AGENDA
BOARD OF CLALLAM COUNTY COMMISSIONERS
223 East 4th Street Room 160
Port Angeles, Washington
Tuesday, September 7, 2021 – 9:00 a.m.

NOTICE

Meeting Guidelines - Public Comment

****ATTENTION****
In response to the current Governors order Clallam County is now operating under the Washington Ready Plan. To be in compliance with the Washington Ready Plan and to reduce the spread of COVID the following general requirements for COVID safety for meetings held in the Board of Commissioners Board Room are as follows:

1. All attendees are encouraged to provide contact information on a sign in sheet which will be retained for 28 days for contact tracing purposes.
2. Public seating areas and Board member seating must be arranged to ensure physical distancing is maintained.
3. Meeting attendees must follow current face covering guidelines.
4. No food or drink should be consumed in the BOCC Board Room.
5. Meeting organizers shall clean or arrange to have cleaned high-touch surfaces before and after each meeting.
6. Hand sanitizing stations will be available in the BOCC Board Room.
7. Keep doors and windows open where possible to improve ventilation.
8. The Chair of the meeting shall ensure current masking and social distancing practices are enforced and practiced by all event attendees.

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.

CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

Modification - To add item 4c - item added after agenda packet was posted on 9-6-21

PUBLIC COMMENT – Please limit comments to three minutes (10 minutes total)

CONSENT AGENDA – Any Commissioner may remove items for discussion

1a. Approval of vouchers for the week of August 30

Approval of vouchers

1b. Approval of payroll for the period ending August 15

Approval of payroll

1c. Approval of minutes for the week of August 30

Approval of minutes

1d. Letter of support for Habitat for Humanity of Clallam County

Letter of support

1e. Proclamation recognizing September as Clallam County's "eat local month"

Proclamation

REPORTS AND PRESENTATIONS

CONTRACTS AND AGREEMENTS

2a. Agreement amendment with Department of Commerce for funding for placement of youth in Secure Residential Crisis Center and Ancillary Therapeutic Services

Agreement amendment

2b. Agreement amendment #21 with Department of Health for funding for testing and sampling of recreational beaches

Agreement amendment

2c. Agreement with North Olympic Regional Veteran's Housing Network for American Rescue Plan Act funds

Agreement

2d. Agreement with New Hope Food Bank for American Rescue Plan Act funds

Agreement

2e. Agreement with Aldergrove Construction, Inc. for Courthouse VAV Replacement Project

Agreement

BIDS AND AWARDS

3a. Bid opening – Carpet Replacement - Superior Court II Courtroom and Hallway Project

Bid opening

Public Comment - COVID

ADMINISTRATION

4a. Resolution appointing Julie Mowbray and Tara West to the Fair Advisory Board

Resolution

4b. Resolution appointing Kimberly Williams to the Conservation Futures Program Advisory Board

Resolution

4c. Resolution - Declaration of emergency for COVID-19 virus events in Clallam County - modified Courthouse operations

Resolution

COMMUNITY DEVELOPMENT

6a. Notice of hearing to be held Tuesday, September 21, 2021 at 10:30 a.m. for an Ordinance adding a new section within Title 27 Environment, of the Clallam County Code, Adopting Stormwater Management

Notice of hearing

6b. Notice of hearing to be held Tuesday, September 28, 2021 at 10:30 a.m. for an Ordinance amending Clallam County Code Title 33 Zoning, and adding a new section adopting standards for Recreational Vehicles, Park Models, and Camping

Notice of hearing

BUDGET

5a. Presentation of Preliminary 2022 Budget

Resolution

PUBLIC COMMENT – Please limit comments to three minutes

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 September 6 - 10

Monday, September 6:
Labor Day - Courthouse closed

Tuesday, September 7:
9:00 a.m. Work Session
10:00 a.m. Board Meeting

Thursday, September 9:
9:00 a.m. Finance Committee Meeting
1:00 p.m. Port Angeles Budget Show Presentation
4:00 p.m. KSQM Radio Show

Friday, September 10:
10:00 a.m. Emergency Management COVID Briefing

INSTRUCTIONS FOR SPEAKING AT A COMMISSIONERS' MEETING:

- Members of the public wishing to address the Board on general items may do so during the designated times on the agenda.
- Members of the public wishing to comment at the public hearing are asked to sign in on the sheet provided giving their name and address.
- The Chair may limit the comment period to 3 minutes for each speaker subject to Board concurrence.
- Speakers, generally, will be heard in the order they signed up. All comments must be made from the speaker's rostrum and any individual making comments shall first state their name and address for the official record.
- General comments, applause, booing from members of the audience are inappropriate and may result in removal.

