D	Comm Dev - Long Range Planning	0	133,330	516,307	0	-382,977
00100.	361	D	Hearing Examiner	0	0	42,500	0	-42,500
00100.	411	I	Information Technology	0	60,000	2,314,099	0	-2,254,099
00100.	421	I	Geographic Information System	0	0	202,922	0	-202,922
00100.	461	I	Human Resources	0	10,801	654,069	0	-643,268
00100.	511	H	HHS - Environmental Health	0	1,098,100	1,317,707	0	-219,607
00100.	513	H	HHS - Administration	0	126,300	783,031	0	-656,731
00100.	811	L	Sheriff - Operations	0	1,109,013	7,964,913	0	-6,855,900
00100.	813	L	Sheriff - Animal Control	0	500	214,498	0	-213,998
00100.	814	L	Sheriff - Search and Rescue	0	1,500	20,865	0	-19,365
00100.	815	L	Sheriff - Jail	0	1,863,319	4,468,475	0	-2,605,156
00100.	816	L	Sheriff - Jail Medical	0	360,836	779,248	0	-418,412
00100.	817	L	Sheriff - Emergency Services	0	135,119	305,291	0	-170,172
00100.	831	L	NonDepartmental - Indigent Defense	0	272,033	1,589,391	0	-1,317,358
00100.	841	L	Prosecuting Attorney - Operations	0	247,235	3,086,031	0	-2,838,796
00100.	842	L	Prosecuting Attorney - Child Support	0	270,000	316,580	0	-46,580
00100.	843	L	Prosecuting Attorney - Coroner	0	40,001	342,939	0	-302,938
00100.	851	L	Juvenile Services	0	2,994,189	3,619,321	0	-625,132
00100.	861	L	Superior Court	0	484,138	1,877,314	0	-1,393,176
00100.	871	L	District Court I	0	942,776	1,311,719	0	-368,943
00100.	881	L	District Court II	0	136,661	416,374	0	-279,713
00100.	891	L	Clerk	0	466,594	1,141,142	0	-674,548
00100.	911	O	Parks and Facilities	0	960,510	2,656,454	0	-1,695,944
00100.	912	O	Parks and Facilities - Fair	0	412,015	481,243	0	-69,228
00100.	931	O	WSU Extension	0	200,300	424,349	0	-224,049
			TOTAL GENERAL FUND	15,599,000	46,612,203	51,657,883	10,553,320	-5,045,680
			OTHER FUNDS					
10101.	611	P	PW - Roads	5,934,618	16,062,758	16,588,789	5,408,587	0
10135	611	P	PW - Flood Control	52,553	204,401	209,619	47,335	0
11002.	811	L	Sheriff - Honor Guard Donation	4,388	500	3,912	976	0
11003	811	L	Sheriff - Boating Safety	26,821	38,620	61,913	3,528	0
11004	811	L	Sheriff - VRF Boating Program	98,074	25,210	31,543	91,741	0
11008	811	L	Sheriff - OPNET Drug	57,939	143,424	131,532	69,831	0
11061	811	L	Sheriff - Nine-One-One Enhanced	96,857	747,380	746,380	97,857	0
11065	811	L	Sheriff - OPSCAN Operations	582,902	398,232	434,009	547,125	0
11068	811	L	Sheriff - Operation Stonegarden	52,719	559,833	550,462	62,090	0
11070	811	L	Sheriff - 24/7 Sobriety Program	59,530	41,000	58,127	42,403	0
11080	811	L	Sheriff - Inmate Commissary and Welfaare	128,132	47,500	64,320	111,312	0
11301.	511	H	Health and Human Services - Operations	144,678	2,085,280	2,026,910	203,048	0
11322	511	O	HHS - Homeless Task Force	460,534	820,000	686,282	594,252	0
11323	511	H	HHS - Chemical Dependency/Mental Health	2,189,439	1,915,890	2,076,034	2,029,295	0
11324	511	O	HHS - Affordable Housing	229,665	135,000	85,000	279,665	0
11331	511	H	HHS - Developmental Disabilities	818,157	1,651,319	1,880,276	589,200	0
11341	511	H	HHS - Foundational Public Health Services	310,344	690,000	560,000	440,344	0
11401.	821	L	Law Library	15,858	57,723	45,078	28,503	0
11701.	841	L	Pros Attny - Local Crime Victim Comp	26,667	178,647	191,068	14,246	0
11901.	841	L	Pros Attny - Racketeering	1,857	3	0	1,860	0
12201.	231	G	Treasurer - Operation and Maintenance	94,284	84,110	126,117	52,277	0
12231	231	G	Treasurer - REET Electronic Technology	65,548	25,800	5,047	86,301	0
12241	231	G	Treasurer - Land Assessment	10,692	15,638	15,673	10,657	0
12401	221	G	Auditor - Document Preservation	564,332	130,000	460,946	233,386	0
12905	861	L	Superior Crt - Dispute Resolution	130	15,135	15,135	130	0
12911	861	L	Superior Crt - Courthouse Facilitator	973	8,520	8,520	973	0
13001.	381	D	Noxious Weed Control	287,190	185,925	298,024	175,091	0
13051	381	D	Noxious Weed - LMD#2 Lake Sutherland	42,774	18,834	26,185	35,423	0
19910	291	O	Non Dept - Conservation Futures	564,650	306,350	400,000	471,000	0
19913	291	L	Non Dept - Trial Court Improvements	57,038	38,000	40,000	55,038	0
19914	291	O	Non Dept - Veterans' Relief	123,666	248,784	303,541	68,909	0
19915	291	O	Non Dept - Federal Forest Replacement	74,947	10,000	30,000	54,947	0
19925	291	O	Non Dept - Hotel/Motel Tax	1,231,241	1,480,000	1,000,000	1,711,241	0
19941	291	O	Non Dept - Opportunity Fund	4,823,230	1,837,000	849,761	5,810,469	0
19951	291	O	Non Dept -Affordable Housing Sales Tax	266,410	156,862	0	423,272	0
19961	291	L	Non Dept - American Rescue Plan Act	1,500,000	7,502,400	9,002,400	0	0
19991	291	L	Non Dept - Emergency Communication Tax	2,005,662	1,915,000	1,948,200	1,972,462	0
			TOTAL SPECIAL REVENUE FUNDS	23,004,499	39,781,078	40,960,803	21,824,774	0
27401.	611	P	PW - RID #149 Osborn Road	496	2,004	2,500	0	0
29500.	231	P	Treasurer - LID 3rd Street Sewer Line Extension	8,948	2,530	3,000	8,478	0
			TOTAL DEBT SERVICE FUNDS	9,444	4,534	5,500	8,478	0
30101.	911	P	Parks and Facilities - Real Estate Excise Tax Projects	2,236,529	1,690,000	2,969,408	957,121	0
30201.	911	P	Parks and Facilities - Real Estate Excise Tax Projects 2	1,407,282	1,690,000	2,384,197	713,085	0
30301.	331	D	Comm Dev - Lwr Dungeness Floodplain	0	12,661,799	12,600,295	61,504	0
30401.	331	D	Comm Dev -Dungeness Reservoir	33,174	4,000,000	4,000,000	33,174	0
30501.	911	P	Parks and Facilities - Capital Projects	331,535	2,503,465	2,835,000	0	0
30701.	411	I	Information Tech - Capital Projects	258,606	424,424	606,000	77,030	0
30901.	331	D	Comm Dev - Carlsborg Water Mitigation	64,592	185,408	250,000	0	0
			TOTAL CAPITAL PROJECT FUNDS	4,331,718	23,155,096	25,644,900	1,841,914	0
40201.	611	P	PW - Solid Waste	12,377	102,516	104,393	10,500	0
41401.	611	P	PW - Clallam Bay-Sekiu Sewer	200,000	2,939,815	2,854,377	285,438	0
41501.	611	P	PW - Clallam Bay-Sekiu Sewer Cap Replace	298,000	3,552	0	301,552	0
42401.	611	P	PW - Carlsborg Sewer	105,114	806,225	828,490	82,849	0
42501.	611	P	PW - Carlsborg Sewer Capital Repair/Replacement	219,150	16,000	0	235,150	0
43401	611	P	PW - Bullman Beach Water System	103,184	47,000	34,740	115,444	0
			TOTAL ENTERPRISE FUNDS	937,825	3,915,108	3,822,000	1,030,933	0
50301.	611	I	PW - Equipment Rental and Revolving	2,879,550	3,429,025	2,987,079	3,321,496	0
50401.	461	I	HR - Risk Management	1,198,231	2,484,608	2,484,008	1,198,831	0
50501.	461	I	HR - Workers' Compensation Claims	360,570	355,979	581,138	135,411	0
50601.	461	I	HR - Employee Health Care Benefit	28,557	23,450	25,000	27,007	0
50701.	461	I	HR - Unemployment	210,274	24,008	31,933	202,349	0
			TOTAL INTERNAL SERVICE FUNDS	4,677,182	6,317,070	6,109,158	4,885,094	0
			TOTAL OTHER FUNDS	32,960,668	73,172,886	76,542,361	29,591,193	0
			TOTAL BUDGET	48,559,668	119,785,089	128,200,244	40,144,513	0

CLALLAM COUNTY
GENERAL FUND 2022 DRAFT BUDGET--4 YEAR COMPARISON TO ACTUALS/FORECAST
$ IN 000s

	4 YEAR COMPARISON					$ INCREASE (DECREASE) FROM PRIOR YEAR				% INCREASE (DECREASE) FROM PRIOR YEAR				AS A % OF TOTAL REVENUE			
	2022	2021	2020	2019	2018	2022	2021	2020	2019	2022	2021	2020	2019	2022	2021	2020	2019
	Draft Budget	Projected	Actuals	Actuals	Actuals	Draft Budget	Projected	Actuals	Actuals	Draft Budget	Projected	Actuals	Actuals	Draft Budget	Projected	Actuals	Actuals
REVENUES:																	
Taxes	24,093	23,235	20,899	20,466	18,988	858	2,336	433	1,478	3.69%	11.18%	2.12%	7.79%	51.69%	53.68%	46.84%	50.27%
Licenses & Permits	1,055	1,106	1,004	1,019	1,056	-51	102	-15	-37	-4.58%	10.18%	-1.46%	-3.53%	2.26%	2.56%	2.25%	2.50%
Intergovernmental Revenues	7,214	6,088	5,700	5,289	6,657	1,126	388	411	-1,368	18.49%	6.80%	7.77%	-20.54%	15.48%	14.07%	12.78%	12.99%
Charges for Goods & Services	8,276	7,501	7,479	9,525	8,918	775	22	-2,047	607	10.33%	0.30%	-21.49%	6.81%	17.76%	17.33%	16.76%	23.40%
Fines & Penalties	833	983	879	956	1,045	-150	104	-77	-89	-15.22%	11.84%	-8.09%	-8.52%	1.79%	2.27%	1.97%	2.35%
Misc Revenue (Interest Inc, Camping Fees, etc)	1,782	2,178	2,235	2,562	2,203	-396	-57	-327	359	-18.17%	-2.56%	-12.75%	16.28%	3.82%	5.03%	5.01%	6.29%
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	78	90	50	98	67	-12	40	-48	31	-13.32%	81.75%	-49.30%	46.39%	0.17%	0.21%	0.11%	0.24%
Other Financing Sources (Timber Sales, other)	740	520	694	665	326	220	-174	28	339	42.33%	-25.02%	4.27%	104.04%	1.59%	1.20%	1.55%	1.63%
Transfers In	2,440	570	561	132	45	1,870	9	429	87	328.07%	1.60%	324.94%	193.37%	5.23%	1.32%	1.26%	0.32%
TOTAL REVENUE--EXCLUDING COVID REIMB	**46,512**	**42,271**	**39,500**	**40,712**	**39,305**	**4,241**	**2,771**	**-1,212**	**1,407**	**10.03%**	**7.02%**	**-2.98%**	**3.58%**	**99.79%**	**97.67%**	**88.53%**	**100.00%**
Intergovernmental--COVID Reimbursements	100	1,010	5,118	0	0	-910	-4,108	5,118	0	-90.10%	-80.27%	-	-	0.21%	2.33%	11.47%	0.00%
TOTAL REVENUE--INCLUDING COVID REIMB	**46,612**	**43,281**	**44,618**	**40,712**	**39,305**	**3,331**	**-1,337**	**3,906**	**1,407**	**7.70%**	**-3.00%**	**9.59%**	**3.58%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**
EXPENDITURES:																	
Payroll	24,551	21,476	20,594	19,962	19,346	3,075	882	632	616	14.32%	4.28%	3.17%	3.19%	52.67%	49.62%	46.16%	49.03%
Benefits	10,012	8,698	8,466	8,166	7,766	1,314	232	300	400	15.10%	2.74%	3.67%	5.15%	21.48%	20.10%	18.97%	20.06%
Supplies	1,518	1,058	1,110	1,074	1,123	460	-52	37	-49	43.50%	-4.72%	3.40%	-4.38%	3.26%	2.44%	2.49%	2.64%
Services	7,560	5,984	6,049	7,680	7,308	1,576	-65	-1,630	372	26.33%	-1.08%	-21.23%	5.09%	16.22%	13.83%	13.56%	18.86%
Intergovernmental	0	0	0	0	587	0	0	0	-587	-	-	-	-100.00%	0.00%	0.00%	0.00%	0.00%
Capital	363	132	338	434	413	231	-206	-96	21	175.25%	-60.94%	-22.13%	5.14%	0.78%	0.30%	0.76%	1.07%
Transfers Out	6,288	2,858	2,174	545	235	3,430	684	1,629	310	120.03%	31.45%	299.10%	132.27%	13.49%	6.60%	4.87%	1.34%
Payment to Risk Management/Workers Comp Funds	1,366	1,237	1,229	1,095	685	129	8	134	410	10.44%	0.62%	12.26%	59.90%	2.93%	2.86%	2.76%	2.69%
TOTAL EXPENDITURES--EXCLUDING COVID	**51,658**	**41,443**	**39,961**	**38,955**	**37,462**	**10,215**	**1,482**	**1,006**	**1,493**	**24.65%**	**3.71%**	**2.58%**	**3.99%**	**111.06%**	**98.04%**	**101.17%**	**95.69%**
Salaries & Wages--COVID	0	10	245	0	0	-10	-235	245	0	-100.00%	-95.93%	-	-	0.00%	0.02%	0.55%	0.00%
Benefits--COVID	0	1	13	0	0	-1	-12	13	0	-100.00%	-92.36%	-	-	0.00%	0.00%	0.03%	0.00%
Supplies--COVID	0	71	213	0	0	-71	-142	213	0	-100.00%	-66.68%	-	-	0.00%	0.16%	0.48%	0.00%
Services--COVID	0	220	3,207	0	0	-220	-2,987	3,207	0	-100.00%	-93.14%	-	-	0.00%	0.51%	7.19%	0.00%
Capital Outlays--COVID	0	90	702	0	0	-90	-612	702	0	-100.00%	-87.17%	-	-	0.00%	0.21%	1.57%	0.00%
Transfers Out--COVID	0	370	995	0	0	-370	-625	995	0	-100.00%	-62.81%	-	-	0.00%	0.85%	2.23%	0.00%
TOTAL EXPENDITURES--INCLUDING COVID	**51,658**	**42,205**	**45,336**	**38,955**	**37,462**	**9,453**	**-3,131**	**6,381**	**1,493**	**22.40%**	**-6.91%**	**16.38%**	**3.99%**	**110.82%**	**97.51%**	**101.61%**	**95.69%**
NET OPERATING SURPLUS (DEFICIT)--EXCLUDING COVID	**-5,146**	**828**	**-462**	**1,757**	**1,842**	**-5,974**	**1,290**	**-2,218**	**-86**	**-721.46%**	**-279.34%**	**-126.28%**	**-4.66%**	**-11.06%**	**1.96%**	**-1.17%**	**4.31%**
NET OPERATING SURPLUS (DEFICIT)--INCLUDING COVID	**-5,046**	**1,076**	**-718**	**1,757**	**1,842**	**-6,122**	**1,794**	**-2,475**	**-86**	**-568.93%**	**-249.77%**	**-140.90%**	**-4.66%**	**-10.82%**	**2.49%**	**-1.61%**	**4.31%**
BUDGET ADJUSTMENTS:																	
PAYROLL/BENEFITS HISTORIC BUDGET UNDERSPEND DUE TO POSITION DARK TIME	1,728																
PROJECTED NET OPERATING SURPLUS (DEFICIT)--ADJUSTED FOR HISTORIC PAYROLL UNDERSPEND	**-3,318**	**1,076**	**-718**	**1,757**	**1,842**	**-4,394**	**1,794**	**-2,475**	**-86**	**-408.32%**	**-249.77%**	**-140.90%**	**-4.66%**	**-7.12%**	**2.49%**	**-1.61%**	**4.31%**

CLALLAM COUNTY
GENERAL FUND 2022 DRAFT BUDGET--4 YEAR COMPARISON TO ACTUALS/FORECAST
$ IN 000s

	4 YEAR COMPARISON					$ INCREASE (DECREASE) FROM PRIOR YEAR				% INCREASE (DECREASE) FROM PRIOR YEAR				AS A % OF TOTAL REVENUE			
	2022	2021	2020	2019	2018	2022	2021	2020	2019	2022	2021	2020	2019	2022	2021	2020	2019
	Draft Budget	Projected	Actuals	Actuals	Actuals	Draft Budget	Projected	Actuals	Actuals	Draft Budget	Projected	Actuals	Actuals	Draft Budget	Projected	Actuals	Actuals
BUDGETED ENDING FUND BALANCE	**10,555**	**15,600**	**14,524**	**15,243**	**13,486**					**-32.34%**	**7.41%**	**-4.71%**	**13.03%**	**22.64%**	**36.04%**	**32.55%**	**37.44%**
As a % of Total Expenditures	20%	37%	32%	39%	36%												
PROJECTED ENDING FUND BALANCE	**12,283**	**15,600**	**14,524**	**15,243**	**13,486**					**-21.27%**	**7.41%**	**-4.71%**	**13.03%**	**26.35%**	**36.04%**	**32.55%**	**37.44%**
As a % of Total Expenditures	25%	37%	32%	39%	36%												
GENERAL FUND REVENUE DETAIL																	
TAX SUMMARY:																	
Real and Personal Property Taxes	11,432	11,252	10,992	10,840	10,456	180	260	152	384	1.60%	2.36%	1.41%	3.67%	24.53%	26.00%	24.64%	26.63%
Juvenile Correction Sales and Use Tax	1,904	1,813	1,507	1,445	848	91	306	63	596	5.01%	20.30%	4.33%	70.32%	4.08%	4.19%	3.38%	3.55%
Timber Excise Tax	375	284	212	450	383	91	73	-238	67	31.85%	34.39%	-52.97%	17.63%	0.80%	0.66%	0.47%	1.11%
Local Retail Sales and Use Tax	9,031	8,601	7,097	6,678	6,300	430	1,504	419	378	5.00%	21.19%	6.28%	6.00%	19.37%	19.87%	15.91%	16.40%
Leasehold Excise Tax	64	59	70	70	70	5	-11	0	0	9.23%	-15.13%	-0.67%	0.13%	0.14%	0.14%	0.16%	0.17%
Local Criminal Justice/Public Safety	1,287	1,225	1,021	983	931	62	204	38	52	5.04%	20.01%	3.83%	5.63%	2.76%	2.83%	2.29%	2.42%
TOTAL TAX REVENUE	**24,093**	**23,235**	**20,899**	**20,466**	**18,988**	**858**	**2,336**	**433**	**1,478**	**3.69%**	**11.18%**	**2.12%**	**7.79%**	**51.69%**	**53.68%**	**46.84%**	**50.27%**
OTHER GENERAL FUND REVENUES:																	
Licenses & Permits	1,055	1,106	1,004	1,019	1,056	-51	102	-15	-37	-4.58%	10.18%	-1.46%	-3.53%	2.26%	2.56%	2.25%	2.50%
Intergovernmental Revenues--Grants	2,685	2,949	2,841	2,395	3,450	-263	108	446	-1,055	-8.93%	3.80%	18.60%	-30.57%	5.76%	6.81%	6.37%	5.88%
Intergovernmental Revenues--PILT, PUD Privilege Tax, Criminal Justice, Marijuana/ Liquor Excise, Autopsy, Other	4,528	3,139	2,859	2,894	3,207	1,389	280	-35	-313	44.25%	9.78%	-1.19%	-9.76%	9.71%	7.25%	6.41%	7.11%
Charges for Goods & Services	8,276	7,501	7,479	9,525	8,918	775	22	-2,047	607	10.33%	0.30%	-21.49%	6.81%	17.76%	17.33%	16.76%	23.40%
Fines & Penalties	833	983	879	956	1,045	-150	104	-77	-89	-15.22%	11.84%	-8.09%	-8.52%	1.79%	2.27%	1.97%	2.35%
Misc Revenue (Interest Inc, Camping Fees, etc)	1,782	2,178	2,235	2,562	2,203	-396	-57	-327	359	-18.17%	-2.56%	-12.75%	16.28%	3.82%	5.03%	5.01%	6.29%
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	78	90	50	98	67	-12	40	-48	31	-13.32%	81.75%	-49.30%	46.39%	0.17%	0.21%	0.11%	0.24%
Timber Sales	740	520	694	665	326	220	-174	28	339	42.33%	-25.02%	4.27%	104.04%	1.59%	1.20%	1.55%	1.63%
Transfers In	2,440	570	561	132	45	1,870	9	429	87	328.07%	1.60%	324.94%	193.37%	5.23%	1.32%	1.26%	0.32%
TOTAL OTHER REVENUE, EXCLUDING COVID REIMBURSEMENTS	**22,419**	**19,036**	**18,601**	**20,246**	**20,317**	**3,383**	**435**	**-1,645**	**-71**	**17.77%**	**2.34%**	**-8.13%**	**-0.35%**	**48.10%**	**43.98%**	**41.69%**	**49.73%**
Intergovernmental--COVID Reimbursements	100	1,010	5,118	0	0	-910	-4,108	5,118	0	-90.10%	-80.27%	-	-	0.21%	2.33%	11.47%	0.00%
TOTAL REVENUE--GENERAL FUND	**46,612**	**43,281**	**44,618**	**40,712**	**39,305**	**3,331**	**-1,337**	**3,906**	**1,407**	**7.70%**	**-3.00%**	**9.59%**	**3.58%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Four Year Comparison of Major Budget Items - Draft Budget

Budget Years	2022	2021	2020	2019
Taxes				
Real and Personal Property Taxes	11,431,700	11,251,500	11,000,000	11,000,000
Juvenile Correction Sales and Use Tax	1,904,000	1,470,000	1,460,000	1,400,000
Timber Excise Tax	375,000	360,000	450,000	270,000
Local Retail Sales and Use Tax	9,031,000	6,738,000	6,750,000	6,050,000
Leasehold Excise Tax	64,450	74,350	73,350	73,350
Local Criminal Justice/Public Safety	1,287,000	990,000	990,000	949,000
Total Taxes	**24,093,150**	**20,883,850**	**20,723,350**	**19,742,350**
% increase year over year	15.367%	0.774%	4.969%	7.247%
General Fund Major Sources of Budgeted Revenue				
Grants	2,685,495	2,728,087	2,262,282	2,198,044
Sale of County Timber	740,100	625,100	600,100	600,100
Taxes	24,093,150	20,883,850	20,723,350	19,742,350
Licenses and Permits	1,055,400	1,050,173	1,150,092	1,127,092
Intergovernmental	4,628,100	3,129,600	3,024,070	3,174,513
Charges for Goods and Services	8,276,209	7,845,437	9,695,209	9,081,694
Fines and Forfeits	833,378	908,285	968,942	953,950
Other	1,860,371	2,112,275	2,648,852	2,468,536
Total	44,172,203	39,282,807	41,072,897	39,346,279
Transfers	2,440,000	1,840,000	1,790,000	2,120,000
Total Budgeted Revenue	**46,612,203**	**41,122,807**	**42,862,897**	**41,466,279**
Plus General Fund Reserves	15,599,000	13,880,000	14,352,000	12,600,000
Total Funds Available	**62,211,203**	**55,002,807**	**57,214,897**	**54,066,279**
% increase year over year	13.106%	-3.866%	5.824%	7.846%
General Fund Budgeted Expenditures				
Salaries	24,550,555	22,537,254	21,820,814	20,744,952
Benefits	10,011,564	9,543,856	9,086,752	8,808,628
Supplies	1,518,239	1,242,488	1,369,708	1,265,824
Services	8,925,845	7,763,740	9,886,119	8,629,377
Intergovernmental	0	0	0	547,368
Capital	363,330	184,425	279,830	444,900
Subtotal	45,369,533	41,271,763	42,443,223	40,441,049
Transfers Used	6,288,350	3,377,857	3,491,200	2,106,200
Interfund Payments Used	0	0	0	0
Total Budgeted Expenditures	**51,657,883**	**44,649,620**	**45,934,423**	**42,547,249**
% increase year over year	15.696%	-2.797%	7.961%	6.604%
General Fund Budgeted Expenditures by Program				
General Government	8,147,821	7,190,582	7,076,124	6,603,406
Law and Justice	27,454,101	25,343,359	24,951,422	24,030,736
Public Works	0	0	0	0
Internal Services	3,171,090	2,738,288	2,586,847	2,579,536
Public Health	2,100,738	1,870,422	1,820,417	1,666,308
Land Use and Development	2,809,217	2,502,693	2,636,980	2,481,879
Other Services	3,565,046	3,342,397	3,371,433	3,079,184
Subtotal	47,248,013	42,987,741	42,443,223	40,441,049
Plus Transfers	6,288,350	3,377,857	3,491,200	2,106,200
Minus Indirect Costs Reimbursement	-1,878,480	-1,715,978		
Total	**51,657,883**	**44,649,620**	**45,934,423**	**42,547,249**
% increase year over year	15.696%	-2.797%	7.961%	6.604%
General Fund Staffing by Program				
General Government	50.54	46.21	44.90	43.65
Law and Justice	192.45	188.91	189.59	188.19
Public Works	0.00	0.00	0.00	0.00
Internal Services	16.90	16.83	17.08	17.08
Public Health	19.58	17.58	17.58	16.10
Land Use and Development	23.54	22.78	23.16	22.72
Other Services	24.58	24.58	25.08	22.58
Total	**327.59**	**316.89**	**317.39**	**310.32**
% increase year over year	3.377%	-0.158%	2.278%	1.813%

CLALLAM COUNTY
GENERAL FUND DRAFT 2022 BUDGET
BREAKDOWN OF DRAFT 2022 BUDGET DEFICIT VS 2021 PROJECTED SURPLUS
$ IN 000s

		NOTES
TOTAL DRAFT GENERAL FUND OPERATING SURPLUS/(DEFICIT)--2022 BUDGET	**(5,046)**	
TOTAL FORECASTED GENERAL FUND OPERATING SURPLUS/(DEFICIT)--2021 PROJECTED	**1,076**	
NET CHANGE IN GENERAL FUND OPERATING SURPLUS/(DEFICIT)--2022 BUDGET VS 2021 PROJECTED	**(6,122)**	

MAJOR COMPONENTS OF CHANGE IN OPERATING SURPLUS/(DEFICIT) FROM 2021 TO 2022:

INCREASE IN TAX REVENUE (SALES & USE, JUVENILE SERVICES, ETC)	858	Assumes Sales tax annual increase of +5% due to an assumed return to a more typical year-over-year growth rate after 2021 which saw high levels of stimulus and economic recovery driving sales tax growth of +24%. Property Taxes projected to grow 1.6% based on 1% levy growth allowed plus new construction, and increase in Timber Excise Tax of $91k due to impact of DOR multi-year correction assessed in 2021.
DECREASE IN LICENSING & PERMITS REVENUE	-51	Mainly due to extraordinarily strong building permit revenue performance to budget in 2021 driven by building code changes taking effect in mid 2021 and robust building activity.
INCREASE IN INTERGOVERNMENTAL REVENUE	1,126	Mainly due to $1,389k increase in ARPA-related PILT revenue the County expects to receive, as partially offset by $263k decrease in grants, driven by a one-time $299k state appropriation rec'd in 2021 for law enforcement related costs, and decreased grant revenues budgeted for HHS Environmental Quality, Juvenile Services, and other areas, as offset by a 3.3% increase in PILT, Criminal Justice and other intergovernmental excise taxes, new AOC grants rec'd in Superior Court (Uniform Guardian $128k) and District Court 1 (Mental Health Court $116k), and and $150k in AOC Blake Reimbursement grant revenue.
INCREASE IN GOODS & SERVICES REVENUE	775	Mainly due to full or partial recovery of certain COVID impacted revenue streams, including the resumption of the County Fair ($205k), Sheriff Jail (DOC $100k), additional HHS Environmental Health services revenue which will be funded through new State Foundational Public Health grant funds transferred from the HHS Foundational Public Health special revenue fund ($162k), and continued growth in DOL licensing, filing fees and excise admin fees.
DECREASE IN FINES & PENALTIES	-150	Decrease due to lower penalties relating to property taxes and indigent fines assessed due to recent RCW changes.
DECREASE IN MISC REVENUE	-396	Decrease mainly due to a $365k drop in interest income due to significant drop in interest rates during the COVID pandemic and assumption that such depressed rates will continue through 2022 and a decrease in DCD Long Range Planning's Puget Sound Partnership revenue, as offset by growth of campground revenue and resumption of county fair revenue following 2021's COVID-related closures.
INCREASE IN TIMBER REVENUE	220	Increase based on current DNR forecast, with increase reflecting rise in timber prices for timber sales auctions in 2021 that will be harvested in 2022-2023, and delays in harvesting certain areas in 2021 due to road building and weather-related delays.
INCREASE IN TRANSFERS IN	1,870	Primarily due to a $1.62 million increase in Transfers In from the DCD Lower Dungeness Floodplain Capital Fund due to the timing of heavy construction commencing on this project in late 2021, resulting in DOE grant reimbursements relating to the 2021 heavy construction costs incurred by the project not being received until the spring of 2022. Also driving this increase is $250k of Transfers In from the Clallam Bay Sekiu Sewer fund for reimbursement of bridge funding provided during the collection system rebuild project as DOE grant/loan reimbursements are received.
INCREASE IN PAYROLL	-3,075	Increase due to base budget assuming all positions staffed per current policy (vs savings from position darktime and hiring freeze during most of 2020)--see below for estimated dark-time projected underspend. When adjusted to reflect $1.1-$1.2 million of historic darktime budget underspend, payroll is projected to increase approximately $1.8 million, or 8.4%, from 2021 to 2022 which reflects increases due to 1% COLAs in July 2021, 2.5% COLAs beginning in Jan 2022 for the various bargaining units, the addition of accreditation pay and pay scale restructuring for patrol/corrections following completion of new collective bargaining agreements, promotions/salary adjustments, and step increases, as partially offset by savings due to turnover that occurred in 2021. Increase also reflects additional FTEs approved in 2021 including the DC1 Mental Health Court Coordinator and related extra help, Treasurer Fiscal Specialist II, and others, as well as new FTEs requested by the following departments in the 2022 Department Requests Over Base Budget: Auditor (1.63 FTEs), BOCC Non Departmental (1 FTE), and Prosecuting Attorney Coroner (1.5 FTEs).
INCREASE IN BENEFITS	-1,314	Increase due to base budget assuming all positions staffed--see below; also due to $50 per month County-paid health premium increases and longevity-based medical premium pay beginning in Jan 2022 under new collective bargaining agreements completed in July 2021, as partially offset by a substantial decrease in DRS Pension contributions required to be paid by the County in 2022 due to better than expected DRS pension plan performance. Also due to additional FTEs approved in 2021 including the DC1 Mental Health Court Coordinator, Treasurer Fiscal Specialist II, and others, as well as new FTEs requested by the following departments in the 2022 Department Requests Over Base Budget: Auditor (1.63 FTEs), BOCC Non Departmental (1 FTE), and Prosecuting Attorney Coroner (1.5 FTEs).

CLALLAM COUNTY
GENERAL FUND DRAFT 2022 BUDGET
BREAKDOWN OF DRAFT 2022 BUDGET DEFICIT VS 2021 PROJECTED SURPLUS
$ IN 000s

		NOTES
INCREASE IN TRANSFERS OUT	-3,430	Due to $1.25 million increase in Transfers Out needed to fund the heavy construction phase of the Lower Dungeness Floodplain Project which began in Q4 2021 and will continue through the end 2022 with the increase over 2021 based on revised construction cost and grant reimbursement cash flow projections prepared for 2022/2023 based on projections provided by project's outside consultant by month,with budgeted Transfers Out for Lower Dungess totaling $2.75 million in 2022 (these funds will be fully reimbursed to the General Fund in 2023 as the project concludes and all remaining grant reimbursements are received). Also due to a $1.558 million increase in General Fund Transfers to the Parks and Facilities Capital Projects fund (driven primarily by the assumed commencement of the EOC relocation project in 2022), and a $348k increase in Transfers to the IT Capital Projects fund (to fund the County website development project, upgrading of the disaster recovery data backup systems, the deployment of Office365, and the AVAYA VOIP phone system upgrade project). Also driving increase is a $250k transfer to the Clallam Bay Sekiu Sewer Fund for bridge funding needed during the collection system rebuild project to enable timely payment of contractors until DOE grant/loan reimbursements are received by the fund (this transfer out is assumed fully reimbursed to the General Fund in 2022 as grant funds are received).
INCREASE IN SERVICES	-1,576	Increase driven by ending of the ER&R holiday for vehicle replacements instituted in 2021 ($200k in Sheriff's and $44k in Parks Facilities), the resumption of Assessor PACs software costs being paid by the General Fund in 2022 ($67k), the addition of a $150k placeholder relating to Blake Decision LFO refunds, additional AOC-grant funded Minor Guardianship services costs in Superior Court and Mental Health Court costs in District Court 1, a $57k increase in DCD--Environmental Quality Salmon Recovery services, and higher IT infrastructure-related network monitoring services costs ($34k), as well as projected underspend to budget within Services in 2021. Increase also reflects approx. $550k of recommended 2022 Department Requests, including Assessor (+$83k --primarily for Eagleview High Resolution Oblique Imagery); IT ($220k, consisting of $186k for MS Office365 and $34k for high speed voice/data communications and professional services); HR ($27k); Prosecuting Attorney ($81k--mainly relating to higher coroner services costs and training); Superior Court ($51k relating to conflict attorney, guardian at litem services costs), WSU ($55k for Animal Agriculture Agent contract position), and other increases.
INCREASE IN CAPITAL OUTLAYS	-231	Increase is primarily due to reduced capital outlays within the General Fund in 2021 due to a pause instituted for fleet vehicle replacements due to COVID economic uncertainty. The 2022 budget reflects resumption of scheduled vehicle replacements, including vehicle and equipment costs for 5 patrol vehicle replacements in Sheriff's Department ($177k), and 1 vehicle in DCD Permit Center ($18k), as well as various other law enforcement equipment and technology hardware/software expenditures in the Sheriff's Ops, Jail and Emergency Services departments (totaling $101k), as well as scheduled copier replacements across multiple departments.
INCREASE IN PAYMENT TO RISK MANAGEMENT/WORKERS COMP FUNDS	-129	Due to insurance premium increases for 2022 renewal of general liability, cyber, and property coverage policies through the WA State Risk Pool.
REMAINING PROJECTED OPERATING DEFICIT--EXCLUDING CAPITAL TRANSFERS/PROPOSED DEPT REQUESTS	-620	Mainly due to increase in Supplies ($460k), due to new Tyler Permit Planning system SAAS license ($111k), $122k of IT-recommended SRF requests outlined in the "2022 Department Requests Over Base Recommended Budget", and also due to projected underspend in 2021. Also due to the $148k net decrease in COVID-relating operating surplus projected in 2021, due to 2022's budget only reflecting some carry over of 2021-related FEMA grant reimbursements being received. Given the high level uncertainty as to the duration of the COVID pandemic and whether the FEMA grant will be extended into 2022, it is assumed for budget purposes that the County's COVID related costs will be covered outside of the General Fund, through either the ARPA special revenue fund or other dedicated COVID grant funds budgeted within HHS.
TOTAL CHANGE IN GENERAL FUND OPERATING DEFICIT--PRELIMINARY 2022 BUDGET VS 2021 PROJECTED	**-6,122**	
PROJECTED GENERAL FUND OPERATING DEFICIT--ADJUSTED FOR AVG COMP UNDERSPEND		
TOTAL PRELIMINARY GENERAL FUND OPERATING SURPLUS/(DEFICIT)--2022 BUDGET	**-5,046**	
LESS: HISTORICAL AVERAGE BUDGET UNDERSPEND--SALARY AND BENEFITS	1,728	Historically, the general fund has underspent its salary/benefits budgets on average by $1.88 million over the last 3 years, and by $1.67 million over the last 5 years. Many factors contribute to this, with the most significant being that per County policy, each department has to be budgeted assuming it is fully staffed the entire year. In reality, for many departments, this has rarely been the case. Open positions (or "dark time") that occur due to retirements, voluntary terminations/turnover and delays in filling positions create cost savings to budget, as does refilling positions open due to retirement at often lower salary rates than budgeted. While current policy does not allow for budgeting for "dark time" and there is no assurance similar savings will occur at the same level of employment trends/economic conditions change, it is nonetheless an important component in understanding how our actual spending in this area compares to our budget.
PROJECTED GENERAL FUND OPERATING DEFICIT--ADJUSTED FOR AVG COMP UNDERSPEND	**(3,318)**	

CLALLAM COUNTY
GENERAL FUND DRAFT 2022 BUDGET
BREAKDOWN OF DRAFT 2022 BUDGET DEFICIT VS 2021 PROJECTED SURPLUS
$ IN 000s

			NOTES
PROJECTED 2022 GENERAL FUND BALANCE--BASED ON DRAFT BUDGET AS ADJUSTED			
PROJECTED FUND BALANCE--BEGINNING		15,600	
PROJECTED 2021 GENERAL FUND OPERATING DEFICIT		(3,318)	
PROJECTED FUND BALANCE--ENDING		12,283	
GENERAL FUND OPERATING DEFICIT, ADJUSTED TO EXCLUDE TIMING/ONE-TIME IMPACT OF LARGE CAPITAL PROJECTS			
Note: The purpose of this calculation is to calculate the projected General Fund operating deficit for 2022 if one excludes extraordinary projects that are temporarily negatively impacting the General Fund's cash flow either due to bridge funding that the General Fund is providing to large grant-funded projects that will ultimately be returned to the General Fund at the end of the project once all grant reimbursements are received and/or there is a pause in the project to allow for such grant reimbursements to "catch up" to the expenditures made to date (including the Lower Dungeness Floodplain Project, the Dungeness Off Channel Reservoir, or the Clallam Bay Sekiu Sewer Collection System), or for those large, one-time projects that are temporarily skewing the General Fund's net operating results (such the partially grant-funded EOC relocation project).			
PROJECTED GENERAL FUND OPERATING DEFICIT--ADJUSTED FOR AVG COMP UNDERSPEND		(3,318)	
LOWER DUNGENESS FLOOD PLAIN PROJECT:			
TRANSFERS IN--LOWER DUNGENESS FLOOD PLAIN PROJECT	1,850		
TRANSFERS OUT--LOWER DUNGENESS FLOOD PLAIN PROJECT	(2,750)		
NET CASH FLOW EFFECT--TIMING OF GENERAL FUND BRIDGE FUNDING REIMBURSEMENT-- LOWER DUNGENESS PROJECT		900	
DUNGENESS OFF-CHANNEL PROJECT:			
TRANSFERS IN--DUNGENESS OFF-CHANNEL RESERVOIR PROJECT	300		
TRANSFERS OUT--DUNGENESS OFF-CHANNEL RESERVOIR PROJECT	(300)		
NET CASH FLOW EFFECT--TIMING OF GENERAL FUND BRIDGE FUNDING REIMBURSEMENT-- DUNGENESS OFF-CHANNEL		-	
CLALLAM BAY/SEKIU SEWER--DOE COLLECTION SYSTEM REBUILD PROJECT:			
TRANSFERS IN--CLALLAM BAY/SEKIU SEWER	250		
TRANSFERS OUT--CLALLAM BAY/SEKIU SEWER	(250)		
NET CASH FLOW EFFECT--TIMING OF GENERAL FUND BRIDGE FUNDING REIMBURSEMENT-- CLALLAM BAY/SEKIU SEWER		-	
EOC PROJECT:			
GRANT FUNDING BUDGETED	588		
EOC RELOCATION COSTS BUDGETED--2022 (EXCLUDING ROLL OVER OF UNSPENT FUNDS)	(2,100)		
NET CASH FLOW EFFECT-- NEW EOC		1,512	
PROJECTED GENERAL FUND OPERATING DEFICIT--ADJUSTED TO EXCLUDE LARGE ONE-TIME PROJECTS		(906)	

CLALLAM COUNTY
GENERAL FUND RECOMMENDED 2022 BUDGET
BRIDGE ANALYSIS BETWEEN RECOMMENDED BUDGET & DRAFT BUDGET
$ IN 000s

		COMMENTS
OPERATING DEFICIT--2022 RECOMMENDED BUDGET	**-2,034**	
NET REVENUE CHANGES:		
Taxes	400	Principally due to $468k increase in Local/Juvie Retail Sales & Use Tax based on revised upward 2021 projections, with 20220 budget assuming a 5% growth rate over 2021. Also reflects increases in Local Criminal Justice, Leasehold Excise Tax, and Local Public Safety tax based on increased forecast for 2021. Partially offset by a $129k reduction in Real and Personal Property Taxes to reflect finalized levy rate calculations for 2022 based on updated assessed values and new construction provided by the Assessor.
Intergovernmental Revenues	280	Primarily due to additional $274k of grant revenue added, including $116k AOC Mental Health Court grant funding recently awarded to DC1 for 2021/2022, a $128k AOC Uniform Guardian grant awarded to Superior Court, an additional $21k of grant funding added related to DCD Environmental Quality's USFWS McDonald Creek Fish Barrier Removal project, and $10k in PA-Child Support state grant funds added to fully fund the divisions scheduled copier replacement.
Charges for Goods & Services	-56	Mainly due to a $200k elimination of Hargrove Funding provided to DC1 by CD/MH for the Mental Health Court as the AOC grant awarded recently should be sufficient to fully fund MHC in 2022, and the elimination of $18k from WSU's Olympic Peninsula Health Communities Coalition revenues, as offset by $162k of Foundational Public Health Administration revenues added to the HHS Environmental Health budget for services to be provided using funding from the Foundational Public Health State Grant.
Misc Revenue (Interest Inc, Camping Fees, etc)	-107	Reflects elimination of $107k of funding relating to DCD Long Range Planning's Puget Sound Partnership Agreement from the 2022 budget (offset by an equivalent reduction in professional services)
Transfers In	600	Reflects $350k increase in Transfers In from Lower Dungeness Floodplain Project based on revised cost projections rec'd from DCD and grant reimbursment/cash flow projections prepared for the project; also reflects addition of $250k Transfer In relating to the General Fund providing the Clallam Bay/Sekiu Sewer fund with bridge funding during the DOE-grant/loan funded sewer collection system improvement project that will be reimbursed as grant/loan reimbursement funds are received from DOE (offset by a corresponding increase in Transfer Out).
TOTAL NET REVENUE CHANGES	**1,117**	
NET EXPENDITURE CHANGES:		
Payroll	189	Mainly driven by addition of $40k of extra-help funds to support cross-training for up to six months of Assessor GIS position for a planned retirement in 2022, Treasurer +1 FTE Fiscal Specialist II position approved in 2021 ($46k), transfer of a Customer Service Specialist III to HHS Environmental Health from HHS-Operations in support of new Foundational Public Health-funded initiatives ($56k), and the addition of $82k in District Court 1 extra help for the newly created Mental Health Court that will be funded by the additional funding provided by the AOC Mental Health Court grant recently received and a $58k reduction in Services/Supplies placeholders reflected for Mental Health Court in the prior budget version. Partly offset by WSU recharacterization of new Animal Agriculture Agent position as a WSU contract services position ($28k).
Benefits	72	Increases due to related payroll increases noted above
Supplies	12	Mainly relates to Prosecuting Attorney furniture replacements ($14.5k) scheduled as part of the 2022 budgeted capital plan.
Services	-216	(see detail breakdown below)
Capital	363	(see detail breakdown below)
Transfers Out	3,603	(see detail breakdown below)

CLALLAM COUNTY
GENERAL FUND RECOMMENDED 2022 BUDGET
BRIDGE ANALYSIS BETWEEN RECOMMENDED BUDGET & DRAFT BUDGET
$ IN 000s

		COMMENTS
Payment to Risk Management/Workers Comp Funds	105	Due to building in of insurance premium increases for 2022 renewal of general liability, cyber, and property policies through the Risk Pool (increases were mistakenly included in Services in Recommended Budget).
TOTAL NET EXPENDITURE CHANGES	**4,129**	
NET CHANGE BETWEEN REVENUE & EXPENDITURES	-3,011	
OPERATING DEFICIT--2022 RECOMMENDED BUDGET	**-5,046**	

BREAKDOWN OF NET EXPENDITURE CHANGES ABOVE:

SERVICES:

Superior Court--AOC Guardianship-funded increase in Minor Guardianship Services	129	Reflects additional $128k Minor Guardianship services costs to be funded through AOC Guardianship grant awarded to Superior Court.
General Fund Reserves--Indirect Charges	-166	Decrease due to increase in indirects to be charged by General Fund based on results of true-up of 2020 cost allocation plan in 2021.
NonDepartmental--WA State Association of Counties	17	Reflects increase in WASAC 2022 dues to Blake and other dues assessment increases
DCD--Environmental Quality--Professional Services (grant funded)	21	Additional professional services of $21k funded by additional McDonald Creek Fish Barrier Removal grant funds budgeted.
DCD--Long Range Planning--Professional Services (grant funded)	-107	Reflects elimination of $107k of professional services funded by DCD Long Range Planning's Puget Sound Partnership Agreement which was removed from the 2022 budget.
Sheriff--Operations--Central Dispatch Services contractual increase	14	Reflects City of PA contractual increase for central dispatch services fees.
District Court 1--transfer of Mental Health Court Prof Svcs placeholder to Salaries	-56	Elimination of $56k services placeholder for Mental Health Court in favor of budgeting for such funds as Extra Help within Salaries & Wages
WSU--Contract Services Costs--Animal Agriculture, Community Health	37	Reflects addition of 1 FT Animal Agriculture Agent WSU contract position ($55k), as offset by $18k decrease in Community Health Agent contract costs related to elimination of WSU's Olympic Peninsula Health Communities Coalition revenues.
Other Increases/Decreases	-105	Due to insurance premium increases for 2022 renewal of general liability, cyber, and property policies through the Risk Pool that were mistakenly included in Services in Recommended Budget--now properly reflected in Payments to Risk Management/Worker's Comp funds .
Total Services Increase	**(216)**	

CAPITAL OUTLAYS--General Fund (NOTE: The capital outlined below are consistent with the 2022 capital outlays discussed as part of the 5 Year Capital Plan)

Assessor	10	Scheduled Copier Replacement
Auditor	27	$18k Ballot Drop Boxes, $8.5k scheduled copier replacement
DCD--Permit Center	18	ER&R Fleet Vehicle Replacement per 5 Year Capital Plan for DCD Permit Center Inspector's vehicle
IT	8	Scheduled Copier Replacement
Sheriff Operations	251	Consists of Vehicle Equipment for Planned Replacement of 5 Patrol Vehicles ($150k), ballistic vests ($8.4k), Criminal Investiageations Bureau Forensic Computer Server ($15k), Patrol Rifle Upgrade/Replacement ($18k), Cellebrite Movile Forensics Software & Equipment ($12k), and additional ER&R capital assessment to cover higher cost of planned replacement 5 patrol vehicles ($27k), and three scheduled copier replacements ($21k).
Sheriff Jail	6	Ballistic vest replacements/new hires

CLALLAM COUNTY
GENERAL FUND RECOMMENDED 2022 BUDGET
BRIDGE ANALYSIS BETWEEN RECOMMENDED BUDGET & DRAFT BUDGET
$ IN 000s

		COMMENTS
Sheriff Jail Medical	2	Scheduled Copier Replacement
Sheriff Emergency Services	15	ARES Program ($10k) and C-Trac Equipment ($5k)
PA--Child Support	10	Scheduled Copier Replacement (100% grant funded)
PA--Coroner	10	Scheduled Copier Replacement
Other Increases/Decreases	6	Includes copier replacements in other departments (DC2, Parks & Facilities,)
Total Capital Outlays Increase--General Fund	**363**	

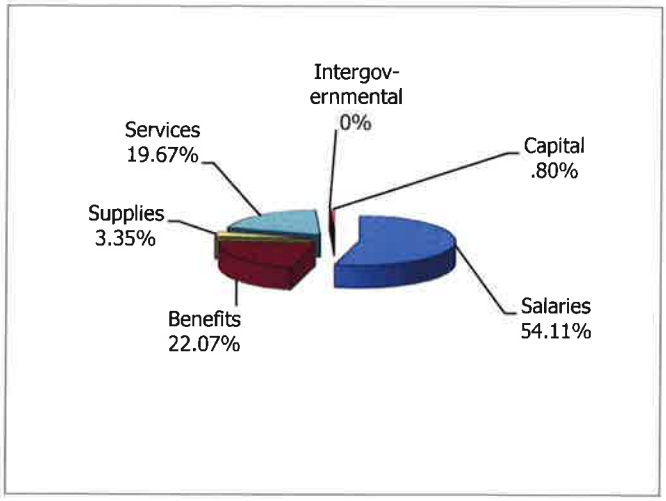
TRANSFERS FROM THE GENERAL FUND:

Transfers from General Fund to Lower Dungeness Flood Plain Capital Fund	1,250	Reflects $1.25 million increase in Transfers Out needed to fund the heavy construction phase of the Lower Dungeness Floodplain Project which began in Q4 2021 and will continue through the end 2022 with increase based on revised construction cost and grant reimbursement cash flow projections prepared for 2022/2023 based on projections provided by project's outside consultant by month, bringing budgeted Transfers Out for Lower Dungess to $2.75 million in 2022.
Transfers from General Fund to Parks/Facilities Capital Projects	1,915	Includes addition of capital-related transfers to the PFF Capital Projects fund of $1.915 million needed to fund 2022-slated 5 Year Capital Plan capital outlays (consisting primarily of $2.3 million relating to the EOC relocation project (as offset by $588k Grant from Commerce), the addition of $250k placeholder for Office Renovation/Moving costs related to several department space need requests, $70k to fund a Building Security Assessment Study, and $215k for Unanticipated Projects and Camp David JR repainting).
Transfer from General Fund to IT Capital Projects	424	Addition of $424k capital-related transfer to IT Capital Projects to fund 2022 slated 5 Year Capital Plan IT capital outlays (including $100k County Website Development, $125k for the VEEM Network Back-Up project, $185k for the Avaya VOIP phone system upgrade, Office365 implementation costs ($30k, and PC Replacement Cycle ($85k) and other IT capital outlays).
Transfer from General Fund to Clallam Bay Sekiu Sewer Fund	250	Reflects grant reimbursement bridge funding transfer from the General Fund to the Clallam Bay/Sekiu Sewer fund needed during the DOE-grant/loan funded sewer collection system improvement project that will be reimbursed as grant/loan reimbursement funds are received by the Clallam Bay Sekiu Sewer Fund from DOE (offset by a corresponding increase in Transfer In).
Transfer from General Fund to PW Solid Waste Fund	3	Additional funding need based on budget.
Decrease in Transfer from General Fund to HHS Operations	-239	Partly offset by a ($239k) decrease in Transfers to HHS Operations due to a change in funding source of new HHS positions being added (HHS Foundational Public Health fund).
Total Transfer from General Fund Increase	**3,603**	

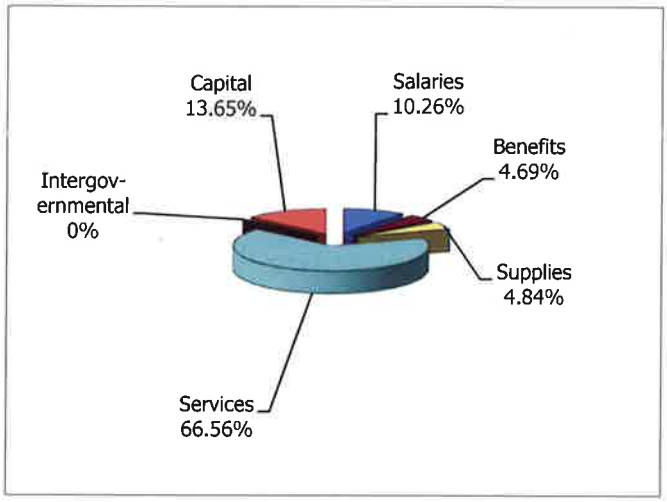
TOTAL NET EXPENDITURE CHANGE FROM RECOMMENDED BUDGET TO DRAFT BUDGET **4,129**

2022 Budgeted Expenditure Charts

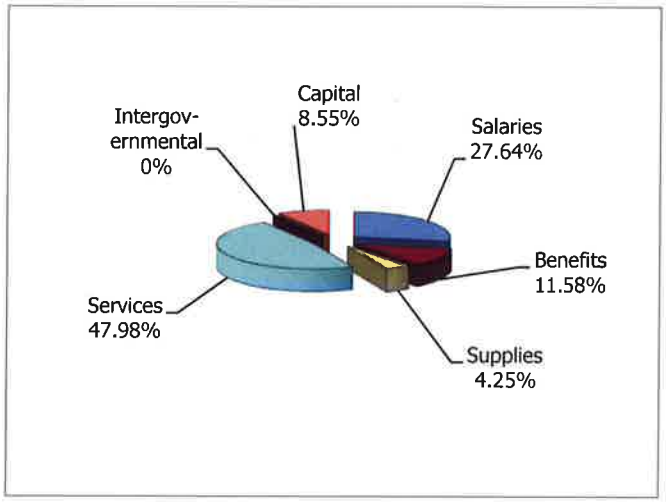
General Fund Budgeted Expenditures	
Salaries	24,550,555
Benefits	10,011,564
Supplies	1,518,239
Services	8,925,845
Intergovernmental	0
Capital	363,330
Subtotal	45,369,533
Transfers Used	6,288,350
Interfund Payments Used	0
Total Budgeted Expenditures	51,657,883



Other Fund Budgeted Expenditures	
Salaries	7,091,341
Benefits	3,241,156
Supplies	3,346,338
Services	45,994,697
Intergovernmental	0
Capital	9,429,444
Subtotal	69,102,976
Transfers Used	5,142,055
Interfund Payments Used	2,297,330
Total Budgeted Expenditures	76,542,361



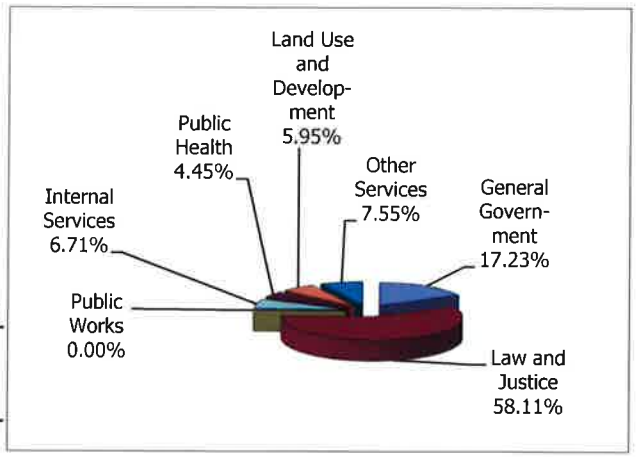
Total General and Other Fund Budgeted Expenditures	
Salaries	31,641,896
Benefits	13,252,720
Supplies	4,864,577
Services	54,920,542
Intergovernmental	0
Capital	9,792,774
Subtotal	114,472,509
Transfers Used	11,430,405
Interfund Payments Used	2,297,330
Total Budgeted Expenditures	128,200,244



2022 Budgeted Expenditures by Program

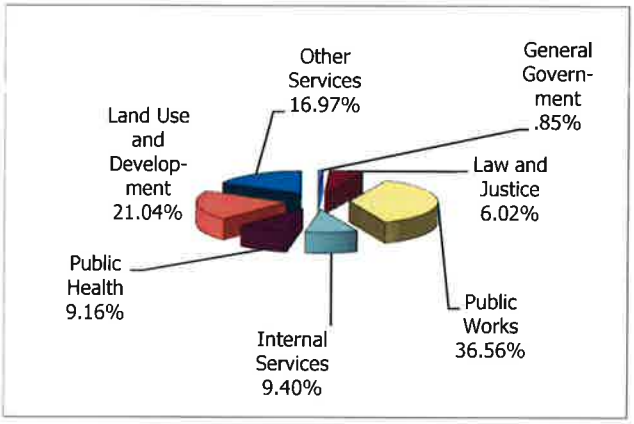
General Fund Budgeted Expenditures by Program

General Government	8,147,821
Law and Justice	27,454,101
Public Works	0
Internal Services	3,171,090
Public Health	2,100,738
Land Use and Development	2,809,217
Other Services	3,565,046
Subtotal on Chart	47,248,013
Plus Transfers	6,288,350
Minus Indirect Costs Reimb.	-1,878,480
Total	51,657,883



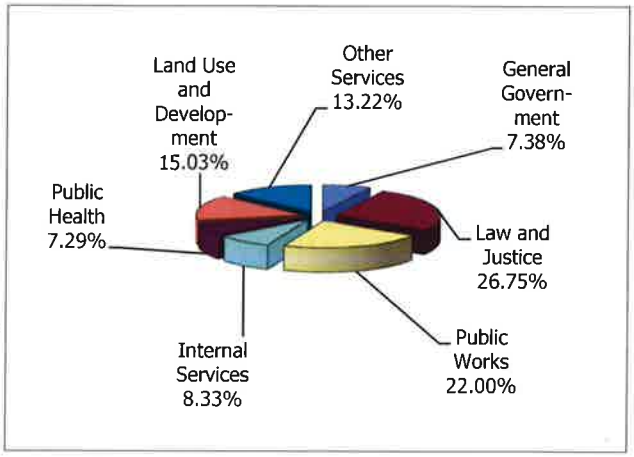
Other Funds Budgeted Expenditures by Program

General Government	607,783
Law and Justice	4,290,199
Public Works	26,104,013
Internal Services	6,713,603
Public Health	6,543,220
Land Use and Development	15,024,504
Other Services	12,116,984
Subtotal on Chart	71,400,306
Plus Transfers	5,142,055
Total	76,542,361



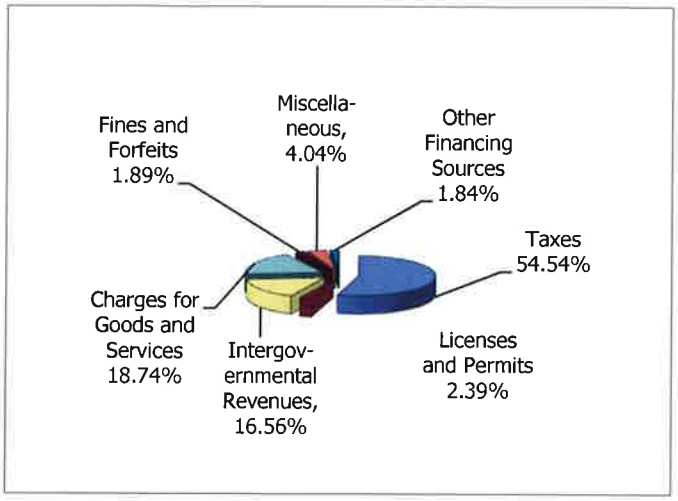
Total General Fund and Other Funds Budgeted Expenditures by Program

General Government	8,755,604
Law and Justice	31,744,300
Public Works	26,104,013
Internal Services	9,884,693
Public Health	8,643,958
Land Use and Development	17,833,721
Other Services	15,682,030
Subtotal on Chart	118,648,319
Plus Transfers	11,430,405
Minus Indirect Costs Reimb.	-1,878,480
Total	128,200,244

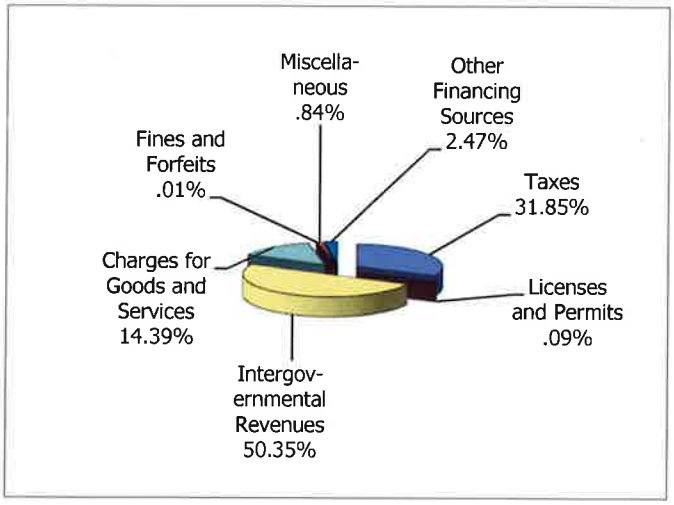


2022 Budgeted Revenue Charts

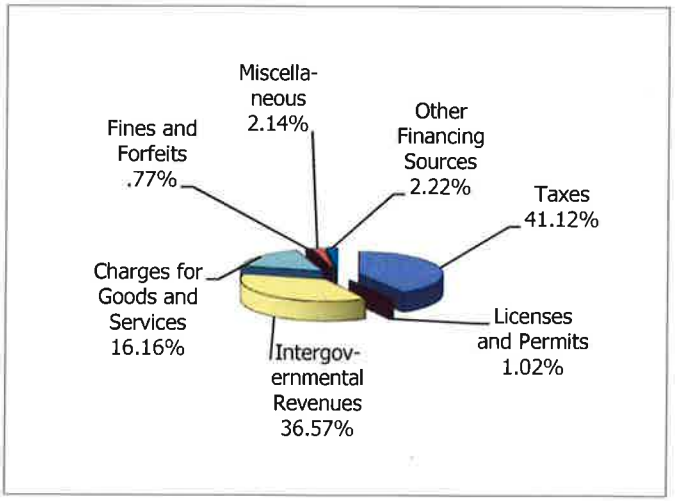
General Fund Budgeted Revenue	
Taxes	24,093,150
Licenses and Permits	1,055,400
Intergovernmental Revenues	7,313,595
Charges for Goods and Services	8,276,209
Fines and Forfeits	833,378
Miscellaneous	1,782,356
Other Financing Sources	818,115
Subtotal	44,172,203
Plus Transfers	2,440,000
Total Revenue	46,612,203
Reserves Available	15,599,000
Total Funds Available	62,211,203



Other Fund Budgeted Revenue	
Taxes	20,444,452
Licenses and Permits	53,620
Intergovernmental Revenues	32,313,574
Charges for Goods and Services	9,238,851
Fines and Forfeits	3,600
Miscellaneous	541,724
Other Financing Sources	1,586,660
Subtotal	64,182,481
Plus Transfers	8,990,405
Total Revenue	73,172,886
Reserves Available	32,960,668
Total Funds Available	106,133,554



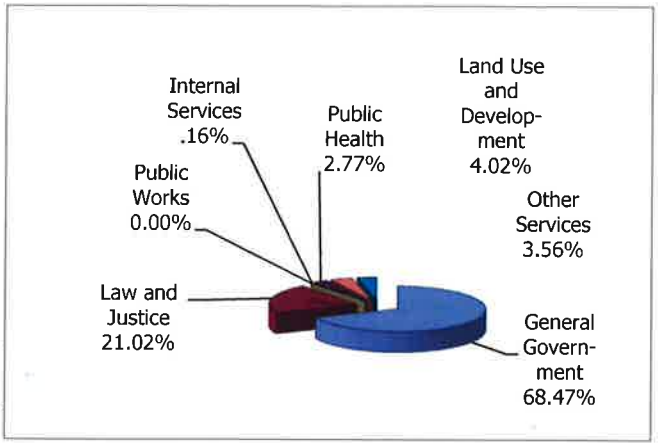
Total General and Other Fund Budgeted Revenue	
Taxes	44,537,602
Licenses and Permits	1,109,020
Intergovernmental Revenues	39,627,169
Charges for Goods and Services	17,515,060
Fines and Forfeits	836,978
Miscellaneous	2,324,080
Other Financing Sources	2,404,775
Subtotal	108,354,684
Plus Transfers	11,430,405
Total Revenue	119,785,089
Reserves Available	48,559,668
Total Funds Available	168,344,757



2022 Budgeted Revenue by Program

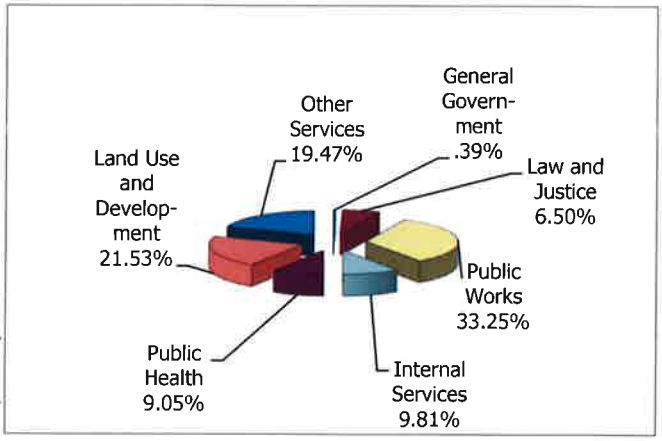
General Fund Budgeted Revenue by Program

General Government	30,242,522
Law and Justice	9,283,914
Public Works	0
Internal Services	70,801
Public Health	1,224,400
Land Use and Development	1,777,241
Other Services	1,573,325
Subtotal on Chart	44,172,203
Plus Transfers	2,440,000
Total	46,612,203



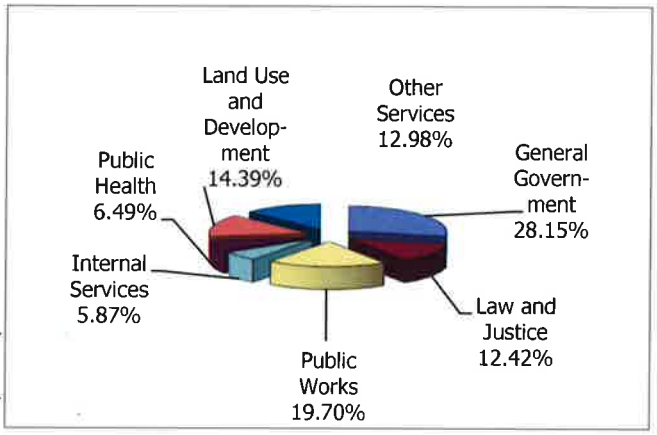
Other Funds Budgeted Revenue by Program

General Government	255,548
Law and Justice	4,174,004
Public Works	21,342,753
Internal Services	6,293,620
Public Health	5,806,602
Land Use and Development	13,816,558
Other Services	12,493,396
Subtotal on Chart	64,182,481
Plus Transfers	8,990,405
Total	73,172,886



Total General and Other Fund Budgeted Revenue by Program

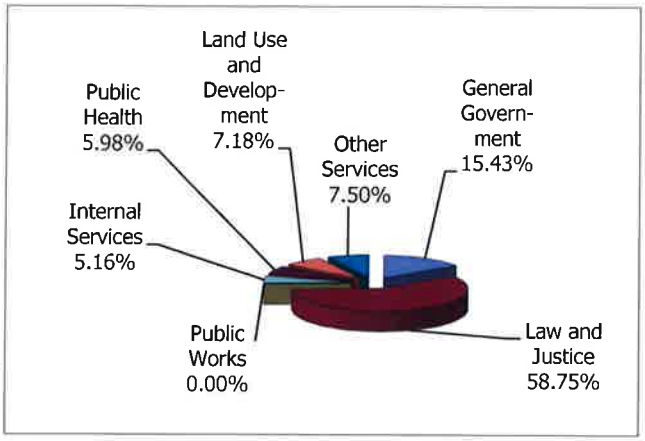
General Government	30,498,070
Law and Justice	13,457,918
Public Works	21,342,753
Internal Services	6,364,421
Public Health	7,031,002
Land Use and Development	15,593,799
Other Services	14,066,721
Subtotal on Chart	108,354,684
Plus Transfers	11,430,405
Total Revenue	119,785,089



2022 Staffing (Full Time Equivalents) by Program

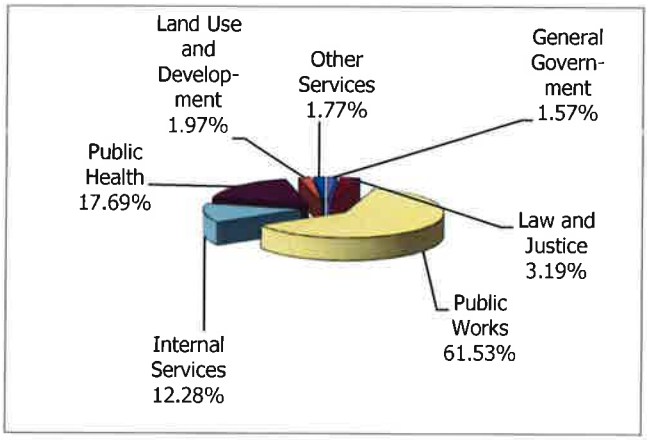
General Fund Staffing by Program

General Government	50.54
Law and Justice	192.45
Public Works	0.00
Internal Services	16.90
Public Health	19.58
Land Use and Development	23.54
Other Services	24.58
Total	327.59



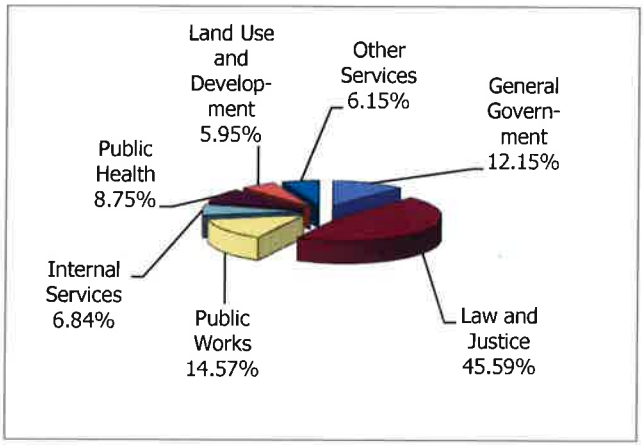
Other Funds Staffing by Program

General Government	1.60
Law and Justice	3.24
Public Works	62.55
Internal Services	12.48
Public Health	17.98
Land Use and Development	2.00
Other Services	1.80
Total	101.65



Total General Fund and Other Funds Staffing by Program

General Government	52.14
Law and Justice	195.69
Public Works	62.55
Internal Services	29.38
Public Health	37.56
Land Use and Development	25.54
Other Services	26.38
Total	429.24



Full Time Equivalents are based on a 40 hour work week.

2022 BUDGET SALARY WORKSHEET BREAKDOWN: Draft Budget

NUMBER FUND AND DEPT	TYPE	FUND/ACCOUNT NAME	BUDGETED SALARY	FICA / MEDICARE 0.0765	RETIREMENT	401A MATCH / CONTRIBUTION	EMPLOYEE MEDICAL INSURANCE	UNEMPLOYMENT .1%	INDUSTRIAL INSURANCE	PENSION TRUST	COMPENSATION	EMPLOYEES
		GENERAL FUND										
00100. 211	G	Assessor	1,246,258	95,340	122,671	23,937	284,160	2,286	13,619		1,788,271	18.50
00100. 221	G	Auditor	921,465	70,491	91,571	17,837	230,295	1,582	4,749		1,337,990	15.13
00100. 231	G	Treasurer	446,234	34,138	44,809	8,744	96,288	685	1,813		632,711	6.40
00100. 241	G	BOCC - Operations	613,383	46,924	61,162	14,589	95,958	595	1,818		834,429	6.48
00100. 242	G	BOCC - Boundary Review Board	1,500	115	0	0	0	0	15		1,630	0.00
00100. 244	G	BOCC - Board of Equalization	52,050	3,982	3,695	721	14,640	72	315		75,475	0.53
00100. 291	G	NonDepartmental	394,183	30,156	39,425	9,181	55,218	779	1,162		530,104	3.50
00100. 331	D	Comm Dev - Administration	315,670	24,592	31,840	6,202	74,460	420	3,155		456,339	4.60
00100. 332	D	Comm Dev - Environmental Quality	181,459	13,882	13,815	2,677	30,240	360	2,465		244,898	2.00
00100. 333	D	Comm Dev - Permit Center	776,504	59,403	79,593	15,501	180,660	1,551	8,323		1,121,535	11.94
00100. 334	D	Comm Dev - Long Range Planning	325,298	24,887	33,344	6,499	74,220	650	3,554		468,452	5.00
00100. 411	I	Information Technology	948,230	72,540	96,726	19,894	182,016	1,866	3,381		1,324,653	12.00
00100. 421	I	Geographic Information System	139,954	10,706	14,345	3,537	29,040	280	560		198,422	2.00
00100. 461	I	Human Resources	297,239	22,739	28,158	7,618	43,904	589	812		401,059	2.90
00100. 511	H	HHS - Environmental Health	795,683	60,870	81,557	15,916	195,180	1,591	10,376		1,161,173	13.28
00100. 512	H	HHS - Administration	546,527	41,810	55,540	12,029	105,636	1,084	1,764		764,390	6.30
00100. 811	L	Sheriff - Operations	4,499,703	344,228	283,251	100,744	881,937	8,287	59,939		6,178,089	50.79
00100. 813.	L	Sheriff - Animal Control	57,854	4,426	5,931	1,097	16,140	110	1,330		86,888	1.00
00100. 815	L	Sheriff - Jail	2,713,778	207,609	279,587	51,844	649,034	5,641	68,390		3,975,883	39.00
00100. 816.	L	Sheriff - Jail Medical	220,663	16,880	15,190	2,897	31,147	436	1,859		289,072	2.25
00100. 817.	L	Sheriff - Emergency Services	109,676	8,390	11,241	2,133	29,040	213	640		161,333	2.00
00100. 841	L	Prosecuting Attorney - Operations	2,128,583	162,836	212,490	41,460	365,550	3,889	6,822		2,921,630	24.10
00100. 843	L	Prosecuting Attorney - Child Support	185,657	14,202	19,030	3,713	43,350	371	787		267,110	2.53
00100. 842	L	Prosecuting Attorney - Coroner	72,460	5,543	5,992	1,169	14,520	145	360		100,189	1.00
00100. 851	L	Juvenile Services	2,243,147	171,605	222,358	43,190	521,736	4,355	28,296		3,234,687	36.53
00100. 861	L	Superior Court	957,306	44,332	57,525	9,774	88,680	1,166	4,066		1,162,849	8.75
00100. 871	L	District Court I	884,916	59,747	75,810	14,708	146,640	1,379	3,220		1,186,420	10.00
00100. 881	L	District Court II	263,024	20,121	24,113	4,699	43,800	287	975		357,019	3.00
00100. 891	L	Clerk	629,077	48,124	64,063	13,491	168,876	1,251	3,220		928,102	11.50
00100. 911	O	Parks and Facilities	1,118,157	85,538	105,865	20,884	272,746	2,197	29,314	16,640	1,651,341	20.54
00100. 912	O	Fair	172,816	13,220	12,376	2,282	33,450	332	4,422	2,080	240,978	2.54
00100. 931	O	WSU Extension	92,101	7,046	7,488	1,461	21,780	184	1,138		131,198	1.50
		TOTAL GENERAL FUNDS	24,350,555	1,826,422	2,200,561	480,428	5,020,341	44,633	272,659	18,720	34,214,319	327.59
10101. 611	P	PW - Public Works	3,767,689	288,225	384,941	74,842	897,396	7,511	73,651	68,904	5,563,159	57.35
10135. 611	P	PW - Flood Control	99,175	7,587	10,165	1,984	15,720	198	1,048		135,877	1.05
11002. 811	L	Sheriff - Honor Guard Donation	2,800	214	148	0	0	0	0	0	3,162	0.00
11003 811	L	Sheriff - Boating Safety	37,500	2,869	1,988	0	0	0	0	0	42,357	0.00
11003 811	L	Sheriff - VRF Boating Program	15,000	1,148	795	0	0	0	0	0	16,943	0.00
11008 811	L	Sheriff - OPNET Drug	65,571	5,016	6,399	1,249	15,300	131	294		93,960	1.05
11301. 511	H	Health and Human Services - Operations	884,762	67,685	90,691	17,019	235,920	1,772	9,500		1,307,349	15.28
11322. 511	H	HHS - Homeless Task Force	22,177	1,697	2,273	444	7,260	44	98		33,993	0.35
11323. 511	H	HHS -Chemical Dependency/Mental Health	82,105	6,281	8,416	1,643	21,780	164	1,096		121,485	1.35
11331. 511	H	HHS - Developmental Disabilities	68,569	5,245	7,008	1,367	14,520	137	285		97,131	1.00
11401. 821	L	Law Library	7,540	577	0	0	0	15	52		8,184	0.19
11701. 841	L	Pros Attny - Local Crime Victim Comp	121,789	9,317	12,483	2,436	29,040	244	560		175,869	2.00
12201. 231	G	Treasurer - Operation and Maintenance	29,507	2,257	3,024	590	8,712	59	168		44,317	0.60
12401 221	G	Auditor - Document Preservation	63,717	4,875	6,531	974	14,715	98	280		91,190	1.00
13001. 381	D	Noxious Weed Control	166,860	12,764	12,062	2,353	30,660	333	1,996		227,028	2.00
19914. 291	O	NonDept - Veterans Relief	101,841	7,791	10,439	2,037	29,040	203	504		151,855	1.80
19961. 291	O	NonDept -American Rescue Plan Act	280,850	118,900							399,750	0.00
30301. 331	D	Comm Dev - Lwr Dungeness Floodplain	0	0	0	0	0	0	0	0	0	0.00
30401. 331	D	Comm Dev - Dungeness Reservoir	0	0	0	0	0	0	0	0	0	0.00
40201. 611	P	PW - Solid Waste	36,589	2,799	3,701	723	14,520	72	449		58,853	0.45
41401. 611	P	PW - Clallam Bay Sekiu Sewer	233,736	17,880	23,896	4,492	29,040	467	4,062		313,573	3.10
42401. 611	P	PW - Carlsborg Sewer	49,097	3,756	5,033	972	0	99	599		59,556	0.60
50301. 611	I	PW - ER&R	536,399	41,035	54,907	10,496	118,140	1,072	8,376	10,440	780,865	8.45
50401. 461	I	HR - Risk Management	380,000	29,070	30,646	7,504	50,001	752	1,031		499,004	3.68
50501. 461	I	HR - Worker's Compensation	38,068	2,912	3,902	1,292	5,689	76	98		52,037	0.35
		TOTAL OTHER FUNDS	7,091,341	639,900	679,448	132,417	1,537,453	13,447	104,147	79,344	10,277,497	101.65
		TOTAL 2020 BUDGET	31,441,896	2,466,322	2,880,009	612,845	6,557,794	58,080	376,806	98,064	44,491,816	429.24

This does not include the Non Dept 200,000 leaving service salary and 50,000 benefits; or the HR payments to claimants of 97,800 (benefits); or the Employee Health Care Benefits of 25,000 (benefits); or Unemployment Comp. of 30,000.

2022 Department Requests Over Base Budget - Draft Budget

GENERAL FUNDS

Department	Requested Item or Program Change	Request	One Time	Ongoing	BOCC Recommended	BOCC Deferred	Funding Source: General Fund Reserve	Funding Source: Other Fund Reserves	Funding Source: Grant/New Funding	Comments
Assessor .00100.211	Eagleview High Resolution Oblique Imagery	76,000		76,000	76,000		76,000			High-resolution oblique imagery for the whole county. Changing law allows oblique imagery to be used if properties are dangerous or locked up for our physical inspections, this imagery is 3D and a very close visual of the property. **CFO Comments**--this service will enable to assessor team to be more efficient and targeted in their physical inspection planning process by enabling them to leverage this service's "change finder" capabilities of identifying changes made to properties between inspections as well as improve access to non-accessible properties and reduce safety issues when visiting such properties. These benefits will allow for better new construction capture, enabling more property tax revenue to be collected. Tool also will likely have value for other taxing districts in the County (fire districts, policing departments), providing for potential licensing revenue opportunities.
	County owned cell phones	6,960		6,960	6,960		6,960			County owned cell phones for staff working in the field and off site.
	SRF: (7) iPad Pro & Peripherals	12,600	12,600			12,600	12,600			Ipads currently in use are scheduled for replacement per IT. **CFO Comments**--as current Ipads are still functioning properly per Assessor's office, suggest deferring replacement to next year.
Auditor .00100.221	Elections Extra Help	6,000		6,000	6,000		6,000			Increased cost and responsibility of Extra Help staff. **CFO Comments**--additional staff time of traveling to remote location ballot boxes added have led to increased costs being incurred.
	Dept. of Licensing Extra Help	4,000		4,000		4,000	4,000			Increased cost to manage heavy workload with large volume of registrations: in the office consistent long lines down the hallway, as well as, received by mail, internet and drop box. **CFO Comments**--based on PT staff support position proposed, this need can be met by new position.
	Agent/Sub-Agent Liaison - new staff position, 1 FTE	80,000		80,000	80,000		80,000			DOL now requires the Auditor to monitor & audit vehicle licensing subagents. **CFO Comments**--new audit and oversight requirements of DOL licensing subagents was previously performed by the WA State Department of Licensing, but as part of an unfunded mandate this role was pushed down to counties in 2020 new DOL contracts. As Auditor does not have the staff to performed these daily/weekly subagent monitoring and annual full audit duties, agree that additional FTE is needed to support this new requirement.
	Staff Support Specialist - new staff position, .63 FTE	42,000		42,000	42,000		42,000			To help with increased workload across all Auditor divisions. **CFO Comments**--with higher transaction volumes across all Auditor divisions, inefficiencies created by new licensing system that takes staff longer to process, the capacity to process passports and marriage licenses, sort mail and other admin functions has been hindered, resulting in a $30k-$40k drop in passport revenues as a result due to those moving to a one-day per week appointment only basis. As position will be self funded through the impact it will have on processing passports at pre-COVID levels again, recommend this position be approved.
NonDepartmental .00100.291	Deputy CFO (1 FTE)	145,000		145,000	145,000		145,000			New Deputy CFO position to provide additional bandwidth to the Finance function to handle the increasing internal and external demands being placed on the department and to provide back-up of CFO role. Position will also provide oversight/support of BOCC grant administration, and assist/support the CFO on special projects, financial analysis, annual report preparation, and new financial systems implementation.
DCD -Environmental Quality .00100.332	Streamkeepers: Stream Temperature & Oxygen Loggers	4,170	4,170		4,170		4,170			Equipment to evaluate stream water quality for fish habitat. **CFO Comments**--per DCD, this equipment would enable more frequent monitoring of stream temperature & oxygen levels (every 30 minutes over 24 hour periods), increasing Streamkeepers capabilities.
	Streamkeepers: Water Velocity Meters & Sensors	13,337	13,337		13,337		13,337			Replace old velocity meters with better technology. **CFO Comments**--per DCD, this equipment has reached its end of life (20 year old equipment) that require more frequent maintenance and are not as as accurate or reliable as newer technology currently available.
	Streamkeepers: SigmaPlot Graphing & Statistical Software	870	870		870		870			To produce professional level statistical analysis & graphs of water quality data.
	Streamkeepers: Vehicle Rental/ Lease	900		900	900		900			Streamkeepers coordinator vehicle use for supervising volunteers & testing in the field.
Information Technology .00100.411	Professional Services cost increase	8,220		8,220	8,220		8,220			Increased volume of external expertise: consulting, programming, electrical, web design, etc.
	High Speed Voice/Data Communications cost increase	25,500		25,500	25,500		25,500			Increased interconnectivity for: remote workforce, county departments, other agencies & the public. **CFO Comment**--request appears reasonable based on increase in Zoom and internet connectivity bandwidth needs to support remote workforce experienced in 2020/2021.
	Registration for training	3,000		3,000		3,000	3,000			Staff training in new and evolving technologies, as well as, security challenges. **CFO Comment**--given uncertainty as to how much training in person will take place in 2022, believe there should be sufficient flex in budget to cover without increasing this funding at this time.

	MS Office365	186,000	70,000	116,000	186,000		186,000			Move to MS Office365 required as part of remote-workforce productivity & connectivity business tools, including MS Office, Outlook, Teams (Zoom alternative), etc. Net recurring costs for MS Office365 after Year 1, net of estimated annual savings of approximately $100k (as costs from Zoom, Box, Sophos email gateway will be able to be reduced after Year 1 per our discussion) will be $116k. **CFO Comments**--moving to this subscription-based model should produce better remote work force and collaboration capabilities, which once fully deployed should enable the elimination of other services after year 1 as mentioned, and also helps move the County further toward a more-technologically updated environment. Also would include Sharepoint, which could serve as a low cost, highly functional replacement for County's current intranet that needs to be replaced.
Human Resources .00100.461	Extra Help	20,000		20,000	20,000		20,000			Provides back-up to the Payroll/Benefits Administrator. **CFO Comments**--as position this extra help would support is currently a "single-point-of-failure" critical risk to the County, recommend this funding be approved.
	Onboarding Videos/Tutorials	10,000		10,000	10,000		10,000			To utilize the NeoGov onboarding/orientation feature.
	Subscriptions	4,600		4,600	4,600		4,600			Administrator/HR Director cost of affiliated subscriptions.
	Advertising	12,500		12,500	12,500		12,500			Using more advertising solutions to obtain the best pool of applicants for vacant positions.
HHS - Environmental Health .00100.511	SRF: (5) Surface Pro 7	8,200	8,200		8,200		8,200			2 for Food Program, 3 for Septic remote.
Sheriff - Operations .00100.811	SRF: (10) MDTS - Replace/Upgrade	55,000	55,000		55,000		55,000			To replace current Durabooks which are 5-6 years old that IT is spending increasing amount of time repairing as failure rates increase. Swap out to G-Tacs which have proven much more reliable and durable.
Sheriff - Emergency Services .00100.817	SRF: (8) Replacement Laptops & Mice	13,500	13,500		13,500		13,500			Scheduled replacements of EOC laptops. **CFO Comments**--laptops being replaced are 7 1/2 years old and can only be run on Windows 7, a no longer supported version. Given security risk this creates and age of laptops, it appears reasonable to replace.
Prosecuting Attorney .00100.841	Additional Storage Unit	2,000		2,000	2,000		2,000			The PAO has run out of storage space for case files that are required by law to be retained.
	Training for Professional Development	23,000		23,000	23,000		23,000			Training for professional development and required CLE credits required for bar license. **CFO Comments**--this budget was reduced in 2021 due to suspension of in-person training events during COVID--this increase would restore the budget to pre-COVID funding levels.
	SRF: Smart TV & Speakers (conference room upgrade)	6,100	6,100		6,100		6,100			**CFO Comments**--per discussions with PA and IT, this equipment is essentially non-functional and needs to be replaced to meet needs for conducting Zoom meetings, interviews with witnesses, etc.
Prosecuting Attorney - Coroner .00100.843	Death Investigator Certification	3,000		3,000	3,000		3,000			Legislation at the state level will soon require Certified Death Investigators. **CFO/Administrator Comments**--additional certification funding to support training of designated cities' policing personnel assigned to death investigation/deputy coroner functions.
	Coroner Services cost increase	53,300		53,300	53,300		53,300			Deaths in the county increase and cost associated with body removal, storage & autopsy increase. **CFO Comments**--amount of request coincides with pacing trend noted during 2021 reflecting the increasing cost of services being incurred (including body transportation costs) due to increased demand for off-Peninsula coroner services
	Deputy Coroner/Death Investigator - new staff position, 1 FTE	93,500	11,000	82,500	93,500		93,500			Recent legislation at the state level will soon necessitate Coroner's Office staff to respond to death scenes. In order to respond, the Coroner's Office will need to have at least one dedicated full time staff member, plus two-three part time staff. These funds will cover costs for salary, benefits, workstation, laptop, cell phone and accessories. **CFO/Administrator Comments**--County currently uses law enforcement as deputy death investigators. Through these hirings, the County would essentially be assuming duties from other law enforcement agencies and assuming the related costs with no path for being compensated. Recommend hiring 1.5 FTEs to initially stand up this function, with expectation that the County PA would continue to use trained deputy coroner/deputy investigators of Cities' policing departments as well.
	Deputy Coroner/Death Investigator - new staff position, .5 FTE	35,150	4,650	30,500	35,150		35,150			
	Deputy Coroner/Death Investigator - new staff position, .5 FTE	32,150	1,650	30,500		32,150	32,150			
	Deputy Coroner/Death Investigator - new staff position, .5 FTE	32,150	1,650	30,500		32,150	32,150			
Juvenile Services .00100.851	SRF: (5) Smart TVs and Installation	6,500	6,500		6,500		6,500			IT Recommended replacement of existing TVS located in Lobby, dining rooms, conference rooms and class rooms to replace rolling cart television utilized in order to enable better Zoom functionality for intake activities, and address juvenile behavior incentive needs of the facility.
Superior Court .00100.861	Adult Felony cost increase	36,000		36,000	36,000		36,000			Increased cost for adult felony indigent defense. **CFO Comments**--SC is requesting additional funding for adding an additional conflict attorney for represenation of criminal cases to re-distribute case loads currently be shared currently across 3 conflict attorney contracted, and as a result the amount paid per case would be increased to a level that translates into an hourly rate that is more competitive with attorney rates. Based on past 3 year spending levels, ongoing request for higher adult felony costs is supported.
	Civil Contempt cost increase	5,000		5,000	5,000		5,000			Increased cost for civil contempt indigent defense which would allow for an hourly rate of pay increase for civil conflict attorneys from $65 per hour to $100 per hour which is needed given market rates in private practice are $300 per hour.

	Guardian at Litem cost increase	10,000		10,000	10,000		10,000			Increased cost for Guardian at Litem attorneys. **CFO Comments**--New RCW took effect in 2021 requiring courts to appoint guardian ad litem attorneys under Unified Guardianship Act. Increase in funding would allow for an increase in hourly rate paid to GAL attorneys from $65 per hour to $100 per hour in an effort to close the pay gap given prevailing attorney rates for this type of representation is $300 per hour.
	Pro Tem Court Commissioners Salary Increase	44,000		44,000	44,000		44,000			Increase Pro Tem Court Commissioner hourly rate from $75 to $125. **CFO Comments**--rate increase reflects needs to offer competitive hourly rates to help insure availability of qualified pro tem court commissioners. funding would also increase the number of funded hours of pro tem work from 246 currently per year to 500 hours per year, to address increase in workload related to Blake anticipated with potential for Blake funding reimbursement, legislative changes related to evictions, protection orders and guardianships, and to bring SC judicial officers up to the current judicial needs benchmark of 4.5 judicial officers (currently at 4).
	Administrative Specialist I - new position - 1 FTE	95,210		95,210		95,210	95,210			New position to help ease the overwhelming workload of staff. **CFO/Administrator Comments**--pending obtaining further metrics supporting workload increases being placed on existing admin staff that have been incurred, recommend deferring at this time.
	Office Furniture for new staff position	4,000	4,000			4,000	4,000			Workstation for new Admin Specialist position requested above. **CFO/Administrator Comments**--defer given recommended deferral of new Admin Specialist 1.
	Bailiffs increase	10,000		10,000	10,000		10,000			Conducting jury trials with COVID protocols requires an additional bailiff to be available. **CFO Comments**--during COVID, increased need for Bailiffs has been met by utilizing court administrative staff and clerk staff. As case back logs begin to be cleared, this will likely no longer be a workable solution.
	Part Time Court Facilitator - new position - .5 FTE	50,000		50,000		50,000	50,000			New position: reviews family law forms, explains court procedures and assist with filing forms. **CFO/Administrator Comments**--further evaluation and metrics supporting need for this position are required.
	SRF: (8) Signature Pad Solutions	17,200	17,200		17,200		17,200			IT SRF request to support transition to eFiling.
	SRF: (5) Digital Information display Monitors	7,000	7,000		7,000		7,000			IT SRF request which will provide better visibility to public as to courtroom schedules, and allow for information to be posted to better direct the public.
District Court I	Court Appointed Attorney	12,000		12,000	12,000		12,000			Unable to find conflict attorney for criminal cases, need increased funding incentive. **CFO Comments**--with pending retirement of a low-cost resource, DC1 needs to secure 2 conflict attorneys under a retainer structure to insure availability during a time where qualified attorneys are increasingly difficult to source. Increased funding would allow these retainers to be put in place.
.00100.871	SRF: (5) Scanners for E-Filing	2,400	2,400		2,400		2,400			IT SRF request to support transition to eFiling.
District Court II	SRF: Copier Replacement	4,500	4,500		4,500		4,500			IT Recommended Replacement
.00100.881	SRF: Small Printer	500	500		500		500			IT Recommended Replacement
Parks & Facilities	Cell Phone Stipends	1,440		1,440	1,440		1,440			Cell phone stipends for parks managers & rangers.
.00100.911	Repair and Maintenance Supplies	6,700		6,700	6,700		6,700			Increased cost associated with repairs & maintenance of parks and facilities. **CFO Comments**--trending cost increases seen this year support the amount of this request.
	Building Repair and Maintenance	17,200		17,200	17,200		17,200			As facilities age, additional costs are incurred associated with upkeep and repairs. **CFO Comments**--trending cost increases and frequency of more repairs seen in recent years support the amount of this request.
	Maintenance Worker I - new position - 1 FTE	63,547		63,547		63,547	63,547			Parks & Facilities had been unable to maintain our facilities to acceptable, minimum level of safety and maintenance required in such highly used facilities. **CFO/Administrator Comments**--given pending department reorganization and provision of metrics supporting the need for this position, recommend deferring at this time.
WSU	Animal Agriculture Staff - new position - 1 FTE	55,000		55,000	55,000		55,000			To provide assistance & leadership to the 4-H animal clubs. **Administrator/CFO Comments**--given COVID impact on 4-H program and the retirement of many animal ag volunteer mentors in the county, position is needed to fill animal ag science programming leadership void and serve as resource for new livestock producers in the county. However, recommend proceeding with a part-time benefited position until further evaluation/metrics of workload supporting the need for this position as full-time is provided.
.00100.931	Increase Salary for 4-H Agent	3,000		3,000	3,000		3,000			Increase MOA to cover a raise for 4-H agent. **CFO Comments**--As staff member has not received an increase in past few years, increase needed to bring on par with comparables.
	Increase WSU MOA	500		500	500		500			WSU is requesting a slight increase to the County contribution.
General Funds Transfer to Other Funds										
	TOTALS	1,470,404	244,827	1,225,577	1,173,747	296,657	1,470,404	0	0	

	Request		Request		Funding Source		
	One Time	Ongoing	BOCC Recommended	BOCC Deferred	General Fund	Other Fund Reserves	Grant/New Funding
	244,827	1,225,577	1,173,747	296,657	1,470,404	0	0
Total General Fund Requests:	1,470,404		1,470,404		1,470,404		

OTHER FUNDS

Department	Requested Item or Program Change	Request	Request: One Time	Request: Ongoing	BOCC Recommended	BOCC Deferred	Funding Source: General Fund Reserve	Funding Source: Other Fund Reserves	Funding Source: New/Grant Funding	Comments
HHS - Operations	Public Health Nurse II - new position - 1 FTE	91,752		91,752	91,752				91,752	This position would allow flexibility to meet our baseline services & respond to communicable disease reporting & response. **CFO Comments**--would also expand case management and community nurising capabilities, similar to a community paramedic model, which would potentially help reduce 911 calls for issues better handled under this support model.
11301.511	COVID-19 Contract Tracer Position #1 - 1 FTE	79,526		79,526	79,526				79,526	This Public Health Support/Infection Control Specialist position to provide needed assistance to the public health infection control team as contract tracer/case Manager for COVID-19. **CFO Comments**--positions will be funded in 2022 from existing DOH grant funding that has been extended to 2022.
	COVID-19 Contract Tracer Position #2 - 1 FTE	79,526		79,526	79,526				79,526	This Public Health Information/Infection Control Specialist position to provide needed assistance to the public health infection control team as contract tracer/case Manager for COVID-19. **CFO Comments**--positions will be funded in 2022 from existing DOH grant funding that has been extended to 2022.
	Public Health/Social Worker - new position - 1 FTE	87,217		87,217	87,217				87,217	Management to support all programs: syringe support services, children/youth health care, community health nurse and paramedic support.
HHS - Chemical Dep/Mental Health 11323.511	Suicide Prevention Coordinator - new position - 1 FTE	87,217		87,217	87,217			87,217		This position would coordinate suicide prevention efforts & focus on planning & policy decision to support suicide prevention.
HHS - Affordable Housing 11324.511	Contract Services	20,000		20,000		20,000		20,000		To have an emergency use allocation available. **CFO Comments**--as contract services has been underspent to budget by $40-$45k the past several years, it appears there is already sufficient un-utilized funding to cover emergency use request.
Law Library 11401.821	Books	8,000		8,000		8,000		8,000		Funding for books, legal reference materials
Pros Att - Local Crime Victim Comp 11701.841	Victim Witness Coordinator (new staff position)	89,500	5,000	84,500		89,500		89,500		Needed to provide state mandated support to victims of misdemeanor/felony crimes. **CFO/Administrator Comments**--currently 2 positions are dedicated to this function (1 FTE was added in 2020), with an additional temporary help being utilized to cover case load of one coordinator currently dedicated to Bauer case. Caseloads have increased coinciding with the increase in number of coordinators. Pending provision of metrics supporting contention that current case load being managed per coordinator (currently approximately 400 per coordinator per year) is outside benchmarks set by other counties for victim witness coordinators, recommend deferring request at this time.
Noxious Weed Control 13001.381	Noxious Weed Coordinator Succession Planning	45,172	45,172		45,172			45,172		Funding for new staff member to cross-train with the coordinator prior to her retirement.
	SRF: (2) iPad w/5G LTE	3,200	3,200			3,200		3,200		IT Scheduled replacement. **CFO Comments**--as coordinator indicates current Ipads are still functioning properly, recommend deferring replacement another year.
	SRF: Arc GIS Basic License	1,500	1,500		1,500			1,500		
Nox Weed-LMD#2 Lake Sutherland 13051.381	Professional Services Increase	2,760		2,760	2,760			2,760		To secure weed control services from someone with detailed knowledge of the lake.
HR - Risk Management 50401.461	Polygraph Exams	3,280		3,280	3,280			3,280		Increased number of safety sensitive positions where polygraph exams are required.
	Psychological Exams	5,720		5,720	5,720			5,720		Increased number of safety sensitive positions where psychological exams are required.
	TOTALS	595,370	54,872	540,498	474,670	120,700	0	257,349	338,021	

	Request: One Time	Request: Ongoing	Request: BOCC Recommended	Request: BOCC Deferred	Funding Source: General Fund	Funding Source: Other Fund Reserves	Funding Source: New/Grant Funding
Total Other Fund Requests:	**54,872**	**540,498**	**474,670**	**120,700**	**0**	**257,349**	**338,021**
	595,370		**595,370**			**595,370**	
TOTAL ALL	**299,699**	**1,766,075**	**1,648,417**	**417,357**	**1,470,404**	**257,349**	**338,021**
	2,065,774						

2022 Indirect Cost Charges

FUND & DEPT NUMBER		BARS	FUND/ACCOUNT NAME	INDIRECT COST CHARGES	SUBTOTAL
10101.	611	51820	PW - Property Management Services	220	
		51970	PW - Roads - Jobbing and Contract Work	220	
		52170	PW - Roads - Traffic Policing	0	
		52510	PW - Roads - Emergency Services	0	
		54230	PW - Roads - Roadway Maintenance	56,670	
		54240	PW - Roads - Drainage Maintenance	35,444	
		54250	PW - Roads - Structures Maintenance	6,904	
		54260	PW - Roads - Traffic and Pedestrian Services	55,478	
		54270	PW - Roads - Roadside Maintenance	47,614	
		54290	PW - Roads - Maintenance and Administration Overhead	86,547	
		54310	PW - Roads - Management	33,108	
		54330	PW - Roads - General Services	44,845	
		54350	PW - Roads - Facilities	8,645	
		54420	PW - Roads - Engineering	62,520	
		54440	PW - Roads - Planning	23,008	
		54470	PW - Roads - Miscellaneous	14,934	
		54490	PW - Roads - Operations Administration and Overhead	112,448	
		55310	PW - Roads - Soil and Water Consevation	5,721	
		55350	PW - Roads - Diking/Drainage	9,874	
		58900	PW - Roads - Other Nonexpenditures	0	
		59510	PW - Roads - Road Construction and Other Infrastructure	57,841	
		59520	PW - Roads - Right-of-Way	13,247	
		59530	PW - Roads - Roadway Construction	4,400	
		59540	PW - Roads - Storm Drainage Construction	0	
		59550	PW - Roads - Structures Construction	1,100	
		59560	PW - Roads - Sidewalk Projects	1,100	
		59570	PW - Roads - Roadside Development	1,100	
		59590	PW - Roads - Construction Administration and Overhead	12,565	695,553
10135	611	55310	PW - Flood Control - Soil and Water Conservation	5,637	
		55330	PW - Flood Control - Flood Control	0	
		55350	PW - Flood Control - Diking/Drainage	0	
		55360	PW - Flood Control - Weed Control	0	5,637
11008	811	52123	Sheriff - OPNET Drug	552	
11061	811	52870	Sheriff - Nine-One-One Enhanced	14,500	
11065	811	52880	Sheriff - OPSCAN Operations	17,400	
11068	811	52120	Sheriff - Operation Stonegarden	6,085	
11070	811	52130	Sheriff - 24/7 Sobriety Program	3,071	
11301.	511	56210	Health and Human Services - Operations - General	515,426	
11322.	511.	56540	HHS - Homeless Task Force	13,960	
11323	511	56611	HHS - Chemical Dependency/Mental Health	45,177	
11331	511	56800	HHS - Developmental Disabilities	79,129	
11401.	821	51270	Law Library	23,723	
11701.	841	51570	Pros Attny - Local Crime Victim Comp	12,999	
11901.	841	51530	Pros Attny - Racketeering	0	
12231.	231	59414	Treasurer - REET Electronic Technology	5,037	
12241.	231	51422.	Treasurer - Land Assessment	673	
12401	221	51410	Auditor - Document Preservation	10,256	
13001.	381	55360	Noxious Weed Control	30,646	
13051	381	55360	Noxious Weed - LMD#2 Lake Sutherland	579	
19914	291	56520	Non Dept - Veterans' Relief	56,087	
19941	291	55210	Non Dept - Opportunity Fund	30,411	
19991	291	52870	Non Dept - Emergency Communication Tax	38,200	
30301.	331	55310	Comm Dev - Lwr Dungeness Floodplain	46,274	
40201	611	53710	PW - Solid Waste - Garbage and Solid Waste Utilities	1,328	
		53720	PW - Solid Waste - Comprehensive Management Plan	3,603	
		53750	PW - Solid Waste - Maintenance	0	
		53780	PW - Solid Waste - General Operations	8	
		59430	PW - Solid Waste - Capital Assets	0	4,939
41401.	611	53510	PW - Clallam Bay-Sekiu Sewer - General Administration	6,218	
		53540	PW - Clallam Bay-Sekiu Sewer - Training	194	
		53550	PW - Clallam Bay-Sekiu Sewer - Maintenance	2,534	
		53580	PW - Clallam Bay-Sekiu Sewer - General Operations	21,108	
		59430	PW - Clallam Bay-Sekiu Sewer - Capital	7,459	37,513
42401.	611	53510	PW - Carlsborg Sewer - General Administration	7,677	
		53550	PW - Carlsborg Sewer - Maintenance	0	
		53580	PW - Carlsborg Sewer - General Operations	0	
		59430	PW - Carlsborg Sewer - Capital Expenditures	2,057	9,734
50301.	611	54820	PW - Equipment Rental and Revolving - Pits and Quarries	4,457	
		54830	PW - Equipment Rental and Revolving - Mechanical Shops	47,652	
		54840	PW - Equipment Rental and Revolving - Parts Stores	9,720	
		54850	PW - Equipment Rental and Revolving - Fuel Depots	2,131	
		54860	PW - Equipment Rental and Revolving - Equipment Rental Services	26,021	
		59410	PW - Equipment Rental and Revolving - Capital	0	89,981
50401.	461.	51960	HR - Risk Management	50,814	
50501.	461	51768	HR - Workers Compensation Claims	30,451	
50701.	461	51771	HR - Unemployment Compensation	1,933	
43401.	611	53450	PW - Bullman Beach Water System	1,740	
				1,878,480	

Transfers for the 2022 Clallam County Budget

#							Debit	Credit
1	19913.291.	Trial Court Improvements	59723.00.0010	Transfer	to	Jail	40,000	
	00100.815.	Jail	39723.00.0010	Transfer	from	Trial Court Improvements		40,000
2	00100.293.	General Fund Reserves	59768.00.0000	Transfer	to	PW - Flood Conrol	46,351	
	10135.611	PW - Flood Control	39768.00.0000	Transfer	from	General Fund Reserves		46,351
3	00100.293	General Fund Reserves	59766.00.1000	Transfer	to	HHS - Chemical Dep/Mental Health	5,887	
	11323.511	HHS - Chemical Dep/Mental Health	39766.00.1000	Transfer	from	General Fund Reserves		5,887
4	00100.293.	General Fund Reserves	59717.00.0000	Transfer	to	Employee Health Care	19,000	
	50601.461	Employee Health Care Benefit	39717.00.0000	Transfer	from	General Fund Reserves		19,000
5	29500.231.	LID 3rd Street Sewer Line	59752.00.0000	Transfer	to	Opportunity Fund	3,000	
	19941.291.	Opportunity Fund	39752.00.0000	Transfer	from	LID 3rd Street Sewer Line		3,000
6	10101.611	Public Works - Roads	59717.00.0010	Transfer	to	Employee Health Care Benefit	2,000	
	10135.611.	Public Works - Flood Control	59717.00.0010	Transfer	to	Employee Health Care Benefit	5	
	40201.611.	Public Works - Solid Waste	59717.00.0010	Transfer	to	Employee Health Care Benefit	50	
	41401.611.	Public Works - Clallam Bay Sekiu Sewer	59717.00.0010	Transfer	to	Employee Health Care Benefit	340	
	42401.611.	Public Works - Carlsborg Sewer	59717.00.0010	Transfer	to	Employee Health Care Benefit	500	
	50301.611.	Public Works - Equipment Rental Revolving	59717.00.0010	Transfer	to	Employee Health Care Benefit	1,555	
	50601.461.	Employee Health Care Benefit	39717.00.0010	Transfer	from	Public Works		4,450
7	00100.293	General Fund Reserves	59714.00.0070	Transfer	to	Lwr Dungeness Floodplain	2,750,000	
	30301.331	Lwr Dungeness Floodplain	39714.00.0070	Transfer	from	General Fund Reserves		2,750,000
8	30301.331	Lwr Dungeness Floodplain	59714.00.0080	Transfer	to	General Fund Reserves	1,850,000	
	00100.293	General Fund Reserves	39714.00.0080	Transfer	from	Lwr Dungeness Floodplain		1,850,000
9	00100.293.	General Fund Reserves	59762.00.0000	Transfer	to	Health and Human Services	530,000	
	11301.511	Health and Human Services	39762.00.0000	Transfer	from	General Fund Reserves		530,000
10	00100.293	General Fund Reserves	59714.00.0090	Transfer	to	Dungeness Reservoir	300,000	
	30401.331	Dungeness Reservoir	39714.00.0090	Transfer	from	General Fund Reserves		300,000
11	30401.331	Dungeness Reservoir	59714.00.0100	Transfer	to	General Fund Reserves	300,000	
	00100.293	General Fund Reserves	39714.00.0100	Transfer	from	Dungeness Reservoir		300,000
12	30201.911.	Real Estate Excise Tax 2	59742.00.0000	Transfer	to	Roads	1,100,000	
	10101.611.	Roads	39742.00.0000	Transfer	from	Real Estate Excise Tax 2		1,100,000
13	00100.293.	General Fund Reserves	59735.00.0060	Transfer	to	Solid Waste	6,500	
	40201.611	Solid Waste	39735.00.0060	Transfer	from	General Fund Reserves		6,500
14	30201.911	Real Estate Excise Tax 2	59735.00.0000	Transfer	to	Clallam Bay Sekiu Sewer	764,293	
	41401.611.	Clallam Bay Sekiu Sewer	39735.00.0000	Transfer	from	Real Estate Excise Tax 2		764,293
15	30201.911	General Fund Reserves	59718.00.0100	Transfer	to	Law Library	23,723	
	11401.821	Law Library	39718.00.0100	Transfer	from	General Fund Reserves		23,723
16	00100.293	General Fund Reserves	59712.00.0030	Transfer	to	Local Crime Victim Comp	17,000	
	11701.841	Local Crime Victim Comp	39712.00.0030	Transfer	from	General Fund Reserves		17,000
17	00100.293	General Fund Reserves	59735.00.0015	Transfer	to	Clallam Bay Sekiu Sewer	250,000	
	41401.611	Clallam Bay Sekiu Sewer	39735.00.0015	Transfer	from	General Fund Reserves		250,000
18	41401.611	Clallam Bay Sekiu Sewer	59735.00.0016	Transfer	to	General Fund Reserves	250,000	
	00100.293	General Fund Reserves	39735.00.0016	Transfer	from	Clallam Bay Sekiu Sewer		250,000
19	30101.911	Real Estate Excise Tax	59735.00.0060	Transfer	to	Carlsborg Water Mitigation	185,408	
	30901.331	Carlsborg Water Mitigtion	39735.00.0090	Transfer	from	Real Estate Excise Tax		185,408
20	30101.911	Real Estate Excise Tax	59735.00.0080	Transfer	to	Carlsborg Sewer	250,000	
	42401.611	Carlsborg Sewer	39735.00.0080	Transfer	from	Real Estate Excise Tax		250,000
21	19941.291	Opportunity Fund	59735.00.0035	Transfer	to	Carlsborg Sewer	240,000	
	42401.611	Carlsborg Sewer	39735.00.0035	Transfer	from	Opportunity Fund		240,000
22	00100.293	General Fund Reserves	59718.00.0030	Transfer	to	Capital Projects	1,915,465	
	30501.911	Capital Projects	39718.00.0030	Transfer	from	General Fund Reserves		1,915,465
23	00100.293	General Fund Reserves	59718.00.0020	Transfer	to	IT - Capital Projects	424,424	
	30701.411	IT - Capital Projects	39718.00.0020	Transfer	from	General Fund Reserves		424,424
24	30201.911.	Real Estate Excise Tax 2	59735.00.0012	Transfer	to	Carlsborg Sewer	154,904	
	42401.611	Carlsborg Sewer	39735.00.0012	Transfer	from	Real Estate Excise Tax 2		154,904
			597	Transfer	to			
			397	Transfer	from			
							11,430,405	11,430,405

CLALLAM COUNTY

2022 PROPOSED FINAL CAPITAL OUTLAY BUDGET--BY FUND

PROPOSED CAPITAL REQUESTS TO INCLUDE 2022 BUDGET

Include in 2022 Budget? Y

2022 (Multiple Items)

Sum of 2022		GENERAL FUND	OPSCAN	OPERATION STONEGARDEN	AUDITOR--DOCUMENT PRESERVATION	REET 1	REET 2	PARKS/FACILITIES--CAPITAL PROJECTS	IT CAPITAL PROJECTS	CARLSBORG WATER MITIGATION	PW--CLALLAM BAY/SEKIU SEWER	PW--CARLSBORG SEWER	ER&R	ARPA	DUNGENESS OFF CHANNEL RESERVOIR	
Row Labels		Column Labels 00100	11065	11068	12401	30101	30201	30501	30701	30901	41401	42401	50301	19961	30401	Grand Total
00100.221--General Fund--Auditor																
1																
Cannon Printer/Copier #HRP01288		$ 8,500														$ 8,500
Capital Outlay--Ballot Drop Boxes		$ 18,000														$ 18,000
00100.811--General Fund--Sherlff - Operations																
1																
Capital Outlay- Vehicle Equipment for new patrol cars		$ 150,000														$ 150,000
Capital Outlay-Ballistic Vests for New Deputies and/or Replacement Ballistic Vests for current deputies		$ 8,400														$ 8,400
Criminal Investigations Bureau Forensic Computer Server		$ 15,000														$ 15,000
Patrol Rifle Upgrade/Replacement		$ 18,000														$ 18,000
Cellebrite Mobile Forensics Software and Equipment, Certified Analyst Training, and Software License		$ 12,000														$ 12,000
Capital Outlay- ER&R Additional Funding Needed to Cover Cost of Planned Vehicle Replacement		$ 27,042														$ 27,042
00100.815--General Fund--Sheriff - Jail																
1																
Ballistic Vests for New Corrections Deputies and/or Replacement ballistic vests for current corrections deputies		$ 6,000														$ 6,000
00100.817--General Fund--Sheriff - Emergency Services																
1																
Capital Outlay - ARES Program Equipment		$ 10,000														$ 10,000
Capital Outlay -C-Trac Equipment		$ 5,000														$ 5,000
00100.841--General Fund--Prosecuting Attorney - Operations																
1																
Office Furniture Replacement		$ 14,500														$ 14,500
00100.842--General Fund--Prosecuting Attorney - Child Support																
1																
Copier Replacement for Family Support Division		$ 10,000														$ 10,000
00100.843--General Fund--Prosecuting Attorney - Coroner																
1																
Copier/Printer/Fax Unit for Coroner Division		$ 10,000														$ 10,000
10101.611 PW - ROADS																
2																
REET-SUPPORTED ROADS PROJECTS							$ 500,000									$ 500,000
REET-SUPPORTED ROADS PROJECTS--SUPPLEMENTAL REQUEST							$ 200,000									$ 200,000
REET-SUPPORTED ROADS PROJECTS--Supplemental Request to Construct Towne Road on top of the Relocated Dungness River Levee							$ 400,000									$ 400,000
11065.811--Sheriff - OPSCAN Operations																
1																
Capital Outlay-Radio Network Equipment			$ 175,000													$ 175,000
11068.811--Sheriff - Operation Stonegarden																
1																
Capital Outlay- Equipment				$ 33,300												$ 33,300
12401.221--Auditor - Document Preservation																
1																
Ecommerce/Emarriage					$ 20,000											$ 20,000
Recorded Document Imaging Project					$ 300,000											$ 300,000
30101.911--Parks and Facilities - Real Estate Excise Tax Projects																
1																
Facilities-Jail Smoke Detector Replacement and Upgrade						$ 33,000										$ 33,000
Facilities-Courthouse VAV Air System Box Replacement						$ 800,000										$ 800,000
Facilities-Courthouse Pressure Wash Exterior						$ 45,000										$ 45,000
Facilities-Floor Covering						$ 40,000										$ 40,000
Facilities-Jail Lock Repair & Replacement						$ 10,000										$ 10,000
Fairgrounds-Site Security Lighting & Power						$ 100,000										$ 100,000
Fairgrounds-Art Barn Roof Replacement						$ 80,000										$ 80,000
Courthouse-HVAC SF-1 Re-Build, Fan and Parts Replacement						$ 100,000										$ 100,000
Juvenile-Replace/Upgrade PLC Door Controls						$ 200,000										$ 200,000
Jail Control Board Replacement						$ 750,000										$ 750,000
2																
Parks-Trail Development and Repair						$ 10,000										$ 10,000
Parks-Road Development and Repair						$ 10,000										$ 10,000
Facilities-Replace/Upgrade existing Courthouse Access Control Card Readers, Recording and Camera Systems.						$ 300,000										$ 300,000
30201.911--Parks and Facilities - Real Estate Excise Tax Projects 2																
1																
Facilities-Courthouse Replacement of Irrigation/Planters/Sidewalks							$ 225,000									$ 225,000
Facilities-Courthouse Hydronic Heating Lines Replacement							$ 40,000									$ 40,000
Facilities-Courthouse -Electric Charging Stations (3)							$ 100,000									$ 100,000
30501.911--Parks and Facilities - Capital Projects																
1																
Camp David Jr. Lodge Painting								$ 100,000								$ 100,000

CLALLAM COUNTY

2022 PROPOSED FINAL CAPITAL OUTLAY BUDGET--BY FUND

PROPOSED CAPITAL REQUESTS TO INCLUDE 2022 BUDGET

Include in 2022 Budget? Y

2022 (Multiple Items)

	GENERAL FUND	OPSCAN	OPERATION STONEGARDEN	AUDITOR--DOCUMENT PRESERVATION	REET 1	REET 2	PARKS/FACILITIES--CAPITAL PROJECTS	IT CAPITAL PROJECTS	CARLSBORG WATER MITIGATION	PW--CLALLAM BAY/SEKIU SEWER	PW--CARLSBORG SEWER	ER&R	ARPA	DUNGENESS OFF CHANNEL RESERVOIR	
Capital Outlay- New EOC building Placeholder							$ 2,300,000								$ 2,300,000
Unanticipated Projects PFF							$ 115,000								$ 115,000
Facility Building Security & Safety Assessment Study							$ 70,000								$ 70,000
Office Space Reconfiguration/Expansion Placeholder							$ 250,000								$ 250,000
30701.411--Information Tech - Capital Projects															
1															
Microsoft Operating System & Office licenses for End-Users								$ 50,000							$ 50,000
MICROSOFT OFFICE 365 - Cloud-based Business Productivity and Connectivity Software Licensing								$ 30,000							$ 30,000
County Website Development, Replacement, and On-going Updates								$ 100,000							$ 100,000
2															
CompuTech replacementPLACEHOLDER FOR TREASURER								$ 19,000							$ 19,000
PC Replacement Cycle - laptops, desktops, tablets, zero clients, monitors, etc.								$ 85,000							$ 85,000
UPS - DR site (uninterrupt. pwr supply)								$ 12,000							$ 12,000
VEEM - Network Data Back-up equipment (replace/expand)								$ 125,000							$ 125,000
AVAYA VOIP Phone System Upgrade / Replacement								$ 185,000							$ 185,000
3															
Copiers (other department copiers not separately scheduled elsewhere)								$ 47,030							$ 47,030
30901.331--Comm Dev - Carlsborg Water Mitigation															
1															
Carlsorg Deep Water Well									$ 250,000						$ 250,000
41401.611--PW - Clallam Bay-Sekiu Sewer															
1															
Collection System Repair & Replacement Project										$ 1,600,000					$ 1,600,000
Replace Driveshaft Bearings for Four Rotating Biological Contactors										$ 80,000					$ 80,000
2															
Sewer Pump Station Repair & Replacement Project										$ 470,000					$ 470,000
42401.611--PW - Carlsborg Sewer															
1															
Annual Pipe Charge											$ 43,000				$ 43,000
Capital Cost Share to City of Sequim											$ 80,000				$ 80,000
3															
Gupster Road Pressure Sewer Line Extension (Alternative A) REET Funded											$ 250,000				$ 250,000
Village Lane Sewer Line Extensions. Alternative B Possible ARPA funded + Opportunity funds in lieu of Alternative A											$ 240,000				$ 240,000
50301.611--PW - ER&R															
2															
Capital Outlay-General Site Maintenance												$ 100,000			$ 100,000
Capital Outlay-Schedule C Projected Equipment Replacement-ER&R FUNDED												$ 30,000			$ 30,000
Capital Outlay-Schedule C Projected Equipment Replacement--GENERAL FUND FUNDED												$ 419,600			$ 419,600
19961.291--NonDept - American Rescue Plan Act															
1															
Bipolar Ionization Air Purification System													$ 250,000		$ 250,000
30401.331--Public Works -Dungeness Off Channel Reservoir															
1															
Dungeness Off-Channel Reservoir														$ 3,700,000	$ 3,700,000
00100.333--General Fund--Comm Dev - Permit Center															
1															
Capital Outlay- ER&R Additional Funding Needed to Cover Cost of Planned Vehicle Replacement	$ 18,358														$ 18,358
Grand Total	**$ 330,800**	**$ 175,000**	**$ 33,300**	**$ 320,000**	**$ 2,478,000**	**$ 1,465,000**	**$ 2,835,000**	**$ 653,030**	**$ 250,000**	**$ 2,150,000**	**$ 613,000**	**$ 549,600**	**$ 250,000**	**$ 3,700,000**	**$ 15,802,730**

CAPITAL FUNDING SOURCES/(USES)

BEGINNING FUND BALANCE		**$ 582,902**	**$ 52,719**	**$ 564,332**	**$ 2,236,529**	**$ 1,407,282**	**$ 331,535**	**$ 258,606**	**$ 64,592**	**$ 200,000**	**$ 105,114**	**$ 2,879,550**	**$ 1,500,000**	**$ 33,174**
INFLOW FUNDING		$ 398,232	$ 559,833	$ 130,000	$ 1,690,000	$ 1,690,000	$ -	$ -	$ -	$ 1,925,522	$ 161,321	$ 3,429,025	$ 7,501,875	$ 3,700,000
EXPENDITURES (BEFORE CAPITAL)		$ (259,733)	$ (518,805)	$ (137,977)	$ -	$ -	$ -	$ (30,000)	$ -	$ (434,783)	$ (209,741)	$ (2,426,570)	$ (8,751,875)	$ -
CAPITAL OUTLAYS (PER ABOVE)		$ (175,000)	$ (33,300)	$ (320,000)	$ (2,478,000)	$ (1,465,000)	$ (2,835,000)	$ (653,030)	$ (250,000)	$ (2,150,000)	$ (613,000)	$ (549,600)	$ (250,000)	$ (3,700,000)
ENDING FUND BALANCE, BEFORE ADDITIONAL FUNDING		$ 546,401	$ 60,447	$ 236,355	$ 1,448,529	$ 1,632,282	$ (2,503,465)	$ (424,424)	$ (185,408)	$ (459,261)	$ (556,306)	$ 3,332,405	$ -	$ 33,174
TRANSFERS BETWEEN FUNDS	**$ (19,600)**				**$ (435,408)**	**$ (866,319)**	$ -	$ -	**$ 185,408**	**$ 717,739**	**$ 250,000**			
OTHER GRANTS/LOAN FUNDING														
ADDITIONAL REET FUNDING REQUIRED					**$ 50,000**	**$ 68,000**	**$ 588,000**							
OPPORTUNITY FUND FUNDING REQUIRED											$ 148,580			
GENERAL FUND FUNDING REQUIRED	**$ 311,200**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 1,915,465**	**$ 424,424**	**$ -**	**$ -**	$ 240,000	**$ -**	**$ -**	**$ 2,651,089**
ENDING FUND BALANCE--ADJUSTED		**$ 546,401**	**$ 60,447**	**$ 236,355**	**$ 1,063,121**	**$ 833,963**	**$ -**	**$ -**	**$ -**	**$ 258,478**	**$ 82,274**	**$ 3,332,405**	**$ -**	**$ 33,174**
MINIMUM FUND BALANCE REQUIRED BY POLICY (10% OF TOTAL EXPENDITURES FOR THOSE FUNDS WITH PAYROLL)										$ 258,478	$ 82,274			

9
11/15/21

AGENDA ITEM SUMMARY

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

Document was submitted after the agenda and packet were posted on 9:36 11/15/21

Department: BOCC

WORK SESSION ☒ **Meeting Date: 11/15/2021**

REGULAR AGENDA ☒ **Meeting Date: 11/15/2021**

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 Clallam County Sheriff's Department, Emergency Management Division, has reported to the Board of Clallam County Commissioners that a severe weather storm that began on Thursday, November 11, 2021 has caused severe flooding, landslides, fallen trees, dangerous road conditions, power outages and impassable roads.

Requesting approval of a Resolution for Declaration of Emergency for severe weather 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?** ☐

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Requesting approval of a Resolution for Declaration of Emergency for severe weather in Clallam County.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners, Emergency Management Division

Relevant Departments: Board of Commissioners, Emergency Management Division

Date submitted: 11-15-21

* 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

RESOLUTION _____, 2021

DECLARATION OF EMERGENCY
FOR A SEVERE WEATHER IN CLALLAM COUNTY

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Clallam County Sheriff's Department, Emergency Management Division, has reported to the Board of Clallam County Commissioners that a severe weather storm that began on Thursday, November 11, 2021 has caused severe flooding, landslides, fallen trees, dangerous road conditions, power outages and impassable roads.

2. Persons and property may be damaged unless further efforts and actions are taken to reduce the threat to life and property.

3. An emergency exists necessitating activation of the Clallam County Comprehensive Emergency Management Plan, including utilization of emergency powers granted pursuant to RCW 36.40.180.

NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

1. A state of emergency is declared due to severe weather storm conditions in Clallam County.

2. The Clallam County Emergency Management Director is hereby directed to activate those portions of the Clallam County Comprehensive Emergency Management Plan necessary to combat the effects of the storm to the extent possible.

3. Designated departments are authorized to enter contracts and incur obligations in order to combat the emergency.

4. Each designated department is authorized to exercise the powers vested in this resolution in light of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements).

PASSED AND ADOPTED this 15th day of November 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, District 1

ATTEST:

_____
Randy Johnson, District 2

_____
Loni Gores, CMC, Clerk of the Board

_____
Bill Peach, District 3

19
11/15/21

Date of report: November 9, 2021

General	**$134,375.22**
Other	**$485,123.17**
Total	**$619,498.39**

STATE OF WASHINGTON)
)
County of Clallam)

This is to certify that the foregoing Final Check Lists a.k.a., Register of Warrants for the period herein indicated, is a full, true, and correct representation of the corresponding payments for services rendered to and supplies and equipment received by all Clallam County government operations as recorded in the books or original entry maintained by this office.

WITNESS MY HAND AND OFFICIAL SEAL THIS _____ DAY OF _____ 2021.

COPY

_____COUNTY AUDITOR
SHOONA RIGGS

CLALLAM COUNTY BOARD OF COMMISSIONERS does hereby certify that the services and merchandise herein specified have been received and that the claims listed and numbered above are hereby approved for payment:

BOARD OF COMMISSIONERS
CLALLAM COUNTY, WASHINGTON

_____
MARK OZIAS, Chair

_____
BILL PEACH

COPY

_____
RANDY JOHNSON

_____
RICH SILL (County Administrator)

Weekly Expenditures

November 8 - 12, 2021

Fund #	Department	Expenditures		Use Tax	
		General Fund	Other	General Fund	Other
00100.211	**Assessor**	1,143.82			
00100.221	**Auditor**	511.92			
00100.241/291	**Commissioners (BOCC)**	9,962.74			
19914.291	BOCC - Veterans Relief		2,458.13		
19925.291	BOCC - Hotel/Motel		41,666.67		
00100.331-334	**Dept. of Community Develop't (DCD)**	16,584.82			
30301.331	DCD - Lower Dungeness Floodplain		667.16		
00100.871	**District Court I**	424.45			
11301.511	**Health & Human Services (HHS)**		59,952.45		
00100.511	HHS - Environmental Health	425.00			
11322.511	HHS - Homeless Task Force		21,387.75		
11323.511	HHS - Chem Dep/Mental Hlth		2,642.93		
00100.461	**Human Resources (HR)**	476.68			
50401.461	HR - Risk Management		1,685.31		
00100.411	**Information Technology (IT)**	2,123.93			
30701.411	IT - Capital Projects		36,896.80		
00100.851	**Juvenile Services**	3,162.64			
13001/13051	**Noxious Weed/LMD #2** (Lake Mgmt. Dist.)		250.24		
00100.911/912	**Parks Fair Facilities (PFF)**	29,638.58			
30101.911	PFF - REET 1 (Real Estate Excise Tax)		75,403.30		
30501.911	PFF - Capital Projects		439.44		
00100.841-843	**Prosecuting Attorney**	6,405.00			
	Public Works (PW)				
10101.611	PW - Roads		160,334.55		
41401.611	PW - Clallam/Sekiu Sewer		8,979.51		
43401.611	PW - Bullman Beach Water System		261.28		
50301.611	PW - ER&R (Equip't Rental & Revolving)		14,380.64		
00100.811-815,817	**Sheriff**	24,936.85		779.54	
00100.816	Sheriff - Jail Medical	28,137.09			
11008.811	Sheriff - OPNET Drug		14.50		
11061.811	Sheriff - 911 Enhanced		57,153.06		
11065.811	Sheriff - OPSCAN Operations		486.12		
11080.811	Sheriff - Inmate Commissary		58.21		5.12
00100.891	**Superior Court Clerk**	937.41			
00100.931	**WSU Extension**	8,724.75			
	Total	**133,595.68**	**485,118.05**	**779.54**	**5.12**

Report Reconciliation		Totals			
Total	**618,713.73**	**General Fund**	**134,375.22**		
Final Check Lists	**618,713.73**	**Other**	**485,123.17**		
Difference	-	**Total**	**619,498.39**	**Use Tax**	**784.66**

COPY

Prepared by: _____

Sara DeBiddle, Clallam County Auditor's Office

Invoice History Use Tax Report
CLALLAM COUNTY

Tran Date	Vendor Name	Invoice / Credit Memo No.	Doc Group	Taxable Amount	Tax Amount	Invoice Total
11/3/2021	INTERSTATE BATTERY SYSTEMS OF, SEATTLE	1905701063159	jkoon	218.36	19.22	218.36
11/3/2021	LEXIPOL LLC	INVLEX6515	jkoon	8,640.00	760.32	8,640.00
11/3/2021	SWANSONS SERVICES CORP.	1514177	jkoon	58.21	5.12	58.21
			Totals:	**8,916.57**	**784.66**	**8,916.57**

Final Check List
CLALLAM COUNTY

Assessor

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000360	CLALLAM COUNTY ER&R	2021.284E	11/3/2021	VEHICLE RENTAL FOR OCT	634.44	634.44
	11/16/2021	0001179	PACIFIC OFFICE EQUIPMENT	1089718	11/3/2021	CONTRACT OVERAGE CANO	143.14	
				1089717	11/3/2021	CONTRACT OVERAGE CANO	126.18	269.32
	11/16/2021	0001641	VERIZON WIRELESS	9891322284	11/3/2021	DATA FOR APPRAISAL COLLE	240.06	240.06
						Sub total for U S BANK:		1,143.82

1,143.82+
511.92+
51,629.41+
17,251.98+
424.45+
84,408.13+
2,161.99+
39,020.73+
3,162.64+
250.24+
105,481.32+
6,405.00+
160,334.55+
14,380.64+
8,979.51+
261.28+
82,648.74+
28,137.09+
937.41+
2,458.13+
8,724.75+
618,713.73*
0.*

Final Check List
CLALLAM COUNTY

Auditor

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0001179	PACIFIC OFFICE EQUIPMENT	1089719	10/31/2021	CONTRACT 10785-09	118.42	
				1089721	10/31/2021	CONTRACT 11455-03	23.05	
				1089720	10/31/2021	CONTRACT 10931-08	11.82	153.29
	11/16/2021	0001641	VERIZON WIRELESS	9891404788	10/24/2021	MIFI FOR KIOKS	40.01	40.01
	11/16/2021	0041361	CAIN, DANIEL	Cain 11-1-21	11/1/2021	MILEAGE FOR EMPTYING EA	18.14	18.14
	11/16/2021	0042430	NORBERG, JENNIFER	Norberg 11-2-21	11/2/2021	MILEAGE FOR CLOSING WES	50.96	50.96
	11/16/2021	0042751	COCHNAUER, AME	Cochnauer 11-2-	11/2/2021	MILEAGE FOR EMPTYING EA	18.14	
				Cochnauer 10-2(	10/29/2021	MILEAGE FOR EMPTYING EA	18.14	
				Cochnauer 11-3-	11/3/2021	MILEAGE FOR EMPTYING EA	18.14	54.42
	11/16/2021	0044251	FANE, ALEX	Fane 10-28-21	10/28/2021	MILEAGE FOR EMPTYING WE	97.55	
				Fane 11-2-21	11/2/2021	MILEAGE FOR EMPTYING WE	97.55	195.10
						Sub total for U.S BANK:		511.92

Final Check List
CLALLAM COUNTY

BOCC

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000382	CODE PUBLISHING COMPANY	71221	11/3/2021	WEB UPDATE, ORDS: 2020 CI	538.73	538.73
	11/16/2021	0000842	IMAGINE IT FRAMED	28994	11/3/2021	GARY GORT 16 YRS, KEITH V	193.19	193.19
	11/16/2021	0001083	OLYMPIC PEN VISITOR BURE	2319	11/3/2021	OCTOBER SERVICES PER CC	41,666.67	41,666.67
	11/16/2021	0001113	OFFICE DEPOT, INC	205451980001	11/3/2021	FOLDERS, PAPER	110.79	110.79
	11/16/2021	0001149	OLYMPIC STATIONERS INC	96625	11/3/2021	RECEIVED DATE STAMP	92.70	92.70
	11/16/2021	0001240	PITNEY BOWES	3314536063	11/3/2021	POSTAGE METER MACHINE I	2,072.73	2,072.73
	11/16/2021	0017666	OMWBE	30313737	11/3/2021	FEE 7/1/2021 - 6/30/2023	250.00	250.00
	11/16/2021	0045432	CBG COMMUNICATIONS, INC	162-092021	11/3/2021	SERVICES PER CONTRACT #	395.00	395.00
	11/16/2021	0045802	NATURA DESIGNS, INC	10/27/2021	11/3/2021	SERVICE RECOGNITION IN L	4,400.00	4,400.00
	11/16/2021	0045804	YVONNE'S CHOCOLATES	1198	11/3/2021	SERVICE RECOGNITION IN L	1,909.60	1,909.60
						Sub total for U.S BANK:		51,629.41

Final Check List
CLALLAM COUNTY

DCD

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000360	CLALLAM COUNTY ER&R	2021.278E	11/1/2021	OCTOBER 2021 FLEET VEHIC	398.67	
				2021.275E	10/31/2021	OCTOBER 2021 FLEET VEHIC	96.00	494.67
	11/16/2021	0000403	COPY CAT GRAPHICS INC	15994	9/29/2021	G133 WKSITE 3 OPERATING	1,336.72	1,336.72
	11/16/2021	0000546	EXPRESS SERVICES, INC	26160187	10/13/2021	BURKHARDT 9-26 7.5HRS; 10	431.83	
				26194808	10/19/2021	BURKHARDT 10-17-21 3 HOU	112.65	544.48
	11/16/2021	0001179	PACIFIC OFFICE EQUIPMENT	1089728	10/31/2021	#8631 OCTOBER 2021	204.87	
				1089731	10/31/2021	#10293 OCTOBER 2021	164.18	
				1089730	10/31/2021	#10336 OCTOBER 2021	68.34	
				1089729	10/31/2021	#10051 OCTOBER 2021	17.41	454.80
	11/16/2021	0001641	VERIZON WIRELESS	9891404786	10/24/2021	G146 T1 $106.04 OCT. 2021	158.35	
				9891228831	10/22/2021	INSPECTOR OCTOBER 2021	26.49	
				9891228832	10/22/2021	LRP OCTOBER 2021	22.02	206.86
	11/16/2021	0004214	JACKSON'S SIGNS	10-1-21	10/1/2021	G133 WORKSITE 3 PRO SER	135.62	135.62
	11/16/2021	0020849	U S BANK	PAW 11-3-21	11/3/2021	FLEMING 2021 PAW TRAININ	375.00	
				AMZN 10-26-21	10/26/2021	STREAMKEEPERS-CALENDA	17.56	392.56
	11/16/2021	0026025	KAWAL, LARA	2021-10 OCTOB	10/29/2021	G133 WKST 3 $115.65 WKST	1,443.15	1,443.15
	11/16/2021	0038256	BLANTON, MICHAEL	421121	10/21/2021	G133 WKST3	1,875.00	1,875.00
	11/16/2021	0042760	COCHNAUER, TIM	COCHNAUER JI	10/20/2021	G145 TASK 2 MILEAGE	238.56	238.56
	11/16/2021	0045163	HANDYMAN MDS LLC	INV0002	11/3/2021	CE PROFESSIONAL SERVICE	9,801.00	9,801.00
	11/16/2021	0045753	MONAHAN, LAURA	REFUND 9-20-2	11/11/2021	REFUND BPT2021-857	6.00	6.00
	11/16/2021	0045812	GREEN, JOEL	GREEN SEP-OC	10/21/2021	G146 TASK 1 SEP-OCT 2021 M	322.56	322.56
						Sub total for U S BANK:		17,251.98

Final Check List
CLALLAM COUNTY

District Court I

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0001179	PACIFIC OFFICE EQUIPMENT	1089712	10/31/2021	CANON/IRA615IFZ	59.34	
				1089714	10/31/2021	CANON/IMAGERUNNER ADV/	37.63	
				1089711	10/31/2021	CANON/IR1435 - BLACK TONE	16.77	
				1089713	10/31/2021	CANON/IR1435 - BLACK TONE	0.03	113.77
	11/16/2021	0001693	WA STATE BAR ASSOCIATION	WSBA-DN	11/4/2021	WSBA - JUDGE DAVID NEUPE	50.00	50.00
	11/16/2021	0021386	STAPLES ADVANTAGE	8064110241	10/30/2021	STAPLES - XSTAMPER	99.50	
				8063948482	10/16/2021	STAPLES - POST-IT FLAGS	11.18	110.68
	11/16/2021	0034473	DMCMA TREASURER	DMCMA-LG	11/3/2021	DMCMA - LISA GALE, APPLIC/	150.00	150.00
						Sub total for U S BANK:		424.45

Final Check List
CLALLAM COUNTY

HHS

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000870	KONP RADIO 1450	12226-2	10/29/2021	OSS-OCTOBER 2021 ADVERT	425.00	425.00
	11/16/2021	0022148	CENTURYLINK BUSINESS SE	247306403	10/24/2021	HOPS-800 LINE	7.91	7.91
	11/16/2021	0000742	HOCH CONSTRUCTION	100121	11/2/2021	HOPS-SERENITY HOUSE BAT	59,475.67	59,475.67
	11/16/2021	0001012	MOODY, TINA	MILEAGE-10282	11/2/2021	HOPS-BUSINESS MILEAGE	59.36	59.36
	11/16/2021	0001300	PUBLIC UTILITY DISTRICT	20704-102521	10/25/2021	HOPS-FORKS OFFICE ELECT	102.88	102.88
	11/16/2021	0001508	STERICYCLE, INC	3005751993	10/18/2021	HOPS-SYRINGE DISPOSAL SI	136.73	136.73
	11/16/2021	0001641	VERIZON WIRELESS	9891262413	10/23/2021	HOPS-WIC PROGRAM 1 3604	169.90	169.90
	11/16/2021	0001433	SERENITY HOUSE OF CLALL	11322-21-SHSO	10/26/2021	HTF - SHELTER FUNDING FO	20,176.75	
				11322-21-SHCM	10/26/2021	HTF - FAMILY SHELTER CASE	1,211.00	21,387.75
	11/16/2021	0001209	PENINSULA BEHAVIORAL HE	11323-21-PBH-F	10/18/2021	CD/MH - PATH OUTREACH SE	1,502.93	1,502.93
	11/16/2021	0001433	SERENITY HOUSE OF CLALL	11323-21-SH-HA	10/26/2021	CD/MH - ADMINISTRATION OI	1,140.00	1,140.00
						Sub total for U S BANK:		84,408.13

Final Check List
CLALLAM COUNTY

HR

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000546	EXPRESS SERVICES, INC	26194808-HR	11/3/2021	JULIE DANSEREAU	463.29	
				26276129	11/3/2021	INVOICE 26276129	218.96	682.25
	11/16/2021	0001641	VERIZON WIRELESS	9891322283	11/3/2021	INVOICE 9891322283	50.35	50.35
	11/16/2021	0001734	WA ST PATROL	I22002097	11/3/2021	INVOICE L22002097	264.00	264.00
	11/16/2021	0034245	CASTLE BRANCH INC	0810721-IN	11/3/2021	INVOICE 0810721-IN	402.00	402.00
	11/16/2021	0045292	BATES, JERRY	00013	11/3/2021	INVOICE 00013	750.00	750.00
	11/16/2021	0045810	PYPE, CAROLYN	VOL DRIV ABS F	11/3/2021	VOL DRIV ABS REIMBURSEM	13.39	13.39
						Sub total for U S BANK:		2,161.99

Final Check List
CLALLAM COUNTY

IT

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000289	CDW GOVERNMENT, INC.	M100414	11/3/2021	IT20210930 - MICROSOFT VD	36,896.80	36,896.80
	11/16/2021	0001828	NIKOLA ENGINEERING INC	48630	11/3/2021	FIBER - FORKS CITY HALL	205.70	
				48629	11/3/2021	FIBER - BLYN JUSTICE CENT	55.00	260.70
	11/16/2021	0004211	CENTURYLINK	206T222202-11C	11/3/2021	COURTHOUSE T-1 #2	490.14	
				206T313735-11C	11/3/2021	COURTHOUSE T-1	490.14	
				3604574863-110	11/3/2021	JUVIE FAX LINES (3)	282.26	
				206T211472-110	11/3/2021	FORKS T-1 LINE	233.16	
				3604574397-110	11/3/2021	JUVIE COURTROOM FAX	66.03	
				3604576843-110	11/3/2021	JUVIE PHONE SWITCH	59.69	
				3604570323-110	11/3/2021	PA SHOP PHONE SWITCH	59.69	
				206T414008-11C	11/3/2021	SHERIFF COURTHOUSE LINE	56.84	
				206T415684-11C	11/3/2021	ALARMS	4.38	1,742.33
	11/16/2021	0023718	AT&T	3604574863LD-	11/3/2021	JUVIE FAX LINES (3) LONG DI	68.37	
				03060240160011	11/3/2021	WEST END TOLL FREE LINE	29.25	97.62
	11/16/2021	0036328	TEEL, LUPE	110321-TT	11/3/2021	BUSINESS MILEAGE	23.28	23.28
						Sub total for U·S BANK:		39,020.73

Final Check List
CLALLAM COUNTY

Juv Svcs

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0001262	PORT OF PORT ANGELES	174347	11/1/2021	BUILDING/OFFICE RENTAL-L/	2,572.86	2,572.86
	11/16/2021	0001509	CORDANT HEALTH SOLUTION	TC-1645010312	10/31/2021	PRO SVCS-DIV	171.90	171.90
	11/16/2021	0001734	WA ST PATROL	I22002038	11/2/2021	PRO SVCS-FINGERPRINTS	33.00	33.00
	11/16/2021	0002271	JACOBSEN, JODY	102721JJ	10/27/2021	TRVL BUS-REIMB JJACOBSEI	92.50	92.50
	11/16/2021	0004392	LAWRENCE, MARY	103121ML	10/31/2021	CAP VOL-MILEAGE	107.52	107.52
	11/16/2021	0028699	SOUND PUBLISHING INC	PDN940209	10/13/2021	ADVERTISING-LEGAL NOTICI	184.86	184.86
						Sub total for U S BANK:		3,162.64

Final Check List
CLALLAM COUNTY

Nox Weeds

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0045807	R & D DARLING LLC	1990	11/2/2021	MOWING SERVICES FOR WE	250.24	250.24
						Sub total for U S BANK:		250.24

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000034	AIR FLO HEATING CO	52520897	11/3/2021	JAIL HVAC SYSTEM SERVICE	397.60	397.60
	11/16/2021	0000091	ANGELES MILLWORKS & LUM	298972	11/3/2021	FG TITEBOND, BRAD NAILS F	47.14	47.14
	11/16/2021	0000290	CED/STUSSER - SEATTLE	5948--1007794	11/3/2021	SC PULLCHAIN FAN	163.20	163.20
	11/16/2021	0000332	CLALLAM CO AUDITORS TAX	PFF 10/2021	11/3/2021	PFF OCT EXCISE TAX	3,009.09	3,009.09
	11/16/2021	0000427	CRESCENT WATER ASSOCIA	507 10/21	11/3/2021	FWB OCT WATER	562.24	562.24
	11/16/2021	0000427	CRESCENT WATER ASSOCIA	459 10/21	11/3/2021	FWB OCT WATER	50.00	50.00
	11/16/2021	0000561	FERGUSON ENTERPRISES IN	9884861	11/3/2021	DRA BRASS BALL VALVE	94.50	94.50
	11/16/2021	0000677	GRAINGER INC	9097684352	11/3/2021	CH COVID 4X10FT CARPET M	402.21	
				9103919321	11/3/2021	CH EXHAUST FAN MOTOR, C	185.20	
				9096884466	11/3/2021	CH CVOID DOOR BARRICADE	56.43	643.84
	11/16/2021	0000750	HOME DEPOT CREDIT SERVI	5020666	11/3/2021	2103UP PAINT FOR RH RESIL	439.44	
				5330875	11/3/2021	FG LED LIGHTS	177.06	
				7371582	11/3/2021	FG LED LIGHT AND SWITCH	48.92	
				5521566	11/3/2021	DRA LIGHT BULBS	13.81	679.23
	11/16/2021	0001179	PACIFIC OFFICE EQUIPMENT	1089732	11/3/2021	FG COPIER SERVICE	22.59	22.59
	11/16/2021	0001252	PORT ANGELES, CITY OF	60387-154442 1(	11/3/2021	FG OCT UTIL	452.63	
				60387-153008 1(	11/3/2021	FG OCT UTIL	349.82	
				60387-153004 1(	11/3/2021	FG OCT UTIL	298.87	
				60387-154714 1(	11/3/2021	FG OCT UTIL	273.09	
				60387-152998 1(	11/3/2021	FG OCT UTIL	240.79	
				60387-152668 1(	11/3/2021	FG OCT UTIL & GARBAGE	234.84	
				60387-153006 1(	11/3/2021	FG OCT UTIL	188.94	
				60387-154282 1(	11/3/2021	FG OCT UTIL	138.23	
				60387-159546 1(	11/3/2021	FG OCT UTIL	77.12	
				60387-154634 1(	11/3/2021	FG OCT UTIL	41.02	
				60387-158232 1(	11/3/2021	FG OCT UTIL	40.26	
				60387-153000 1(	11/3/2021	FG OCT UTIL	34.43	2,370.04
	11/16/2021	0001253	PORT ANGELES SOLID WAST	837169	11/3/2021	SMPK AGNEW FIELD DUMP F	5.12	5.12

Bank : apbank U S BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0001300	PUBLIC UTILITY DISTRICT	75463 10/21	11/3/2021	SC OCT ELECT	825.50	
				13575 10/21	11/3/2021	SC OCT ELECT	321.11	
				13572 10/21	11/3/2021	SC OCT ELECT	315.22	
				22650 10/21	11/3/2021	CB OCT ELECT & WATER	188.48	
				13573 10/21	11/3/2021	SC OCT ELECT	131.05	
				57419 10/21	11/3/2021	DL OCT ELECT	105.08	
				13571 10/21	11/3/2021	SC OCT ELECT	20.45	
				126922 10/21	11/3/2021	SMPK W LK PLSNT UNMETEF	13.78	
				54219 10/21	11/3/2021	SMPK LK PLSNT UNMETEREI	13.78	1,934.45
	11/16/2021	0001331	RAINBOW SWEEPERS, INC.	42622	11/3/2021	2010PR CB PAVE APPROACH	4,993.92	4,993.92
	11/16/2021	0001472	SOLMAR WATER SYSTEM, IN(	RHP 10/21	11/3/2021	RH AUG - OCT WATER	20.00	20.00
	11/16/2021	0001540	SWAIN'S GENERAL STORE IN	292291	11/3/2021	SMPK RDG USB FOR GAME (	21.73	
				292267	11/3/2021	DL HEAT LAMP	9.76	31.49
	11/16/2021	0001641	VERIZON WIRELESS	9891322281	11/3/2021	ADM CH FG JUV CELLPHONE	302.10	302.10
	11/16/2021	0001767	WEST WASTE & RECYCLING	229965	11/3/2021	CB LK PLSNT OCT GARBAGE	108.00	108.00
	11/16/2021	0004448	DAREN'S POINT S TIRE & AUT	0087004	11/3/2021	FG ERR# FG173 LAWNMOWE	94.40	94.40
	11/16/2021	0028699	SOUND PUBLISHING INC	8038957	11/3/2021	FG BEST OF 2021 ADVERT PI	315.00	315.00
	11/16/2021	0035592	CAMPLIFE INC	11013955	11/3/2021	SC DRA AUG ONLINE RESER'	1,534.50	
				11319328	11/3/2021	SC DRA SEPT ONLINE RESEF	1,356.00	
				11730491	11/3/2021	DRA SC OCT ONLINE RESER'	526.50	3,417.00
	11/16/2021	0041765	CALL LUKE LLC	7001021	11/3/2021	SC RESIDENCE SKIRTING RC	2,604.00	
				7002021	11/3/2021	SC RESIDENCE RODENT TRA	86.80	2,690.80
	11/16/2021	0044755	HERMANSON COMPANY LLP	48614	11/3/2021	CH HVAC SUPPLY FAN 1 AND	13,120.19	13,120.19
	11/16/2021	0045750	JUSTICE SYSTEMS CORPOR/	21120-03	11/3/2021	2011FAC PAY APP 3 JAIL CON	70,409.38	70,409.38
						Sub total for U S BANK:		105,481.32

Final Check List
CLALLAM COUNTY

Prosecutor

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000546	EXPRESS SERVICES, INC	26194828	11/3/2021	EXPRESS SERVICES	1,111.04	
				26160208	11/3/2021	EXPRESS SERVICES	1,111.04	2,222.08
	11/16/2021	0001113	OFFICE DEPOT, INC	201238216001	11/3/2021	OFFICE SUPPLIES	206.50	
				202445664001	11/3/2021	OFFICE SUPPLIES	54.58	261.08
	11/16/2021	0001136	OLYMPIC MEDICAL CENTER	02062003	11/3/2021	CORONER	250.00	250.00
	11/16/2021	0001252	PORT ANGELES, CITY OF	74359-155474 1	11/3/2021	CITY UTILITIES	229.12	229.12
	11/16/2021	0039815	SUTHERLAND, ROCHELLE	SUTHERLAND1	11/3/2021	MILEAGE REIMBURSEMENT	42.00	42.00
	11/16/2021	0045696	THURSTON COUNTY CORON	CCC-1112021	11/3/2021	CORONER FEES	1,350.00	1,350.00
	11/16/2021	0045735	PACIFIC NW FORENSIC PATH	002	11/3/2021	CORONER / AUTOPSY	1,700.00	1,700.00
	11/16/2021	0045813	THE TENINO INDEPENDENT	140124	11/3/2021	SUMMONS	87.68	
				140650	11/3/2021	SUMMONS	87.68	
				140950	11/3/2021	SUMMONS	87.68	
				141011	11/3/2021	SUMMONS	87.68	350.72
						Sub total for U S BANK:		6,405.00

Final Check List
CLALLAM COUNTY

Public Works Roads

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000091	ANGELES MILLWORKS & LUM	299161	11/1/2021	MAINTENANCE SUPPLIES - P	72.50	
				299271	11/3/2021	MAINTENANCE SUPPLIES - P	42.38	114.88
	11/16/2021	0000099	A-1 AUTO PARTS	1350076	10/22/2021	MAINTENANCE SUPPLIES - S	43.43	
				1349659	10/19/2021	MAINTENANCE SUPPLIES - S	11.63	
				1255457CR	3/10/2020	MAINTENANCE SUPPLIES - S	-19.46	35.60
	11/16/2021	0000172	BAXTER A/P OFFICE	15663-8725	10/19/2021	MAINTENANCE SUPPLIES - S	35.45	
				15663-8711	10/19/2021	MAINTENANCE SUPPLIES - S	19.62	55.07
	11/16/2021	0000352	CLALLAM COUNTY DEPT OF,	613-10101	11/1/2021	08/21~12/21 SUPPORT	12,997.45	12,997.45
	11/16/2021	0000360	CLALLAM COUNTY ER&R	2021.280E	11/1/2021	10/21 TC EQUIPMENT RENT,	134,467.82	134,467.82
	11/16/2021	0000546	EXPRESS SERVICES, INC	26243368-10101	10/27/2021	10/18/21~10/24/21 ROADS	4,327.12	4,327.12
	11/16/2021	0000555	FASTENAL COMPANY	WAPOR85427	10/14/2021	MAINTENANCE SUPPLIES - S	108.21	108.21
	11/16/2021	0001148	OLYMPIC SPRINGS INC	343133	10/31/2021	MAINTENANCE SUPPLIES - L	17.25	17.25
	11/16/2021	0001551	TACOMA SCREW PRODUCTS	140025447-00	10/28/2021	MAINTENANCE SUPPLIES - P	191.63	191.63
	11/16/2021	0001612	UNITED RENTALS, INC	197391037-002	10/11/2021	MAINTENANCE RENTAL - SQ	1,913.04	1,913.04
	11/16/2021	0001635	UTILITIES UNDERGROUND LC	1100246	10/31/2021	10/21 EXCAVATION NOTIFICA	285.09	285.09
	11/16/2021	0001641	VERIZON WIRELESS	9891228830-101	10/22/2021	10/21 CELL PHONES	369.95	369.95
	11/16/2021	0003045	SECORD, DAVE	503-09-009-2022	11/6/2021	2022 LAND USE AGREEMENT	668.40	668.40
	11/16/2021	0004438	PORT ANGELES ASSOC REAL	17636	10/29/2021	2022 PAAR DUES - CAPPS	275.00	275.00
	11/16/2021	0016373	WESTERN CONFERENCE OF,	10/21TEAMPEN	10/31/2021	10/21 TEAMSTER PENSION (E	456.50	456.50
	11/16/2021	0017663	ARAMARK UNIFORM SVCS IN	512000178820	11/2/2021	LAUNDRY SERVICE - PA	16.32	
				512000176304	10/28/2021	LAUNDRY SERVICE - SQ	16.28	
				512000176285	10/28/2021	LAUNDRY SERVICE - LC	16.27	48.87
	11/16/2021	0019701	CONSTRUCTION PARTS	34047	9/10/2021	MAINTENANCE SUPPLIES - L	3,641.54	3,641.54
	11/16/2021	0044766	NORTHWEST TECHNICAL SV	9782	11/3/2021	DENSITY GAUGE CALIBRATIC	361.13	361.13

Sub total for U S BANK: 160,334.55

Final Check List
CLALLAM COUNTY

Public Works ER+R

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000172	BAXTER A/P OFFICE	15199	11/1/2021	Brake pads, prof plat - PA 150	43.51	43.51
	11/16/2021	0000361	CLALLAM COUNTY ROAD DEF	2021.080R	11/1/2021	Employee benefit fees	537.03	537.03
	11/16/2021	0000555	FASTENAL COMPANY	WAPOR85426	10/14/2021	Bath tissue, deicer, gloves - SQ	1,120.73	
				WAPOR85305	10/7/2021	Gloves, pails, deicer - SQ	242.19	
				WAPOR85526	11/21/2021	HCS3/8, 3/8 at Top Lk gr c - PA	147.95	
				WAPOR85366	10/11/2021	Malls, Galv cbl 1/4 - SQ	24.99	1,535.86
	11/16/2021	0000677	GRAINGER INC	9077990910	10/6/2021	Push button stations - PA 408	347.81	347.81
	11/16/2021	0000772	INDUSTRIAL HYDRAULICS IN(	A336119	10/11/2021	Repair hyd.motor seal kit/shaft	508.30	
				A336083	10/7/2021	Crimp fittings - PA Stores	91.57	599.87
	11/16/2021	0001179	PACIFIC OFFICE EQUIPMENT	1089784	10/31/2021	Billable copies - Admin. 6553	290.49	
				1089783	10/31/2021	Billable copies - Engineering 62	249.03	
				1089785	10/31/2021	Billable copies - PA Shop	26.32	565.84
	11/16/2021	0001187	PAPE MACHINERY INC	13097641	10/14/2021	Flashing - PA 803	1,261.30	1,261.30
	11/16/2021	0001310	QUALITY 4X4 TRUCK SUPPLY	129547	10/29/2021	Flange bearings - PA Stores	349.38	349.38
	11/16/2021	0001426	SEQUIM, CITY OF	1295.0/1101202	11/1/2021	Utility charges (water & sewer)	192.21	192.21
	11/16/2021	0001551	TACOMA SCREW PRODUCTS	140023999-00	10/14/2021	Hex screws, fittings, bits - SQ	247.33	
				140025334-00	10/28/2021	16 tooth bow rakes - LC	239.32	
				140019521-00	10/19/2021	Hand cleaner - SQ	118.55	
				140021726-01	10/22/2021	Gloves - SQ	30.31	635.51
	11/16/2021	0001641	VERIZON WIRELESS	9891228830-E	10/22/2021	PA Sign Shop Laptop line - PA	80.02	80.02
	11/16/2021	0001767	WEST WASTE & RECYCLING	232170	10/31/2021	Sanican, 410 Frontier - CB	120.00	
				229799	10/31/2021	Garbage collection, 51 Bedrock	72.00	
				229800	10/31/2021	Garbage collection 410 Frontier	36.00	228.00
	11/16/2021	0004448	DAREN'S POINT S TIRE & AUT	87165	10/29/2021	Mount and balance - PA 130	202.04	202.04
	11/16/2021	0017663	ARAMARK UNIFORM SVCS IN	512000178819	11/2/2021	Laundry services - PA	34.74	34.74
	11/16/2021	0022435	RACE STREET AUTO PARTS	560141	11/1/2021	Disc pads - PA 150	214.55	
				558603	10/20/2021	Oil filter,W.fluid,Exactfitblade-P/	38.19	252.74
	11/16/2021	0042872	PROPANE NORTHWEST	1505195486	11/2/2021	Propane delivery - SQ	551.60	551.60
	11/16/2021	0043469	PETROCARD	429951-IN	9/30/2021	Unleaded fuel purchase - LC	3,668.20	
				430485-IN	11/2/2021	Unleaded fuel purchase - CB	3,294.98	6,963.18
						Sub total for U S BANK:		14,380.64

Final Check List
CLALLAM COUNTY

Public Works (1)

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000074	AM TEST, INC.	124258	10/31/2021	TESTING SERVICES - WWTP	230.00	230.00
	11/16/2021	0000352	CLALLAM COUNTY DEPT OF,	613-41401	11/1/2021	08/21~12/21 SUPPORT	2,625.35	2,625.35
	11/16/2021	0000360	CLALLAM COUNTY ER&R	2021.282E	9/21/2021	09/21 EQUIPMENT RENT	704.00	704.00
	11/16/2021	0000361	CLALLAM COUNTY ROAD DEI	2021.078R	11/1/2021	09/16/21~10/15/21 EMPLOYEE	510.62	510.62
	11/16/2021	0000546	EXPRESS SERVICES, INC	26243368-41401	10/27/2021	10/18/21~10/24/21 WWTP	220.13	220.13
	11/16/2021	0001300	PUBLIC UTILITY DISTRICT	23193-102721	10/27/2021	09/22/21~10/22/21 HWY 112	289.14	289.14
	11/16/2021	0001641	VERIZON WIRELESS	9891228830-414	10/22/2021	10/21 CELL CHARGES	66.27	66.27
	11/16/2021	0001700	WA ST DEPT OF ECOLOGY	22-WA0024431-	11/7/2021	2021~2022 CB WATER QUALI	378.00	
				22-WA0024449-	11/7/2021	2021~2022 CQ WATER QUALI	378.00	756.00
	11/16/2021	0001767	WEST WASTE & RECYCLING	0000229808	10/31/2021	10/21 GARBAGE SERVICE	36.00	36.00
	11/16/2021	0020614	WOOD HAWK, INC	1935	10/29/2021	WASTE TRANSFER	2,870.00	2,870.00
	11/16/2021	0045452	WILSON ENGINEERING LLC	16502	10/25/2021	WWTP VALUE PLANNING	672.00	672.00
						Sub total for U S BANK:		8,979.51

Final Check List
CLALLAM COUNTY

Public Works (2)

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000546	EXPRESS SERVICES, INC	26243368-43401	10/27/2021	10/18/21~10/24/21 BBWA	261.28	261.28
						Sub total for U S BANK:		261.28

Final Check List
CLALLAM COUNTY

Sheriff

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000334	CLALLAM COUNTY COMMISSI	110121	11/1/2021	INDIRECT PAYMENT FROM E	1,143.06	1,143.06
	11/16/2021	0000360	CLALLAM COUNTY ER&R	2021.287E	11/1/2021	RENTAL OF CHAIN GANG VEI	3,800.00	3,800.00
	11/16/2021	0000546	EXPRESS SERVICES, INC	26194813	10/19/2021	CALL CENTER REPRESENTA	894.00	894.00
	11/16/2021	0000786	INTERSTATE BATTERY SYSTE	1905701063159	10/26/2021	3.6V AND 6V 1500MAH NICD (	218.36	218.36
	11/16/2021	0001179	PACIFIC OFFICE EQUIPMENT	1090277	10/31/2021	MAINTENANCE AGREEMENT	381.95	
				1090279	10/31/2021	MAINTENANCE AGREEMENT	322.02	
				1090281	10/31/2021	MAINTENANCE AGREEMENT	218.84	
				1089411	10/26/2021	MAINTENANCE ON JAIL SCAI	103.36	
				1090400	10/29/2021	MAINTENANCE ON SEQUIM I	103.36	
				1090280	10/31/2021	MAINTENANCE AGREEMENT	95.52	
				1090278	10/31/2021	MAINTENANCE AGREEMENT	94.69	
				1090287	10/31/2021	MAINTENANCE AGREEMENT	71.42	
				1090275	10/31/2021	MAINTENANCE AGREEMENT	53.86	
				1090276	10/31/2021	MAINTENANCE AGREEMENT	27.20	
				1090288	10/31/2021	MAINTENANCE AGREEMENT	23.95	
				1090286	10/31/2021	MAINTENANCE AGREEMENT	19.42	
				1090282	10/31/2021	MAINTENANCE AGREEMENT	17.31	
				1090285	10/31/2021	MAINTENANCE AGREEMENT	17.27	
				1090283	10/31/2021	MAINTENANCE AGREEMENT	15.67	
				1090289	10/31/2021	MAINTENANCE AGREEMENT	14.50	
				1090284	10/31/2021	MAINTENANCE AGREEMENT	0.05	1,580.39
	11/16/2021	0001252	PORT ANGELES, CITY OF	110121	11/1/2021	TAX DISTRIBUTION PAYMENT	56,010.00	56,010.00
	11/16/2021	0001300	PUBLIC UTILITY DISTRICT	115366-Nov21	10/25/2021	UTILITIES - EDWARDS RD 09	255.30	255.30
	11/16/2021	0001543	SWANSONS SERVICES CORP	1514177	10/21/2021	INDIGENT PACKS	58.21	58.21
	11/16/2021	0001547	SYSCO FOOD SERVICES OF S	355877709	10/6/2021	FOOD	964.11	
				355890648	10/13/2021	FOOD & SUPPLIES	888.65	
				355914903	10/27/2021	FOOD	660.92	
				355902167	10/20/2021	FOOD	519.38	
				355888754	10/12/2021	SUPPLIES	65.06	
				355911995	10/26/2021	CREDIT MEMO	-69.99	3,028.13
	11/16/2021	0001603	TYLER TECHNOLOGIES INC.	045-357472	10/14/2021	EXECUTIME TRAINING 09/22	640.00	
				045-358225	10/22/2021	EXECUTIME TRAINING 10/30/	320.00	960.00
	11/16/2021	0001734	WA ST PATROL	I22002527	11/2/2021	BACKGROUND CHECKS	848.00	848.00

Bank : apbank U S BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0003431	HI-TECH SECURITY, INC.	64629	11/1/2021	INITIAL QUARTERLY MAINTEI	1,827.84	
				64465	10/14/2021	REMOVE SECURITY CAMERA	103.36	1,931.20
	11/16/2021	0004211	CENTURYLINK	206-T30-9144-N	10/23/2021	DATA CONNECTION	340.52	
				206-T31-9138-N	10/23/2021	DATA CONNECTION	55.17	395.69
	11/16/2021	0017788	LEXIPOL LLC	INVLEX6515	11/1/2021	ANNUAL LE POLICY MANNUA	8,640.00	8,640.00
	11/16/2021	0018023	EVIDENT	183704B	10/11/2021	DISPOSABLE FACE MASKS -	175.95	175.95
	11/16/2021	0037042	OFFICE DEPOT	202442692001	10/21/2021	OFFICE SUPPLIES	104.80	
				206824527001	10/27/2021	OFFICE SUPPLIES - JAIL	77.37	182.17
	11/16/2021	0040924	CRASH DATA GROUP INC	INV10568	10/27/2021	ANNUAL CDR SOFTWARE SU	1,250.00	1,250.00
	11/16/2021	0041605	HOME DEPOT PRO	649302346	10/26/2021	JAIL SUPPLIES	369.57	
				648741650	10/22/2021	JAIL SUPPLIES	165.31	534.88
	11/16/2021	0043510	MARIE BRABANT	003	9/23/2021	STAFF PORTRAITS FOR OUR	625.60	625.60
	11/16/2021	0044691	VERIZON CONNECT FLEET U	386000020121	11/1/2021	CHAIN GANG VEHICLE TRAC	99.88	99.88
	11/16/2021	0045809	CHORLEY, JUSTINE	110121	11/1/2021	MILEAGE TO MEETING IN SE	17.92	17.92
						Sub total for U S BANK:		82,648.74

Final Check List
CLALLAM COUNTY

Sheriff Jail Med

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000815	JIM'S PHARMACY	Jims 10.26.21	11/26/2021	INMATE MEDICINE	161.45	161.45
	11/16/2021	0001508	STERICYCLE, INC	3005752558	10/18/2021	WASTE DISPOSAL	53.43	53.43
	11/16/2021	0024978	CORRECTIONAL HEALTHCAR	INV0086811	11/1/2021	NURSING CONTRACT	27,432.70	27,432.70
	11/16/2021	0025115	RADIA INC PS	Z8MC44G	11/3/2021	INMATE MEDICAL	31.24	
				Z8LJLMG	11/3/2021	INMATE MEDICAL	23.82	
				Z8MC3ZS	11/3/2021	INMATE MEDICAL	4.88	59.94
	11/16/2021	0041537	MCKESSON MEDICAL-SURGI	18702856	10/28/2021	CLINIC SUPPLIES	150.45	
				18690329	10/26/2021	CLINIC SUPPLIES	126.54	
				18690584	10/26/2021	CLINIC SUPPLIES	79.44	
				18702854	10/28/2021	CLINIC SUPPLIES	31.94	
				18685796	10/25/2021	CLINIC SUPPLIES	20.86	
				18685260	10/25/2021	CLINIC SUPPLIES	11.38	
				18685922	10/25/2021	CLINIC SUPPLIES	8.96	429.57
						Sub total for U S BANK:		28,137.09

Check History Listing
CLALLAM COUNTY

Clerk

Bank code: apbank

Check #	Date	Vendor	Status	Clear/Void Date	Invoice	Inv. Date	Amount Paid	Check Total
	11/16/2021	0000674 GOVCONNECTION, INC.			72009246	11/03/2021	169.62	169.62
	11/16/2021	0033199 LEMAY MOBILE SHREDD			4722062	11/03/2021	27.30	27.30
	11/16/2021	0001179 PACIFIC OFFICE EQUIPM			1089267	11/03/2021	426.99	
					1089723	11/03/2021	43.40	
					1089722	11/03/2021	34.92	
					1089322	11/03/2021	31.66	536.97
	11/16/2021	0020961 REED MACS			1384	11/03/2021	203.52	203.52
							apbank Total:	**937.41**

4 checks in this report

Total Checks: **937.41**

Final Check List
CLALLAM COUNTY

Veterans

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/3/2021	0001300	PUBLIC UTILITY DISTRICT	WT0047 11/3/21	11/3/2021	UTILITIES	173.13	173.13
	11/3/2021	0014683	PROPERTIES BY LANDMARK	DJ6981 11/3/21	11/3/2021	RENT	775.00	775.00
	11/3/2021	0019262	PARTNERS IN WELL-BEING, II	FW2925 11/3/21	11/3/2021	MEDICAL	60.00	60.00
	11/3/2021	0020849	U S BANK	LR0480 11/3/21	11/3/2021	FUEL	250.00	
				BG6299 11/3/21	11/3/2021	FOOD	150.00	
				CR2810 11/3/21	11/3/2021	FOOD	150.00	
				KF9568 11/3/21	11/3/2021	FOOD	150.00	
				MB8950 11/3/21	11/3/2021	FOOD	150.00	
				MC2576 11/3/21	11/3/2021	FUEL	150.00	
				SA6243 11/3/21	11/3/2021	FOOD	150.00	
				SR6054 11/3/21	11/3/2021	FOOD	150.00	
				VA5478 11/3/21	11/3/2021	FOOD	150.00	1,450.00
						Sub total for U S BANK:		2,458.13

Final Check List
CLALLAM COUNTY

WSU Ext

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	11/16/2021	0000360	CLALLAM COUNTY ER&R	2021.285E	11/3/2021	VEHICLE RENTAL #166 OCT. :	405.00	405.00
	11/16/2021	0000360	CLALLAM COUNTY ER&R	2021.274E	11/2/2021	ER&R	18.00	18.00
	11/16/2021	0001641	VERIZON WIRELESS	9891322285	11/2/2021	VERIZON	251.75	251.75
	11/16/2021	0004683	WSU JEFFERSON COUNTY E	Regional SF- Cla	11/3/2021	REGIONAL SMALL FARMS PR	6,700.00	6,700.00
	11/16/2021	0045254	SLEDGEHAMMER MARKETIN	6	11/3/2021	SLEDGEHAMMER MARKETIN	1,350.00	1,350.00
						Sub total for U S BANK:		8,724.75

16
11/15/21

BOARD of CLALLAM COUNTY COMMISSIONERS
MINUTES for the week of November 8 – 12, 2021

WORK SESSION – 9 a.m.

The work session convened at 9 a.m., Monday, November 8, 2021. Present were Commissioners Ozias, Johnson and Peach and Administrator Sill. All appeared by video.

Items of discussion per the agenda published November 4 were:

- Calendar/Correspondence
- Pre-application questionnaire with Administrative Office of the Courts for SB 5476 Therapeutic Court
- Discussion on Nuisance Ordinance
- Notice of hearing to be held on Tuesday, November 30, 2021 at 10:30 a.m. regarding Resolutions on proposed levies for the General Purpose Property Tax, Road Fund Property Tax and Conservation Futures Property Tax
- Notice of hearing to be held on Tuesday, December 7, 2021 at 10:30 a.m. and 5 p.m. regarding a Resolution adopting the 2022 Clallam County Budget
- Contract with Washington State Department of Commerce for American Rescue Plan Act (ARPA) for Clallam County Marine Transport
- Review the "How Did We Do" reports comparing each month's actual performance against the 2021 Annual Budget

Meeting adjourned at 10:28 a.m.

REGULAR MEETING OF THE BOARD OF CLALLAM COUNTY COMMISSIONERS

Chair Ozias called the meeting to order at 10 a.m., Tuesday, November 9, 2021. Also present were Commissioners Johnson and Peach and Administrator Sill. All appeared by video.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

ACTION TAKEN: CRJm to adopt the agenda as presented, CBPs, mc

CONSENT AGENDA

1a Approval of vouchers for the week of November 1
1b Approval of minutes for the week of November 1
1c Letter of Support for Sequim Valley Airport for Clallam County PUD
1d Letter of Support for Sequim Valley Airport for Department of Commerce
1e Letter of Support for a County representative for Continuum of Care Balance of State Steering Committee
1f Proclamation Recognizing November 11 as Veterans' Day
1g Recognizing Keith Wills for over 18 years of service to Clallam County
1h Recognizing Gary Gort for over 17 years of service to Clallam County

ACTION TAKEN: CRJm to adopt the consent agenda, CBPs, mc

REPORTS AND PRESENTATIONS

- CRJ read the Proclamation Recognizing November 11, 2021 as Veterans' Day
  - Levi Douglas, Veteran's Coordinator, commented on the Proclamation.
  - Gary Velie, Clallam County Veteran's Association, commented on the Proclamation.
- CMO commented on Gary Gort for over 17 years of service to Clallam County.
  - Sheriff Benedict, Sheriff's Office, recognized Gary Gort for his service.
- CRJ recognized Keith Wills for over 18 years of service to Clallam County.
  - Judge Neupert, District Court, recognized Keith Wills for his service.

DRAFT

- CBP commented on COVID vaccine clinic in Forks, west end data, Dr. Berry, Lifeboat3 Grants, Board of Natural Resources Meeting
- CRJ commented on WorkSource, affordable housing, 1406 funds, Opportunity Funds and American Rescue Plan Act Funds (ARPA)
- CMO commented on Road Department TIP presentation, Deputy Health and Human Services Director interviews, Veteran's Day Ceremony, Sequim City Manager.

CONTRACTS AND AGREEMENTS

2a Contract amendment A with the Port Angeles School District for mental health school support services

ACTION TAKEN: CRJm to approve, CBPs, mc

2b Contract with Washington State Department of Commerce for American Rescue Plan Act (ARPA) for Clallam County Marine Transport

ACTION TAKEN: CRJm to approve, CBPs, mc

2c Agreement with McCrorie Carpet One for the Carpet Replacement – Superior Court II Courtroom & Hallway Project

ACTION TAKEN: CRJm to approve, CBPs, mc

ADMINISTRATION

3a Call for hearing to be held Tuesday, November 23, 2021 at 10:30 a.m. regarding a proposed Clallam County Ordinance titled Farm Waste Line Facility Franchise

ACTION TAKEN: CRJm to issue notice, CBPs, mc

3b Resolution reappointing Steve Gray to the Tails Advisory Committee

ACTION TAKEN: CRJm to adopt, CBPs, mc

3c Resolution appointing Jennifer Garcelon to the Permit Advisory Board

ACTION TAKEN: CRJm to adopt, CBPs, mc

BUDGET

4a Notice of hearing to be held on Tuesday, November 30, 2021 at 10:30 a.m. regarding Resolutions on proposed levies for the General Purpose Property Tax, Road Fund Property Tax and Conservation Futures Property Tax

ACTION TAKEN: CRJm to issue notice, CBPs, mc

4b Notice of hearing to be held on Tuesday, December 7, 2021 at 10:30 a.m. and 5 p.m. regarding a Resolution adopting the 2022 Clallam County Budget

ACTION TAKEN: CRJm to issue notice, CBPs, mc

PUBLIC COMMENT

- Andy Sallee, Sequim, commented on the letter of supports for Department of Commerce and Clallam County PUD.
- Kenneth Reandeau, Port Angeles, commented on Nuisance Ordinance,

Meeting concluded at 10:42 a.m. and continued to 9 a.m., Monday, November 15, 2021.

There are no Zoom chat logs for the week of November 8.

DRAFT

The Board of Commissioners attended WSAC Virtual COVID Update, Timber County Caucus Meeting, Road Show – TIP Presentation and a COVID-19 Briefing during the week of November 8.

PASSED AND ADOPTED this fifteenth day of November 2021.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

ATTEST:

Randy Johnson

Loni Gores, CMC, Clerk of the Board

Bill Peach

KEY TO ABBREVIATIONS:

ARS	Administrator Rich Sill	m	moved
CMO	Commissioner Mark Ozias	mc	motion carried
CRJ	Commissioner Randy Johnson	s	seconded
CBP	Commissioner Bill Peach		

DRAFT

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11/15/21

AGENDA ITEM SUMMARY

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

Department: Finance

WORK SESSION ☒ **Meeting Date:** **11/15/2021**

REGULAR AGENDA ☒ **Meeting Date:** **11/16/2021**

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

Item summary:

☐ Call for Hearing

☒ Contract/Agreement/MOU - Contract # 19961.21.010

☐ Resolution

☐ Proclamation

☐ Budget Item

☐ Draft Ordinance

☐ Final Ordinance

☒ Other Monthly Review

Documents exempt from public disclosure attached: ☐

ARPA DIRECT GRANT ASSISTANCE AGREEMENT BETWEEN CLALLAM COUNTY AND BLACKBALL TRANSPORT INC (FUNDED THROUGH WA STATE COMMERCE ARPA GRANT FUNDING TO SUPPORT PRESERVATION OF PRIVATE MARINE TRANSPORTATION ACTIVITIES)

GRANT FUNDING BACKGROUND

In the last legislative session, the WA State Legislature as part of the 2021/2022 biennium Commerce budget approved the appropriation of $5,000,000 of the Coronavirus State Fiscal Recovery Fund established under the American Rescue Plan Act for provision of economic support to the private marine transportation industry of Clallam County that was directly impacted by the closure of the United States—Canada border during the COVID-19 pandemic.

As provided under Item 125 of Commerce's 2021 Operating Budget ESSB 5092 (Page 72 & 73),

- (a) $5,000,000 of the coronavirus state fiscal recovery fund —federal appropriation is provided solely for the department to provide grant funds to Clallam county to support the preservation of private marine transportation activities and jobs associated with such activities that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic;

- (b) To be eligible for a grant from the county under this subsection the business must: (i) Apply for or have applied for the grant from the county; (ii) Have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue; (iii) Provide documentation to demonstrate that the expense is not funded by any other government or private entity; (iv) Demonstrate

the business was actively engaged in business, and as a result of the border closures the business temporarily totally closed operations; (v) Have experienced at least a significant reduction in business income or activity related to United States-Canada border closures; (vi) Agree to operate in accordance with the requirements of applicable federal, state, and local public regulations including health and safety measures; (vii) Demonstrate significant economic contribution of their business to the state and local economy; and (viii) Be a majority United States owned entity operating a United States flag vessel registered and operated under the laws of the United States;

- (c) Grant funds may be used only for expenses incurred on or after March 1, 2020. Eligible expenses for grant funds include: (i) Upgrading physical workplaces to adhere to new safety or sanitation standards; (ii) Procuring required personal protective supplies for employees and business patrons and clients; (iii) Updating business plans; (iv) Employee costs, including payroll, training, and onboarding; (v) Rent, lease, mortgage, insurance, and utility payments; (vi) Securing inventory, supplies, and services for operations; and (vii) Maintenance and operations costs associated with vessel operations;

On November 9, 2021, the County entered into an Interagency Agreement with WA State Department of Commerce for provision of these Clallam County Marine Transport ARPA grant funds under which Clallam County will serve as a subrecipient. The amount of the Agreement is for total funding $4,950,000, which reflects Commerce's retention of $50,000 of the budget appropriation to cover their administrative costs under this grant.

With this agreement now in place, the County will now need to enter into an ARPA Direct Assistance Grant Agreement with the only eligible recipient in Clallam County meeting all eligibility criteria outlined above—Black Ball Ferry Line. A draft of this grant agreement is attached which is submitted for review and approval by the BOCC. The form of agreement used for this Black Ball grant is consistent with the prior ARPA Direct Assistance Grant Agreement template utilized by the County and approved as to form by the PA Civil Division, with exception that this agreement references the ARPA Marine Transport Grant Funds provided under the Commerce IGA with the County rather than the ARPA Agreement entered into by the County directly with the US Treasury.

The funds to be disbursed under this grant agreement with Blackball will be separately accounted for within the County's American Rescue Plan Act special revenue fund.

BLACK BALL TRANSPORT—NOTABLE FACTS AND THE OPERATIONAL AND FINANCIAL IMPACT OF THE US/CANADA BORDER ON BLACKBALL DURING THE COVID-19 PANDEMIC

- Black Ball Transport, Inc is a Washington State private marine transportation corporation incorporated in 1952 as successor to various entities that have provided marine freight and ferry services serving the Puget Sound, Strait of Juan de Fuca, and Vancouver Island, British Columbia areas dating back to 1902.

- Black Ball has operated its current vessel's international ferry service, the Coho, between Port Angeles of Clallam County and Victoria, British Columbia, Canada since 1959.

- Due to the closure of the United States—Canada border as a result of the COVID-19 pandemic, this ferry service was out of operation from March 30, 2020 through November 8, 2021, a period of over 19 months.

- As the westernmost border crossing in the continental United States and one of the highest volume ports in the State of Washington with annual passenger volume of over 470,000, the MV Coho sailing to and from the Port of Port Angeles is one of the community's vital draws of tourism for the County and the State;

- In addition to providing this key ferry service, Black Ball also provides an array of other services to tourists including rentals at local hotels, ground transportation, and guided tours, as well as promotes and supports tourist participation in a wide range of activities and events including, but not limited to, the Juan de Fuca Festival, Sequim Lavender Festival, the Dungeness Crab and Seafood Festival and many other various arts and draught festivals and tours which in turn support many of the County's other small businesses and event-sponsoring nonprofit organizations and associated jobs;

- Based on a study conducted by Olympus Consulting dated 11/15/2019, an estimated 472,104 riders utilized the MV Coho in 2019, equivalent to 148,384 traveling parties who spent on average $433 into the local economy, translating into approximately $64.3 million being injected into the local economy. In addition, Black Ball pre-pandemic employed 91 people which in turn supported the direct employment of 627 people in businesses ranging from motels/hotels, restaurants and bars, and retail shopping, which in turn supported another 256 people in the supply chain and general economy. In other words, every person employed by the Black Ball supported employment of an estimated 9.7 additional people in the County;

- Upon the cessation of its ferry service, Black Ball lost approximately 99% of its operational revenue for over 19 months as of the date of this Agreement;

- Due to this loss of revenue, Black Ball was forced to furlough much of its staff shortly after ferry service was suspended. While subsequent PPP loan funding enabled Black Ball to bring back its full-time permanent staff in May and June 2020 and again in March, April and May 2021, most staff remained furloughed the remainder of the time since the suspension of ferry service. Since the furloughs began, Black Ball continued to pay the medical benefits of all of its furloughed staff;

- In addition to the severe economic impact caused by the loss of substantially all operating revenue, Black Ball continued to incur significant operating costs relating to employing a minimum level of staff needed to carry out necessary maintenance and administrative tasks, materials and supplies necessary for the upkeep of the vessel, shoreside facilities and IT infrastructure, as well as insurance costs, utilities and other miscellaneous administrative costs;

- Between March 2020 and August 2021, Black Ball incurred approximately $8.0 million of operating expenditures, of which Black Ball was able to secure funding through PPP forgivable loans totaling approximately $2.0 million and CARES Lifeboat 2 grant funding provided by the County of $0.5 million to partially cover such costs, leaving approximately $5.5 million of costs

for which Black Ball had to rely on its reserves and available borrowings under the $0.4 million non-forgivable portion of its first PPP loan and a $6 million Main Street loan to fund;

- Black Ball also has secured CERTS grants totaling $4.012 million as well as a commitment of $0.5 million of ARPA funds from the City of Port Angeles which it intends to fund payroll, benefits and other operating costs incurred beginning in September 2021. Despite this additional funding, Black Ball estimates a monthly operating expense funding gap of approximately $250,000 will continue until ferry service operations and revenues return to pre-COVID levels;

- Although the United States-Canada border reopen in November 2021, allowing Black Ball to resume sailings of the MV Coho beginning on November 9, 2021, heavy COVID mitigation safety and testing protocols enacted by the Canadian government will likely render profitable operation of Black Ball's ferry service unachievable. These strict and costly COVID protocols will likely deter most United States-originating passengers from traveling via this ferry service until such restrictions are significantly eased, resulting in passenger traffic levels not being sufficient to operate the ferry service profitably and worsening Black Ball's already precarious financial position;

- As a result of these negative economic impacts, the Recipient applied for ARPA Funds available under the County's ARPA Private Marine Transport Grant Program through Commerce on September 29, 2021.

The County believes the provision of economic support under the ARPA Commerce Private Marine Transport Grant program to Black Ball is necessary and appropriate given Black Ball's critical role as a key employer and vital component of the tourism industry responsible for over $64 million of economic activity in Clallam County, and given the severe financial impact that the United States-Canada border closure during the COVID-19 pandemic has had on the marine transportation operations and financial condition of Black Ball. The County believes that this provision of such economic support represents an eligible use of ARPA Funds as outlined previously and in accordance with the allowed usage of funds outlined in the IGA.

Under this Agreement, the County has awarded Black Ball the full amount of the Commerce ARPA Private Marine Transport grant, or $4,950,000. As previously discussed with the BOCC, the intent will be that the County will not charge an indirect administration fee to this grant, thereby insuring 100% of funds will be available to reimburse Black Ball for eligible costs it has incurred between March 1, 2020 and June 30, 2023. All costs to be reimbursed must meet the eligibility criteria as outlined in the Commerce Interagency Agreement.

In an effort to expedite the process for getting these funds released by Commerce to the County for provision then to Black Ball, County staff over the past several weeks have been reviewing all invoice and payroll documentation submitted by Black Ball for costs incurred since the onset of the COVID-19 pandemic to verify eligibility for reimbursement under this grant. Once the County completes its review, these eligible costs will then be submitted to Commerce for their review and approval, at which point funds will then be disbursed by Commerce to the County, which will then disburse such funds to Black Ball.

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 contract will enable funds to be disbursed once received under the Commerce Interagency Agreement (contract 19961.21.009) for which a supplemental appropriation was submitted for approval in a public hearing scheduled on Tuesday, November 30th..

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Given the urgent need for funding assistance, we request the Commissioner's approval to proceed in submitting this agreement for approval during the next BOCC meeting scheduled on Tuesday, November 16, 2021.

County Official signature & print name: _____Mark Lane_____

Name of Employee/Stakeholder attending meeting: _____Mark Lane _____

Relevant Departments: ____Finance, BOCC _____

Date submitted:

November 9, 2021

19961.21.010

ARPA DIRECT GRANT ASSISTANCE AGREEMENT

This ARPA Direct Grant Assistance Agreement ("Agreement") is dated as of the _____ day of _____, 2021, by and between Clallam County, a Washington political subdivision ("County"), and Black Ball Transport, Inc (Federal Tax 91-0594931, DUNS # 002787919), a Washington state corporation ("Recipient").

WHEREAS, Washington State has allocated to the County $4,950,000 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 602 of Title VI of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act of 2021 ("ARPA Act"), for the limited purposes identified in the Interagency Agreement between the Washington State Department of Commerce ("the State") and Clallam County (Grant Contract # 22-62420-001, the "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 homelessness, 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 IGA, ARPA grant funds provided to the County under this non-R&D federal program must be utilized to support the preservation of private marine transportation activities and jobs associated with such activities that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic. Such funds must be obligated under an initial period of performance no earlier than March 1, 2021 and no later than June 30, 2023, with any unexpended funds, to the extent re-appropriated, being expended no later than the earlier of October 30, 2026 or 30 days prior to the IGA contract end date.

Pursuant to the IGA, to be eligible for a grant from the County under the IGA, a private marine transportation business must: (i) apply for or have applied for the grant from the County; (ii) have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue; (iii) provide documentation to demonstrate that the expense is not funded by any other government or private entity; (iv) demonstrate the business was actively engaged in business, and as a result of the border closures the business temporarily totally closed operations; (v) have experienced at least a significant reduction in business income or activity related to United States-Canada border closures; (vi) agree to operate in accordance with the requirements of applicable federal, state, and local public regulations including health and safety measures; (vii) demonstrate significant economic contribution of their business to the state and local economy; and (viii) be a majority United States owned entity operating a United States flag vessel registered and operated under the laws of the United States.

WHEREAS, the IGA authorizes the County to seek reimbursement from the State for eligible expenses incurred on or after March 1, 2020. Eligible expenses for grant funds under the IGA may include: (i) upgrading physical workplaces to adhere to new safety or sanitation standards; (ii) procuring required personal protective supplies for employees and business patrons and clients; (iii) updating business plans; (iv) employee costs, including payroll, training, and onboarding; (v) rent, lease, mortgage, insurance, and utility payments; (vi) securing inventory, supplies, and services for operations; and (vii) maintenance and operations costs associated with vessel operations (collectively "Reimbursements").

Pursuant to the ARPA Act, the County as a grantee may use funds awarded under ARPA to cover eligible costs incurred by it no earlier than March 3, 2021 and no later than December 31, 2024. All requests for reimbursement of eligible costs incurred between March 3, 2021 and December 31, 2024 payable from ARPA Funds must be submitted to the State by the earlier of October 30, 2026 or 30 days prior to the IGA end date.

WHEREAS, the Recipient, a Washington State private marine transportation corporation incorporated in 1952 as successor to various entities that have provided marine freight and ferry services serving the Puget Sound, Strait of Juan de Fuca, and Vancouver Island, British

Columbia areas dating back to 1902, has operated its current vessel's international ferry service between Port Angeles of Clallam County and Victoria, British Columbia, Canada since 1959. Due to the closure of the United States—Canada border as a result of the COVID-19 pandemic, this ferry service has been out of operation since March 30, 2020, resulting in the Recipient experiencing significant negative economic impacts due to this border closure. Notable facts regarding the Recipient and the negative financial impacts that closure of the United States—Canada border during the COVID pandemic experienced by the Recipient include the following:

- The Recipient, a 70% United States-owned private business, has provided ferry service between Port Angeles, Washington and Victoria, British Columbia, Canada since 1959 through its ferry vessel the MV Coho, a United States flagged vessel registered and operated under the laws of the United States;

- As the westernmost border crossing in the continental United States and one of the highest volume ports in the State of Washington with annual passenger volume of over 470,000, the MV Coho sailing to and from the Port of Port Angeles is one of the community's vital draws of tourism for the County and the State;

- In addition to providing this key ferry service, the Recipient also provides an array of other services to tourists including rentals at local hotels, ground transportation, and guided tours, as well as promotes and supports tourist participation in a wide range of activities and events including, but not limited to, the Juan de Fuca Festival, Sequim Lavender Festival, the Dungeness Crab and Seafood Festival and many other various arts and draught festivals and tours which in turn support many of the County's other small businesses and event-sponsoring nonprofit organizations and associated jobs;

- Based on a study conducted by Olympus Consulting dated 11/15/2019, an estimated 472,104 riders utilized the MV Coho in 2019, equivalent to 148,384 traveling parties who spent on average $433 into the local economy, translating into approximately $64.3 million being injected into the local economy. In addition, the Recipient pre-pandemic employed 91 people which in turn supported the direct employment of 627 people in businesses ranging from motels/hotels, restaurants and bars, and retail shopping, which in turn supported another 256 people in the supply chain and general economy. In other words, every person employed by the Recipient supported employment of an estimated 9.7 additional people in the County;

- Upon the cessation of its ferry service, the Recipient lost approximately 99% of its operational revenue for over 19 months as of the date of this Agreement;

- Due to this loss of revenue, the Recipient was forced to furlough much of its staff shortly after ferry service was suspended. While subsequent PPP loan funding enabled the Recipient to bring back its full-time permanent staff in May and June 2020 and again in March, April and May 2021, most staff remained furloughed the remainder of the time since the suspension of ferry service. Since the furloughs began, the Recipient continued to pay the medical benefits of all of its furloughed staff;

- In addition to the severe economic impact caused by the loss of substantially all operating revenue, the Recipient continued to incur significant operating costs relating to employing a minimum level of staff needed to carry out necessary maintenance and administrative tasks, materials and supplies necessary for the upkeep of the vessel, shoreside facilities and IT infrastructure, as well as insurance costs, utilities and other miscellaneous administrative costs;

- Between March 2020 and August 2021, the Recipient incurred approximately $8.0 million of operating expenditures, of which the Recipient was able to secure funding through PPP forgivable loans totaling approximately $2.0 million and CARES Lifeboat 2 grant funding provided by the County of $0.5 million to partially cover such costs, leaving approximately $5.5 million of costs for which the Recipient had to rely on its reserves and available borrowings under the $0.4 million non-forgivable portion of its first PPP loan and a $6 million Main Street loan to fund;

- The Recipient also has secured CERTS grants totaling $4.012 million as well as a commitment of $0.5 million of ARPA funds from the City of Port Angeles which it intends to fund payroll, benefits and other operating costs incurred beginning in September 2021. Despite this additional funding, the Recipient estimates a monthly operating expense funding gap of approximately $250,000 will continue until ferry service operations and revenues return to pre-COVID levels;

- Although the United States-Canada border is slated to reopen in November 2021, heavy COVID mitigation safety and testing protocols enacted by the Canadian government will likely render profitable operation of the Recipient's ferry service unachievable. These strict and costly COVID protocols will likely deter most United States-originating passengers from traveling via this ferry service until such restrictions are significantly eased, resulting in passenger traffic levels not being sufficient to operate the ferry service profitably and worsening the Recipient's already precarious financial position;

- As a result of these negative economic impacts, the Recipient applied for ARPA Funds available under the IGA on September 29, 2021.

WHEREAS, the County believes the provision of economic support to the Recipient is necessary and appropriate given the Recipient's critical role as a key employer and vital component of the tourism industry responsible for over $64 million of economic activity in Clallam County, and given the severe financial impact that the United States-Canada border closure during the COVID-19 pandemic has had on the marine transportation operations and financial condition of the Recipient. The County believes that this provision of such economic support represents an eligible use of ARPA Funds as outlined previously and in accordance with the allowed usage of funds outlined in the IGA;

WHEREAS, the County and Recipient desire to enter into this Agreement so that the County may seek ARPA Funds for appropriate and qualifying Reimbursements of grant funds reimbursed to the Recipient by the County for provision of economic support as 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 June 30, 2023, unless extended through grant reappropriation as outlined in the terms of the IGA or terminated by the County in writing.

2. ARPA Funds. The County agrees to provide the Recipient a total sum not to exceed $4,950,000 on a reimbursement basis for eligible costs incurred during the period of March 1, 2020 through June 30, 2023 based on eligibility criteria outlined in Attachment D.

3. Reimbursement Request Support. To facilitate release of ARPA funding to the Recipient and the County's seeking reimbursement of ARPA funding under the IGA, 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, payroll records, 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. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon written prior notice to the Recipient.

5. 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.

6. 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.

7. 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.

8. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction. By signing this Agreement, the Recipient certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any Federal department or agency.

9. 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 six (6) 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.

10. 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
Black Ball Transport, Inc
Attn: David Booth, Chief Financial Officer
820 NE 45th Street, Suite 3
Seattle, WA 98105

Clallam County
Attn: Mark Lane, Chief Financial Officer
223 E 4th St, Suite 4
Port Angeles, WA 98362-3015

11. 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.

12. 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.

13. Time. Time is of the essence in this Agreement.

14. 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.

15. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.

16. 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.

17. 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.

18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

19. 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.

20. 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.

21. 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 the State or 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.

22. 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.

23. 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.

24. 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 8th day of November, 2021.

RECIPIENT

By: _____

Print Name: David Booth

Its: Chief Financial Officer

DATED this _____ day of _____, 2021.

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 WASHINGTON STATE DEPARTMENT OF COMMERCE AND
CLALLAM COUNTY

ATTACHMENT B

U.S. DEPARTMENT OF TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
INTERIM FINAL RULE
DATED 5-17-2021

ATTACHMENT C

U.S. DEPARTMENT OF TREASURY
COMPLIANCE AND REPORTING GUIDANCE FOR CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
DATED 6-17-2021

ATTACHMENT D

SCOPE OF WORK

The Board of Commissioners is directing up to $4,950,000 to be disbursed to the Recipient 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 available through the IGA to reimburse eligible operating expenses incurred by the Recipient.

The Recipient as an applicant to this grant and costs it incurred for which reimbursement is requested under this grant must meet the following eligibility criteria outlined below:

1. Applicant Eligibility Criteria

To be eligible for ARPA Funds under this Agreement, the Recipient must:

- Apply for or have applied for the grant from the County;
- Demonstrate the business was actively engaged in business, and as a result of the border closures the business temporarily totally closed operations;
- Have experienced at least a significant reduction in business income or activity related to United States-Canada border closures;
- Agree to operate in accordance with the requirements of applicable federal, state, and local public regulations including health and safety measures;
- Demonstrate significant economic contribution of their business to the state and local economy; and
- Be a majority United States owned entity operating a United States flag vessel registered and operated under the laws of the United States.

2. Eligible Costs

Funds will be available to reimburse eligible operating costs incurred by the Recipient from March 1, 2020 thru June 30, 2023.

These costs may include:

- Upgrading physical workplaces to adhere to new safety or sanitation standards;
- Procuring required personal protective supplies for employees and business patrons and clients;
- Updating business plans;
- Employee costs, including payroll, training, and onboarding;
- Rent, lease, mortgage, insurance, and utility payments;
- Securing inventory, supplies, and services for operations; and

- Maintenance and operations costs associated with vessel operations.

Such costs must be necessary to continue business operations and cannot represent a federal, state, or local tax, fee, license, or other governmental revenue. In addition, the Recipient must demonstrate that such costs were not funded by any other government or private entity (i.e. no submission of costs that have been previously reimbursed are permitted under this Agreement).

3. Program Funding and Award Amount

The County shall make $4,950,000 of ARPA funds available under the IGA that will be paid to the Recipient on a reimbursement basis.

All funds are to be disbursed no later than June 30, 2023, unless otherwise extended through reappropriation under the IGA to the earlier of October 30, 2026 or 30 days prior to the IGA contract end date.

4. 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, payroll records, 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 shall ensure the eligibility of the expenditures consistent with the application requirements prior to payment.

Washington State Department of Commerce

Interagency Agreement with

Clallam County

through

America Rescue Plan Act, State and Local Fiscal Recovery Funds

For

Clallam County Marine Transport

Start date: July 1, 2021

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FACE SHEET

Contract Number: 22-62420-00

Washington State Department of Commerce
Local Government Division
Community Assistance & Research Unit
ARPA State and Local Fiscal Recovery Funds Grant

1. Grantee Clallam County 223 E 4th St, Ste. 4 Port Angeles, WA 98362	**2. Grantee Doing Business As (optional)** same
3. Grantee Representative Mark Lane Chief Financial Officer 360-417-2383 mlane@co.clallam.wa.us	**4. COMMERCE Representative** Connie Rivera CAR-ARPA Section Manager 360-704-9535 Connie.rivera@commerce.wa.gov PO Box 42525 1011 Plum Street SE Olympia, WA 98504-2525

5. Contract Amount	6. Funding Source	7. Start Date	8. End Date
$4,950,000	Federal: ☒ State: ☐ Other: ☐ N/A: ☐	July 1, 2021	June 30, 2023

9. Federal Funds (as applicable)	Federal Agency:	CFDA Number:	Indirect Rate (if applicable):
$4,950,000	US Dept. Treasury	21.027	

10. Tax ID #	11. SWV #	12. UBI #	13. DUNS #
XXXXXX	SWV000200-16	254-004-559	075739235

14. Contract Purpose

Grant funds to Clallam county to support the preservation of private marine transportation activities and jobs associated with such activities that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic.

15. Signing Statement

COMMERCE, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and Attachments and have executed this Grant on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Grant are governed by this Grant and the following documents hereby incorporated by reference: Attachment "A" – Scope of Work – Budget.

FOR GRANTEE

Mark Ozias, Chairman, Board of Clallam County Commissioners

11/9/21
Date

APPROVED AS TO FORM ONLY

~~Elizabeth Stanley~~ Bee Boughton, Chief Civil Deputy Prosecuting Attorney

11/1/2021
Date

FOR COMMERCE

Mark Barkley, Assistant Director, Local Government Division

Date

APPROVED AS TO FORM ONLY

Sandra Adix
Assistant Attorney General

10/15/2021
Date

DECLARATIONS

CLIENT INFORMATION

GRANTEE Name:	**Clallam County**
Grant Number:	**22-62420-001**

PROJECT INFORMATION

Project Name:	**Clallam County Marine Transport**
Project City:	**Port Angeles**
Project State:	Washington
Project Zip Code:	**98362**

GRANT INFORMATION

Grant Amount:	**$ 4,950,000**
Appropriation Number:	**ESSB 5092, Section 129 (125)**
Re-appropriation Number (if applicable):	
Grant End Date:	June 30, 2023, if funds are not re-appropriated. Grant End Date may be extended **contingent on reappropriation**
Biennium:	2021-2023
Biennium Close Date:	June 30, 2023
Earliest Date for Reimbursement:	**March 3, 2021**
Time of Performance:	in accordance with Special Terms and Conditions No. 4

FUNDING INFORMATION

Federal Funding:	Sec. 602 Coronavirus State Fiscal Recovery Funds of Title VI of Social Security Act as added by American Rescue Plan Act of 2021 (ARPA or "Act"), Title IX, Subtitle M, Sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 et seq.
Federal Awarding Agency:	US Department of Treasury
Amount of Federal Funds Obligated by this Action:	$ 4,950,000

ADDITIONAL SPECIAL TERMS AND CONDITIONS GOVERNING THIS AGREEMENT

Extension of Grant Upon Reappropriation.

Notwithstanding Special Terms and Conditions No. 4, the End Date of this Grant **may be extended upon written notice to Grantee from Commerce** for a period of time consistent with the effective date of any re-appropriation of funds, and/or with terms reflecting new Federal requirements for ARPA funds, if any. In Commerce's sole discretion, after review of any funding re-appropriation terms and applicable Federal law or guidance, a contract amendment in accordance with Special Terms and Conditions No. 4 may be required to extend the End Date.

SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS

1. AUTHORITY

COMMERCE and Grantee enter into this Grant pursuant to the authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW. Funding for this Grant has been provided in the 2021-2023 biennial state Operating Budget, ESSB 5092, pursuant to Federal grants to Washington State under the American Rescue Plan Act of 2021 (ARPA or "Act"), sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 et seq. The parties anticipate that funding under this Grant that is unexpended in the 2021-23 state biennium may be re-appropriated in future biennia, subject to Federal requirements.

2. ACKNOWLEDGMENT OF FEDERAL FUNDS

Total amount of the federal award: $4,950,000
Federal Awarding Agency: US Department of Treasury
Research & Development (R&D): award will not be used for R&D

The Grantee agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Grantee describing programs or projects funded in whole or in part with federal funds under this Grant, shall contain the following statements:

> "This project was supported by funds awarded by the US Department of the Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of the Treasury. Grant funds are administered by the America Rescue Plan Act, State and Local Fiscal Recovery Funds, Washington State Department of Commerce."

3. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

4. PERIOD OF PERFORMANCE

The initial period of performance for this award begins on the date hereof and ends on June 30, 2023. If unexpended funds under this Grant are re-appropriated, the period of performance will be extended to not later than October 30, 2026.

As set forth in Treasury's implementing regulations, Grantee may use funds awarded under ARPA to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

All requests for reimbursement of eligible costs incurred between March 3, 2021 and December 31, 2024 payable from ARPA funds must be submitted to COMMERCE by the **earlier of** October 30, 2026 or 30 days prior to the Contract End Date.

Pursuant to Federal rules, a cost shall be considered to have been incurred if the Grantee has incurred an obligation with respect to such cost by December 31, 2024.

5. COMPENSATION

COMMERCE shall pay an amount not to exceed the total contract amount listed on the contract Face Sheet for the performance of all things necessary for or incidental to the performance of work under this Grant as set forth in the Scope of Work.

6. EXPENSES

Grantee shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by COMMERCE as reimbursable. The maximum amount to be paid to the Grantee for authorized expenses shall not exceed the total contract amount listed on the contract Face Sheet.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. Grantee shall receive compensation for travel expenses at current state travel reimbursement rates.

7. INDIRECT COSTS

Grantee shall provide their indirect cost rate that has been negotiated between their entity and the federal government. If no such rate exists a de Minimis indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

8. BILLING PROCEDURES AND PAYMENT

COMMERCE shall reimburse the GRANTEE for eligible Project expenditures, up to the maximum payable under this Grant. When requesting reimbursement for expenditures made, the GRANTEE shall submit to COMMERCE a signed and completed Invoice Voucher (Form A-19), that documents capitalized Project activity performed for the billing period. The GRANTEE can submit all Invoice Vouchers and any required documentation electronically through COMMERCE's Grants Management System (CMS), which is available through the Secure Access Washington (SAW) portal.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Grant Number listed on the contract Face Sheet. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of $50.00 or more in order to receive reimbursement.

Each request for payment must be accompanied by a Project Status Report, which describes, in narrative form, the progress made on the Project since the last invoice was submitted, as well as a report of Project status to date. COMMERCE will not release payment for any reimbursement request received unless and until the Project Status Report is received. After approving the Invoice Voucher and Project Status Report, COMMERCE shall promptly remit a warrant to the GRANTEE.

COMMERCE will pay GRANTEE upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE **not more often than monthly**.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The grantee must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

9. SUBCONTRACTOR DATA COLLECTION

Grantee will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Agreement performed by subcontractors and the portion of funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

10. AUDIT

If the Grantee is a subrecipient and expends $750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:

A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.

B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to auditreview@commerce.wa.gov.

11. DEBARMENT

A. Grantee, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

ii. Have not within a three-year period preceding this Grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and

iv. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.

B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.

C. The Grantee agrees by signing this Grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.

D. The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

i. The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

ii. Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such contractor shall attach an explanation to this Grant.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

12. INSURANCE

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

13. COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS

A. Grantee 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. Grantee also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Grantee 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 Government wide 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. Government wide 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.

14. FEDERAL EXCLUSION

These terms add to the terms in Section 11 Certification Regarding Debarment, Suspension or Ineligibility and Voluntary Exclusion — Primary and Lower Tier Covered Transactions in General Terms and Conditions. The Grantee also agrees to access the Federal Exclusion List at www.sam.gov and provide Federal Exclusion documentation to Commerce and to keep a copy on file with the Grantee's project records.

15. REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

By signing this Grant, the Grantee accepts the requirements stated in 48 CFR 52.204-7 to register with the System for Award Management at the SAM website (https://www.sam.gov). To register in SAM, a valid Data Universal Numbering System (DUNS) Number is required. The Grantee is responsible for the accuracy and completeness of the data within the SAM database and for any liability resulting from the Government's reliance on inaccurate or incomplete data. The Grantee must remain registered in the SAM database after the initial registration. The Grantee is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in SAM to ensure it is current, accurate and complete. The Grantee shall provide evidence documenting registration and renewal of SAM registration to Commerce.

In the event of the Grantee's noncompliance or refusal to comply with the requirement stated above, Commerce reserves the right to suspend payment until the Grantee cures this noncompliance.

16. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work and Budget

GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS

1. DEFINITIONS

As used throughout this Grant, the following terms shall have the meaning set forth below:

A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.

B. "COMMERCE" shall mean the Department of Commerce.

C. "Grant" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any attachments, documents, or materials incorporated by reference. E-mail or facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.

D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.

E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.

F. "State" shall mean the state of Washington.

G. "Subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate contract with the Grantee. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

3. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4. ASSIGNMENT

Neither this Grant, work thereunder, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;

ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and

iii. All personal information in the possession of the Grantee that may not be disclosed under state or federal law.

B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant

whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

6. COPYRIGHT

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and any applicable federal laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers, and agents.

10. LICENSING, ACCREDITATION AND REGISTRATION

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

11. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

12. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Grantee shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

13. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may suspend or terminate the Grant under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

14. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

15. SUBCONTRACTING

The Grantee may only subcontract work contemplated under this Grant if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Grant; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Grant. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

16. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

17. TERMINATION FOR CAUSE

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

18. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

19. TERMINATION PROCEDURES

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Grantee and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

A. Stop work under the contract on the date, and to the extent specified, in the notice;

B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;

C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Grantee and in which the Authorized Representative has or may acquire an interest.

20. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

A. Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.

B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.

C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.

D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract.

All reference to the Grantee under this clause shall also include Grantee's employees, agents or Subcontractors.

21. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Scope of Work and Budget

$4,950,000 of the coronavirus state fiscal recovery fund —federal appropriation is provided solely to Clallam county to provide grant funds to support the preservation of private marine transportation activities and jobs associated with such activities that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic.

(a) To be eligible for a grant from the county the business must:

(i) Apply for or have applied for the grant from the county;
(ii) Have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue;
(iii) Provide documentation to demonstrate that the expense is not funded by any other government or private entity;
(iv) Demonstrate the business was actively engaged in business, and as a result of the border closures the business temporarily totally closed operations;
(v) Have experienced at least a significant reduction in business income or activity related to United States-Canada border closures;
(vi) Agree to operate in accordance with the requirements of applicable federal, state, and local public regulations including health and safety measures;
(vii) Demonstrate significant economic contribution of their business to the state and local economy; and
(viii) Be a majority United States owned entity operating a United States flag vessel registered and operated under the laws of the United States.

(b) Grant funds may be used only for expenses incurred on or after March 1, 2020. Eligible expenses for grant funds include:

(i) Upgrading physical workplaces to adhere to new safety or sanitation standards;
(ii) Procuring required personal protective supplies for employees and business patrons and clients;
(iii) Updating business plans;
(iv) Employee costs, including payroll, training, and onboarding;
(v) Rent, lease, mortgage, insurance, and utility payments;
(vi) Securing inventory, supplies, and services for operations; and
(vii) Maintenance and operations costs associated with vessel operations.

(c) The county must submit a report to the Department of Commerce by June 30, 2022, outlining the use of funds, specific expenditures of the grantees, and revenue and expenses of the grantees including additional government or private funds or grants received.

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

[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.councilоncj.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

[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 Rebount? (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-*

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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.*

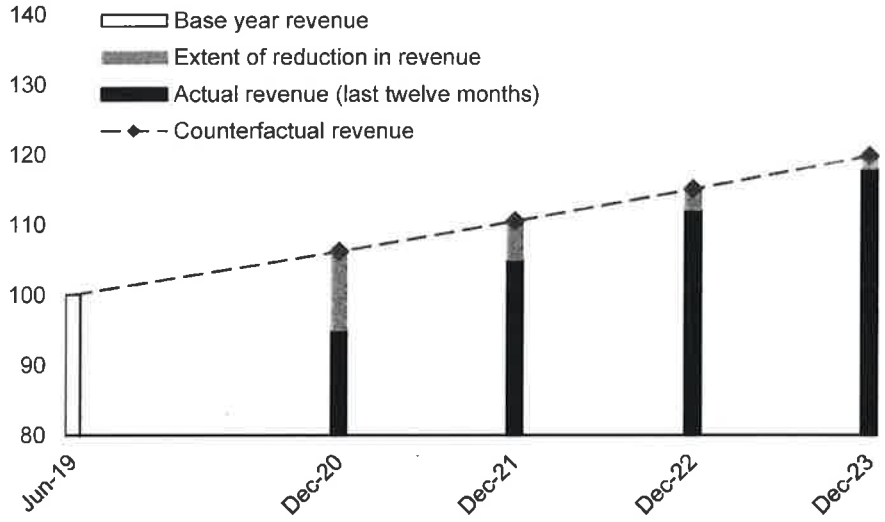
years prior to the COVID–19 public health emergency.

- *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

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 COVID–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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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
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Part 2: Reporting Requirements

This section provides information on the reporting requirements for the SLFRF program.

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B. Project and Expenditure Report..... P. 15
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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

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[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.

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11/15/21

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 11/15/21**

REGULAR AGENDA ☒ **Meeting Date: 11/15/21**

Item summary:

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

Executive summary:

Board of Clallam County Commissioners will consider adopting by Resolution the attached budget reduction on November 30, 2021
Budget reductions – a reduction in revenues and/or expenditures.

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?** ☐

Department of Community Development – Lower Dungeness Floodplain -($2,600,000)
Clerk –/($75,000)
Public Works – Roads

- ($10,100)
- 535,000)
- 1,040,000)
- 20,000)
- ($24,279)
- ($65,000)
- ($480,000)

Multiple Funds – $96,987

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve the attached notice – Budget reductions.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

Date submitted: November 9, 2021

* 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

NOTICE OF BUDGET REDUCTION

Notice is hereby given Clallam County will adopt by Resolution of the Board the budget reduction shown below on November 30, 2021 at 10 a.m. in the Commissioners' Meeting Room (160), Clallam County Courthouse.

Department of Community Development – Lower Dungeness Floodplain – Decrease Dungeness Floodplain expenditures/revenue expected in 2021/($2,600,000)
Clerk – Correction in error regarding Blake LFO settlements expense was inadvertently requested twice/($75,000)
Public Works – Roads

- Reduction related to the Growth Management Act and Franchises/($10,100)
- Revenue received is trending lower than projected/($535,000)
- Reduction related to project construction work now scheduled for 2022/($1,040,000)
- Budgeted $70,000 in 2021. $50,00 received from Lloyd J. Allen Trust. Remaining pledge of $20,000 from Peninsula Trails Coalition coming in 2022/($20,000)
- Reduction related to the Streamkeepers Program/($24,279)
- Reduction related to project engineering design work now scheduled for 2022/($65,000)
- Reduction related to project engineering design work and possible construction for 2022/($480,000)

Multiple Funds – 2020 Cost allocation plan true up/$96,987

A copy of the budget change form may be reviewed at the office of the Board of County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Date: November 15, 2021

Mark Ozias, Chair

Publish: November 21 and 28, 2021
Bill: Commissioners' Office

c: Budget Director
Department(s)
Treasurer

DRAFT

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CLALLAM CO. FINANCE
OCT 13 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 10-12-21 **Budget Hearing/Meeting Date** 11-30-21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law
__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase
X ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	30301.331 ✓	**Budget Name**	DCD Lwr Dungeness Floodplain ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
30301.331 ✓	DCD Lwr Dungeness Fldpln ✓	33403.10.3146 ✓	Lwr Dungeness Floodplain Enhancement Imp.	1,690,150
30301.331 ✓	DCD Lwr Dungeness Fldpln ✓	33315.61.4000 ✓	USFWS Lwr Dung Floodplain Reconnection	802,925
30301.331 ✓	DCD Lwr Dungeness Fldpln ✓	33403.30.0030 ✓	RCO Lwr Dungeness Floodplain Restoration	106,925
Total				2,600,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
30301.331 ✓	DCD Lwr Dungeness ✓ Floodplain	55310.41.0020 ✓	Professional Services	2,600,000
Total				2,600,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Decrease Dungeness Floodplain expenditures/revenue expected in 2021.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

Revised: C:\Users\lkennedy\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\3Z2L62FV\FBD BUDGET REDUCTION_.docx

KA

RECEIVED
CLALLAM CO. FINANCE
NOV 03 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/03/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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X ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.891 ✓	**Budget Name**	Clerk ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.891 ✓	Clerk ✓	51230.49.0190 ✓	Blake LFO Settlements	75,000
Total				75,000

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	75,000
Total				75,000

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

This Budget Reduction is to correct an error: Blake LFO Settlements expense was inadvertently requested twice. Once as a Debatable Emergency from the General Fund, then as a Supplemental Appropriation with grant funding. This Budget Reduction returns funding to the General Fund Reserves since it will now be grant funded.

County Official Approval: N. Bothen

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

11/05/2021

Date Submitted: ~~11.0.21~~ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

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_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	34585.00.0010 ✓	Growth Management Act	$1,600 ✓
10101.611 ✓	PW – Roads ✓	34589.00.0010 ✓	Franchise Planning Fees	$8,500 ✓
Total				$10,100 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	54330.41.7777 ✓	Other Services and Charges	$10,100 ✓
Total				$10,100 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Revenue and expenditure reduction related to the Growth Management Act and Franchises, which we no longer administer.

County Official Approval: R Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11.05.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.
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_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT	
10101.611 ✓	PW – Roads ✓	31740.00.0000 ✓	Timber Excise Tax	$200,000	✓
10101.611 ✓	PW – Roads ✓	33600.89.0000 ✓	Motor Vehicle Fuel Tax	$225,000	✓
10101.611 ✓	PW – Roads ✓	36250.00.0000 ✓	DNR Other Than Timber	$10,000	✓
10101.611 ✓	PW – Roads ✓	39510.00.0030 ✓	Sale of County Timber	$100,000	✓
Total				$535,000	✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT	
10101.611 ✓	PW – Roads ✓	54290.41.7777 ✓	Other Services and Charges	$535,000	✓
Total				$535,000	✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Revenue received is trending lower than projected.

County Official Approval: R Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

Revised: C:\Users\hsteeby\Desktop\BUDGET CHANGE\10101 BR 11.05 TIMBER EXCISE TAX.docx

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CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11.04.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
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_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	33320.20.5004 ✓	WSDOT Clallam Sough Bridge Replacement	$340,000 ✓
10101.611 ✓	PW – Roads ✓	33403.70.1601 ✓	Dry Creek Rd. Safety Improvement	$700,000 ✓
Total				$1,040,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	59530.63.7777	PW Capital Other Improvements	$1,040,000 ✓
Total				$1,040,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Revenue and expenditure reduction related to project construction work now scheduled to occur in 2022.

County Official Approval: R Taylor
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

RECEIVED
CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: ~~11.0.21~~ 11/05/2021 **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
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_X_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION Other	AMOUNT
10101.611 ✓	PW – Roads ✓	36719.00.0000 ✓	Prviate Contributions/Donations	$20,000 ✓
Total				$20,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	59520.61.7777 ✓	Capital Land	$20,000 ✓
Total				$20,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Budgeted $70,000 for 2021. Will be receiving $50,000 from the Lloyd J. Allen Trust in November. The remaining pledge of $20,000 from the Peninsula Trails Coalition will not be coming in until 2022.

County Official Approval: R. Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

160

CLALLAM COUNTY BUDGET CHANGE FORM

RECEIVED
CLALLAM CO. FINANCE
NOV 05 2021

Date Submitted: 11.04.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
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_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	34511.00.0010 ✓	Soil and Water Conservation Services	$24,279 ✓
Total				$24,279 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME ✓	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads	55310.41.7777	Other Services and Charges	$24,279 ✓
Total				$24,279 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Revenue and expenditure reduction related to the Streamkeepers Program, which we no longer administer.

County Official Approval: N Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

159

RECEIVED
CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11.04.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
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_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	33320.20.5000 ✓	WSDOT ODT Forks Calawah Rvr Pk – A Road	$65,000 ✓
Total				$65,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	59510.41.7777 ✓	Other Services and Charges	$65,000 ✓
Total				$65,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:
Revenue and expenditure reduction related to project engineering design work now scheduled to occur in 2022.

County Official Approval: R Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

158

RECEIVED
CLALLAM CO. FINANCE
NOV 05 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11.04.21 ✓ **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds
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_x_ ✓ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	Public Works – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	33403.70.1610 ✓	CRAB Rural Arterial Program	$480,000 ✓
Total				$480,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	59510.41.7777 ✓	Other Services and Charges	$480,000 ✓
Total				$480,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Revenue and expenditure reduction related to project engineering design work and possible construction now scheduled to occur in 2022.

County Official Approval: N. Tyler
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

157

Revised: C:\Users\hsteeby\Desktop\BUDGET CHANGE\10101 BR 11.04 ODT CRAB RAP.docx

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/04/2021 **Budget Hearing/Meeting Date:** 11/30/2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

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X **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.		**Budget Name**	Multiple Funds

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11008.811	Sheriff – OPNET Drug	52123.99.0010	Indirect Cost Charges	13,290
11068.811	Sheriff – Operation Stonegarden	52120.99.0010	Indirect Cost Charges	4,792
11322.511	HHS – Homeless Task Force	56540.99.0010	Indirect Cost Charges	12,561
11331.511	HHS – Developmental Dis	56800.99.0010	Indirect Cost Charges	3,437
11701.841	Pros Att – Local Crime Victim	51570.99.0010	Indirect Cost Charges	926
12241.231	Treasurer – Land Assessment	51422.99.0010	Indirect Cost Charges	48
13051.381	Noxious Weed – LMD#2	55360.99.0010	Indirect Cost Charges	98
10101.611	PW – Roads	51820.99.0010	Indirect Cost Charges	21,158
50301.611	PW – ER&R	54820.99.0010	Indirect Cost Charges	26,560
50401.461	HR – Risk Management	51960.99.0010	Indirect Cost Charges	7,583
50701.461	HR Unemployment Comp	51771.99.0010	Indirect Cost Charges	504
41401.611	PW C/B Sekiu Sewer	53510.99.0010	Indirect Cost Charges	4.461
42401.611	PW – Carlsborg Sewer	53510.99.0010	Indirect Cost Charges	1,569
Total				96,987

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
	Multiple Funds	50800.00.0000	Ending Fund Balance	96,987
Total				96,987

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

2020 Cost Allocation Plan true up.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

154

2C
11/15/21

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 11/15/21**

REGULAR AGENDA ☒ **Meeting Date: 11/15/21**

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract #

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☒ Other - Notice

Executive summary:
Board of Clallam County Commissioner will consider adopting by Resolution the attached supplemental appropriations on November 30, 2021
Supplemental appropriations – increased expenditures due to unanticipated federal, state, and local funds.

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?** ☐

HHS EH - $42,500
HHS Operations - $196,299
Non Departmental American Rescue Plan Act (ARPA) - $4,950,000
Non-Departmental Hotel/Motel - $650,000
Sheriff's Operation - $19,111

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve the attached notice of supplemental appropriations.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

Date submitted: November 9, 2021

NOTICE OF SUPPLEMENTAL APPROPRIATIONS BUDGET MEETING

Notice is hereby given Clallam County will adopt by Resolution of the Board, the supplemental budget appropriations in the following funds pursuant to RCW 36.40.100, at 10 a.m. on November 30, 2021 in the Commissioners' Meeting Room (160) of the Clallam County Courthouse.

Health and Human Services – Environmental Health – adding funding for emergency preparedness and the onsite services/$42,500
Health and Human Services – Operations – adding funding for COVID-19 vaccination services, Opioid Prevention services, women, infant and children program services (WIC) and Maternal Child Health Services (MCH)/$196,299
Non-Departmental- American Rescue Plan Act (ARPA) – Additional ARPA funding to be used to support the preservation of private marine transportation activities and jobs/$4,950,000
Non-Departmental – Hotel/Motel Tax – Additional Hotel/Motel Tax funding that was not expected when preparing the 2021 budget/$650,000
Sheriff's – Operations – Hours worked to maintain the public safety radio network/$19,111

Copies of the budget change forms may be viewed at the office of the Board of Clallam County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Date: 15 November 2021

Mark Ozias, Chair

Publish: November 21 and 28
Bill: Commissioners

c: Budget Director
Treasurer
Department(s)

DRAFT

RECEIVED
CLALLAM CO. FINANCE
OCT 07 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: Oct 7, 2021 ✓ **Budget Hearing/Meeting Date:** Nov 30, 2021 ✓

_X_✓ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.511 ✓	**Budget Name**	HHS – Environmental Health ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.511 ✓	HHS Env. Health ✓	33393.06.0000 ✓	PHRPR LHJ Funding	20,000
00100.511 ✓	HHS Env. Health ✓	33404.93.0040 ✓	On-site Implementation Con Con	22,500
Total				42,500 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.511 ✓	HHS Env. Health ✓	56254.31.0010 ✓	Office Supplies	1,000
00100.511 ✓	HHS Env. Health ✓	56254.31.0020 ✓	Operating Supplies	1,000
00100.293 ✓	General Fund ✓ Reserves	50800.00.0000 ✓	Ending Fund Balance	40,500
Total				42,500 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Department of Health Consolidated Contract #23 is adding funding for Emergency Preparedness and the Onsite services.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

142

RECEIVED
CLALLAM CO. FINANCE
OCT 11 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: ~~10/8/21~~ 10/11/2021 **Budget Hearing/Meeting Date:** 11/30/21

_X_ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	11301.511	**Budget Name**	HHS Operations

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11301.511	HHS OPS	33310.55.0010	WIC	6,956
11301.511	HHS OPS	33310.57.0010	WIC Farmers Market	570
11301.511	HHS OPS	33393.06.0000	PHEPR LHJ Funding	15,387
11301.511	HHS OPS	33393.13.6000	DOH Prescription Drug Overdose Prevention	87,000
11301.511	HHS OPS	33393.26.8015	DOH COVID-19 Vaccine Services	5,000
11301.511	HHS OPS	33393.99.0000	MCH Block Grant	16,729
11301.511	HHS OPS	33604.25.0000	DOH FPHS Services	64,657
Total				196,299

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
11301.511	HHS OPS	50800.00.0000	Ending Fund Balance	167,299
11301.511	HHS OPS	56210.10.0500	Overtime	5,000
11301.511	HHS OPS	56210.43.0010	Travel Business	1,000
11301.511	HHS OPS	56210.31.0020	Operating Supplies	20,000
11301.511	HHS OPS	56210.31.0010	Office Supplies	3,000
Total				196,299

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Department of Health Consolidated Contract amendment #23 is adding funding for Covid-19 Vaccination Services, Opioid Prevention Services, Women, Infant and Children program services (WIC), and Maternal Child Health services (MCH). The remainder of the contact amendment budget increase is already in the 2021 budget.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/01/2021 **Budget Hearing/Meeting Date:** 11/30/2021

X **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	19961.291	**Budget Name**	NonDept – American Rescue Plan Act

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19961.291	NonDept – American Rescue Plan Act	33321.02.7000	ARPA DOC Private Marine Transportation	4,950,000
Total				4,950,000

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19961.291	NonDept – American Rescue Plan Act	51420.41.0581	Black Ball Transportation, Inc.	4,950,000
Total				4,950,000

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Additional ARPA funding in the amount of $4,950,000 to be used to support the preservation of private marine transportation activities and jobs that have been directly impacted by the closure of the United States-Canada border during the COVID-19 pandemic.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 10/25/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

X ✓ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	19925.291 ✓	**Budget Name**	NonDept – Hotel/Motel Tax ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19925.291 ✓	NonDept – Hotel/Motel Tax ✓	31331.00.0030 ✓	Hotel/Motel Transient Lodging Tax	325,000
19925.291 ✓	NonDept – Hotel/Motel Tax ✓	31331.00.0040 ✓	Hotel/Motel Transient Lodging Tax Additional	325,000
Total				650,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
19925.291 ✓	NonDept – Hotel/Motel Tax ✓	50800.00.0000 ✓	Ending Fund Balance	650,000
Total				650,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Additional Hotel/Motel Tax funding that was not expected when preparing the 2021 Budget.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

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Date Submitted: 11/02/21 ✓ **Budget Hearing/Meeting Date:** 11/30/21 ✓

X ✓ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

__ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or revisions within departments

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.811 ✓	**Budget Name**	Sheriff - Operations ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.811 ✓	Sheriff -Operations ✓	34210.00.0155 ✓	OPSCAN Radio Tech Services	19,111
				19,111 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.811 ✓	Sheriff -Operations ✓	52123.10.0010 ✓	Regular Time	12,423
	Sheriff -Operations ✓	52123.20.0020 ✓	Benefits	6,688
				19,111 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

For hours worked August-October to maintain the public safety radio network that exceeded the budgeted amount.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

2d
11/15/21

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 11/15/21**

REGULAR AGENDA ☒ **Meeting Date: 11/15/21**

Item summary:

☐ Call for Hearing ☐ Contract/Agreement/MOU - Contract #

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☒ Other - Notice

Executive summary:

Board of Clallam County Commissioner will consider adopting by Resolution the attached debatable emergencies on November 30, 2021

Debatable emergency – Public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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?** ☐

Parks & Facilities – additional expenses related to the COVID-19 virus event that were paid from the Parks and Facilities budget/$13,410

Parks & Facilities – REET – Purchase of a 2.68 acres parcel to be added to the existing Clallam Bay West County Park/$90,555

General Funds Reserve

- Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads Funds in error (1 of 3)/$277,382
- Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads Fund in error (1 of 3)/$5,574
- 2020 cost allocation plan true up/$96,987
- 2020 cost allocation plan true up/$-212,488

Public Works – Clallam Bay Sekiu Sewer – Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$277,382

Public Works – Flood Control – Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$5,574

Public Works – Carlsborg Sewer – Monthly utility charges that were not budgeted for 2021/$15,000

Public Works – Roads

- Transfer of funding from Public Works Flood Control I order reimburse for Flood Control paid time off personnel expenses that were charged to the Public Works Roads Fund 3 of 3)/$5,574
- Transfer of funding from Clallam Bay Sekiu Sewer in order to reimburse for Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road Fund (3 of 3)/$277,382

Public Works – Roads Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (2 of 2)/$1,193,638

Public Works Equipment Rental & Revolving – Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (1 of 2)/$1,193,638

Sheriff – Jail Medical – Additional expenses related to inmate testing COVID 19/$26,100
Sheriff – Operations – Cover overtime shift costs associated with COVID 19/$13,226
Multiple Funds – 2020 cost allocation plan true up/$212,488

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?) Approve the attached notice of debatable emergencies.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: All Departments

Date submitted: November 15, 2021

BUDGET RESOLUTION _____, 2021

CALL FOR HEARING FOR DEBATABLE EMERGENCIES IN THE FUNDS LISTED BELOW

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. Pursuant to RCW 36.40.140, the following facts constitute a public emergency that could not reasonably have been foreseen at the time of making the budget:

Parks & Facilities – additional expenses related to the COVID-19 virus event that were paid from the Parks and Facilities budget/$13,410
Parks & Facilities – REET – Purchase of a 2.68 acres parcel to be added to the existing Clallam Bay West County Park/$90,555
General Funds Reserve

- Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads Funds in error (1 of 3)/$277,382
- Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads Fund in error (1 of 3)/$5,574
- 2020 cost allocation plan true up/$96,987
- 2020 cost allocation plan true up/$-212,488

Public Works – Clallam Bay Sekiu Sewer – Funds to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$277,382
Public Works – Flood Control – Funds to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error (2 of 3)/$5,574
Public Works – Carlsborg Sewer – Monthly utility charges that were not budgeted for 2021/$15,000
Public Works – Roads

- Transfer of funding from Public Works Flood Control I order reimburse for Flood Control paid time off personnel expenses that were charged to the Public Works Roads Fund 3 of 3)/$5,574
- Transfer of funding from Clallam Bay Sekiu Sewer in order to reimburse for Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road Fund (3 of 3)/$277,382

Public Works – Roads Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (2 of 2)/$1,193,638
Public Works Equipment Rental & Revolving – Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road Fund (1 of 2)/$1,193,638
Sheriff – Jail Medical – Additional expenses related to inmate testing COVID 19/$26,100
Sheriff – Operations – Cover overtime shift costs associated with COVID 19/$13,226
Multiple Funds – 2020 cost allocation plan true up/$212,488

NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

1. A public hearing on the debatable emergencies listed above will be held November 30, 2021 at 10:30 a.m. in Room 160 of the Clallam County Courthouse.
2. A copy of the budget change forms may be viewed at the office of the Board of Clallam County Commissioners from 8 a.m. to 4:30 p.m., Monday through Friday.

PASSED AND ADOPTED this 15th day of November 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

_____
Bill Peach

ATTEST:

_____
Loni Gores, CMC, Clerk of the Board

Publish: November 21, 2021
Bill: Commissioners
c: Budget Director, Treasurer, Department(s)

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OCT 15 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: October 15, 2021 **Budget Hearing/Meeting Date:** November 30, 2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.911.	**Budget Name**	Parks & Facilities

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Reserves	50800.00.0000	Ending Fund Balance	$ 13,410
Total				$ 13,410

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.911.	Parks & Facilities	57680.31.0035	Cleaning and Sanitation Supplies	$ 3,749
00100.911.	Parks & Facilities	57680.31.0045	Building Supplies and Materials	$ 2,575
00100.911.	Parks & Facilities	57680.41.1030	Personnel Services	$ 7,086
Total				$ 13,410

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

To pay for additional expenses related to the Covid 19 virus event in Clallam County that were paid from the Parks and Facilities budget in 2021. This is to cover the goods and services expenditures incurred in October 2021, and are expected to be reimbursed through FEMA reimbursements.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

KAS

RECEIVED
CLALLAM CO. FINANCE
NOV 08 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: November 8, 2021 **Budget Hearing/Meeting Date:** November 30, 2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	30101.911.	**Budget Name**	Parks and Facilities - REET

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
30101.911	Parks and Facilities - REET	50800.00.0000	Ending Fund Balance	$90,555
Total				$90,555

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
30101.911	Parks and Facilities - REET	59419.61.1013	Clallam Bay Land Acquisition	$90,555
Total				$90,555

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

For the purchase of 2.68 acres parcel to be added to the existing Clallam Bay West County Park 8.64 acres to increase public access to saltwater beaches, as approved by the Clallam County Board of Commissioners.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

— **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

— **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

— **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

— **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.293 ✓	**Budget Name**	General Funds Reserves ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	277,382
Total				277,382

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	59735.00.0015 ✓	Transfer to Clallam Bay Sekiu Sewer	277,382
Total				277,382 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from General Fund Reserves to Clallam Bay Sekiu Sewer in order to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (1 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

— **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

— **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

— **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

— **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.293 ✓	**Budget Name**	General Funds Reserve ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	5,574
Total				5,574 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	59768.00.0000 ✓	Transfer to PW – Flood Control	5,574
Total				5,574 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from General Fund Reserves to PW-Flood Control in order to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error in 2020. (1 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 **Budget Hearing/Meeting Date:** 11/30/2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.293	**Budget Name**	General Fund Reserves

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Reserves	50800.00.0000	Ending Fund Balance	96,987
Total				96,987

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Res.	51890.49.0501	Indirect Costs-Roads	21,158
00100.293	General Fund Res.	51890.49.0504	Indirect Costs-OPNET Drug	13,290
00100.293	General Fund Res.	51890.49.0507	Indirect Costs-Operation Stonegarden	4,792
00100.293	General Fund Res.	51890.49.0510	Indirect Costs-Homeless Task Force	12,561
00100.293	General Fund Res.	51890.49.0512	Indirect Costs-Dev. Disabilities	3,437
00100.293	General Fund Res.	51890.49.0514	Indirect Costs-Crime Victim Comp Local	926
00100.293	General Fund Res.	51890.49.0517	Indirect Costs-Land Assessment	48
00100.293	General Fund Res.	51890.49.0520	Indirect Costs-LMD#2 Lake Sutherland	98
00100.293	General Fund Res.	51890.49.0526	Indirect Costs-Clallam Bay Sekiu Sewer	4,461
00100.293	General Fund Res.	51890.49.0527	Indirect Costs-Carlsborg Sewer	1,569
00100.293	General Fund Res.	51890.49.0528	Indirect Costs-ER&R	26,560
00100.293	General Fund Res.	51890.49.0529	Indirect Costs-Risk Management	7,583
00100.293	General Fund Res.	51890.49.0531	Indirect Costs-Unemployment Comp.	504
Total				96,987

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

2020 Cost Allocation Plan true up.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 **Budget Hearing/Meeting Date:** 11/30/2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.293	**Budget Name**	General Fund Reserves

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Reserves	50800.00.0000	Ending Fund Balance	-212,488
Total				-212,488

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293	General Fund Res.	51890.49.0502	Indirect Costs-Flood Control	-5,185
00100.293	General Fund Res.	51890.49.0506	Indirect Costs-OPSCAN Operations	-1,232
00100.293	General Fund Res.	51890.49.0508	Indirect Costs-24/7 Sobriety Program	-1,515
00100.293	General Fund Res.	51890.49.0509	Indirect Costs-HHS Operations	-107,325
00100.293	General Fund Res.	51890.49.0511	Indirect Costs-CD/MH	-9,052
00100.293	General Fund Res.	51890.49.0513	Indirect Costs-Law Library	-1,393
00100.293	General Fund Res.	51890.49.0516	Indirect Costs-Treasurers REET	-125
00100.293	General Fund Res.	51890.49.0518	Indirect Costs-Document Preservation	-65
00100.293	General Fund Res.	51890.49.0519	Indirect Costs-Noxious Weed Control	-1,849
00100.293	General Fund Res.	51890.49.0521	Indirect Costs-Veterans Relief	-6,250
00100.293	General Fund Res.	51890.49.0522	Indirect Costs-Opportunity Fund	-25,001
00100.293	General Fund Res.	51890.49.0524	Indirect Costs-Lwr Dung Floodplain	-26,530
00100.293	General Fund Res.	51890.49.0525	Indirect Costs-Solid Waste	-380
00100.293	General Fund Res.	51890.49.0530	Indirect Costs-Workers Compensation	-26,586
Total				-212,488

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

2020 Cost Allocation Plan true up.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

__ **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	41401.611 ✓	**Budget Name**	PW – Clallam Bay Sekiu Sewer ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
41401.611 ✓	PW – Clallam Bay Sekiu Sewer ✓	39735.00.0015 ✓	Transfer from General Fund Reserves	277,382
Total				277,382 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
41401.611 ✓	PW – Clallam Bay Sekiu Sewer ✓	59770.00.0020 ✓	Transfer to Roads	277,382
Total				277,382 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from General Fund Reserves to Clallam Bay Sekiu Sewer in order to correct Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (2 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

— **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

— **Non-debatable Emergency** – for the relief of a stricken community requiring immediate address; to meet mandatory expenditures required by law

— **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

— **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10135.611 ✓	**Budget Name**	PW – Flood Control ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10135.611 ✓	PW – Flood Control ✓	39768.00.0000 ✓	Transfer from General Fund Reserves	5,574
Total				5,574 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10135.611 ✓	PW – Flood Control ✓	59770.00.0010 ✓	Transfer to Roads	5,574
Total				5,574 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from General Fund Reserves to PW-Flood Control in order to correct Flood Control paid time off personnel expenses that were charged to the Roads fund in error in 2020. (2 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

RECEIVED
CLALLAM CO. FINANCE
OCT 25 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: ~~10.21.21~~ 10/25/2021 **Budget Hearing/Meeting Date:** 11.30.21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

_X_ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	42401.611 ✓	**Budget Name**	Public Works – Carlsborg Sewer ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
42401.611 ✓	PW – Carlsborg Sewer ✓	50800.00.0000	Ending Fund Balance	$15,000
Total				$15,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
42401.611 ✓	PW – Carlsborg Sewer ✓	53550.41.7777 ✓	Other Services and Charges	$15,000
Total				$15,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Monthly utility charges that were not budgeted for 2021.

County Official Approval: R Tyler

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/05/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

— **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

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Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	PW – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	39770.00.0010 ✓	Transfer from PW – Flood Control	5,574
Total				5,574 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	50800.00.0000	Ending Fund Balance	5,574
Total				5,574

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from PW-Flood Control in order reimburse for Flood Control paid time off personnel expenses that were charged to the PW-Roads fund in error in 2020. (3 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Revision** – transfers or reallocations between departments within the same fund, or anytime a reallocation within the same budget would authorize a new permanent position or a new capital purchase

__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	PW – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	39770.00.0020 ✓	Transfer from Clallam Bay Sekiu Sewer	277,382
Total				277,382

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	50800.00.0000	Ending Fund Balance	277,382
Total				277,382 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from Clallam Bay Sekiu Sewer in order to reimburse for Clallam Bay Sekiu Sewer paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (3 of 3)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	10101.611 ✓	**Budget Name**	PW – Roads ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	39770.00.0030 ✓	Transfer from ER&R	1,193,638
Total				1,193,638 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10101.611 ✓	PW – Roads ✓	50800.00.0000 ✓	Ending Fund Balance	1,193,638
Total				1,193,638 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (2 of 2)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/08/2021 ✓ **Budget Hearing/Meeting Date:** 11/30/2021 ✓

— **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

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— **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	50301.611 ✓	**Budget Name**	PW – Equipment Rental & Revolving ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
50301.611 ✓	PW – Equipment ✓ Rental & Revolving	50800.00.0000 ✓	Ending Fund Balance	1,193,638
Total				1,193,638

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
50301.611 ✓	PW – Equipment ✓ Rental & Revolving	59770.00.0030 ✓	Transfer to Roads	1,193,638
Total				1,193,638

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Transfer of funding from ER&R to Roads in order to correct ER&R paid time off personnel expenses that were charged to the Road fund in error from 2008 to 2020. (1 of 2)

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

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NOV 03 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/02/21 ✓ **Budget Hearing/Meeting Date:** 11/30/21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.816 ✓	**Budget Name**	Sheriff – Jail Medical ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	26,100
Total				26,100 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.816 ✓	Sheriff – Jail Medical ✓	52360.41.0086 ✓	Inmate Medical	26,100
Total				26,100 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

To pay for additional expenses related to COVID 19. This is to cover the inmate testing expenditures incurred September-October and projected for November-December 2021.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

150

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CLALLAM COUNTY BUDGET CHANGE FORM

10/29/2021

Date Submitted: ~~10/26/~~21 **Budget Hearing/Meeting Date:** 11/30/21 ✓

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X ✓ **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.	00100.811 ✓	**Budget Name**	Sheriff - Operations ✓

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.293 ✓	General Fund Reserves ✓	50800.00.0000 ✓	Ending Fund Balance	13,226
Total				13,226 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.811 ✓	Sheriff - Operations ✓	52122.10.0500 ✓	Overtime	13,226
Total				13,226 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

This is to cover overtime shift costs associated with COVID 19 during August and September 2021.

County Official Approval: _____
(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

149

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 11/04/2021 **Budget Hearing/Meeting Date:** 11/30/2021

__ **Supplemental Appropriation** – increased expenditures due to unanticipated federal, state, or local funds

X **Debatable Emergency** – public emergency other than a non-debatable emergency which could not reasonably have been foreseen at the time of making the budget, requiring the expenditure of money not provided for in the budget.

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__ **Budget Reduction** – a reduction in revenues and/or expenditures

Budget Number xxxxx.xxx.		**Budget Name**	Multiple Funds

REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
	Multiple Funds	50800.00.0000	Ending Fund Balance	212,488
Total				212,488

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
10135.611	PW - Flood Control	55310.99.0010	Indirect Cost Charges	5,185
11065.811	Sheriff – OPSCAN	52880.99.0010	Indirect Cost Charges	1,232
11070.811	Sheriff – 24/7 Sobriety Program	52130.99.0010	Indirect Cost Charges	1,515
11301.511	HHS – Operations	56210.99.0010	Indirect Cost Charges	107,325
11323.511	HHS – CD/MH	56611.99.0010	Indirect Cost Charges	9,052
11401.821	Law Library	51270.99.0010	Indirect Cost Charges	1,393
12231.231	Treasurer – REET Electronic Tech	51422.99.0010	Indirect Cost Charges	125
12401.221	Auditor – Document Pres	51489.99.0010	Indirect Cost Charges	65
13001.381	Noxious Weed Control	55360.99.0010	Indirect Cost Charges	1,849
19914.291	NonDept – Veterans Relief	56520.99.0010	Indirect Cost Charges	6,250
19941.291	NonDept - Opportunity Fund	55210.99.0010	Indirect Cost Charges	25,001
30301.331	DCD – Lwr Dungeness Floodplain	55310.99.0010	Indirect Cost Charges	26,530
40201.611	PW – Solid Waste	53780.99.0010	Indirect Cost Charges	380
50501.461	HR – Workers Comp	51768.99.0010	Indirect Cost Charges	26,586
Total				212,488

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

2020 Cost Allocation Plan true up.

County Official Approval: _____

(Obtain Budget Office Approval Prior to Submission to Clerk of the Board)

153

9
11/15/21

AGENDA ITEM SUMMARY

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

Document was submitted after the agenda and packet were posted on 9:36 11/15/21

Department: BOCC

WORK SESSION ☒ **Meeting Date: 11/15/2021**

REGULAR AGENDA ☒ **Meeting Date: 11/15/2021**

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 Clallam County Sheriff's Department, Emergency Management Division, has reported to the Board of Clallam County Commissioners that a severe weather storm that began on Thursday, November 11, 2021 has caused severe flooding, landslides, fallen trees, dangerous road conditions, power outages and impassable roads.

Requesting approval of a Resolution for Declaration of Emergency for severe weather 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?** ☐

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Requesting approval of a Resolution for Declaration of Emergency for severe weather in Clallam County.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners, Emergency Management Division

Relevant Departments: Board of Commissioners, Emergency Management Division

Date submitted: 11-15-21

* 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

RESOLUTION _____, 2021

DECLARATION OF EMERGENCY
FOR A SEVERE WEATHER IN CLALLAM COUNTY

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Clallam County Sheriff's Department, Emergency Management Division, has reported to the Board of Clallam County Commissioners that a severe weather storm that began on Thursday, November 11, 2021 has caused severe flooding, landslides, fallen trees, dangerous road conditions, power outages and impassable roads.

2. Persons and property may be damaged unless further efforts and actions are taken to reduce the threat to life and property.

3. An emergency exists necessitating activation of the Clallam County Comprehensive Emergency Management Plan, including utilization of emergency powers granted pursuant to RCW 36.40.180.

NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

1. A state of emergency is declared due to severe weather storm conditions in Clallam County.

2. The Clallam County Emergency Management Director is hereby directed to activate those portions of the Clallam County Comprehensive Emergency Management Plan necessary to combat the effects of the storm to the extent possible.

3. Designated departments are authorized to enter contracts and incur obligations in order to combat the emergency.

4. Each designated department is authorized to exercise the powers vested in this resolution in light of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements).

PASSED AND ADOPTED this 15th day of November 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, District 1

ATTEST:

_____
Randy Johnson, District 2

_____
Loni Gores, CMC, Clerk of the Board

_____
Bill Peach, District 3