These guidelines are intended to promote an orderly system for conducting a public hearing so that each person has an opportunity to be heard and to ensure that exercising their right of free speech embarrasses no one.

Note: 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.

Board of Clallam County Commissioners

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015
360.417.2256 Fax: 360.417.2493
E-mail: commissioners@co.clallam.wa.us

MARK OZIAS, District 1, Chair
RANDY JOHNSON, District 2
BILL PEACH, District 3

Rich Sill, County Administrator

September 3, 2021

PRESS RELEASE
For Immediate Release

On Tuesday, September 7, 2021 at 9 a.m., the Board of Clallam County Commissioners will begin their weekly Work Session which is usually held on Monday's. Monday, being Labor Day with the courthouse closed, the work session will be held right before the regular public meeting at 10 a.m.

The public comment period during the regular meeting will be adjusted so that those that wish to speak will have a chance to do so. Because of the expected number of attendees at that meeting on Tuesday, the public comment period with Dr. Berry will be held from 10:30 to 11:30 a.m. and the Board of Commissioners from 11:30 a.m. – 12:30 p.m. There will be limited occupancy, so plans will be in place for those wishing to speak to be allowed into the Commissioners meeting room through the exterior doors on the south side of the courthouse. No access to the meeting will be available through the main entrance. Controls will be in place to allow limited numbers in to the meeting room to speak. A sign-up sheet will be available outside the meeting room to indicate a person's desire to address the Commissioners. There will be audio speakers outside the courthouse so all can hear the proceedings of the meeting. The Granicus live streaming of Tuesday's meeting is available through: http://www.clallam.net/features/meetings.html

Additionally, the Clallam County Courthouse will be closed Tuesday morning and will reopen at 1 p.m. that afternoon. Regular courthouse business will not be available during this time. Those with court related matters should go to the east side of the Courthouse, commonly known as the Sheriff's Entrance. There, those needing to go to court will be given access. Signs will be posted to help.

Other steps are being taken to accommodate the expected numbers of citizens attending.

Questions and comments can be directed to the Clerk of the Board Loni Gores at agores@co.clallam.wa.us or 360-417-2256.

Loni Gores

Loni Gores, Clerk of the Board
Board of Clallam County Commissioners

MEMORANDUM

LONI GORES
Clerk of the Board

September 6, 2021

TO: Board of Commissioners, Administrator Sill

RE: Agenda Modification(s)

FILE: A14.09.18

- The following item has been added to the September 7, 2021 regular agenda:

ADMINISTRATION

4C Resolution – Declaration of emergency for COVID-19 virus events in Clallam County modified Courthouse operations

19
9/7/21

Date of report: September 1, 2021

General	**$147,782.68**
Other	**$735,328.33**
Total	**$883,111.01**

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

Aug. 30 - Sept. 3, 2021

Fund #	Department	Expenditures		Use Tax	
		General Fund	Other	General Fund	Other
00100.211	**Assessor**	678.64			
00100.221	**Auditor**	7,900.00			
00100.241/291	**Commissioners (BOCC)**	7,859.71			
19914.291	BOCC - Veterans Relief		1,199.00		
19961.291	BOCC - American Rescue Plan Act		159,903.00		
00100.331-334	**Dept. of Community Develop't (DCD)**	498.55			
30301.331	DCD - Lower Dungeness Floodplain		298.56		
11301.511	**Health & Human Services (HHS)**		91,358.58		
00100.511	HHS - Environmental Health	983.35			
11322.511	HHS - Homeless Task Force		17,758.29		
11323.511	HHS - Chem Dep/Mental Hlth		17,472.07		
11324.511	HHS - Affordable Housing		2,967.25		
00100.461	**Human Resources (HR)**	2,659.80			
50401.461	HR - Risk Management		1,243.25		
00100.411	**Information Technology (IT)**	3,456.42			
30701.411	IT - Capital Projects		85,668.79		
00100.851	**Juvenile Services**	2,340.17			
13001/13051	**Noxious Weed/LMD #2** (Lake Mgmt. Dist.)		509.37		
00100.911/912	**Parks Fair Facilities (PFF)**	11,667.13			
30101.911	PFF - REET 1 (Real Estate Excise Tax)		2,275.69		
30501.911	PFF - Capital Projects		405.13		
00100.841-843	**Prosecuting Attorney**	276.53			
	Public Works (PW)				
10101.611	PW - Roads		167,534.35		
41401.611	PW - Clallam/Sekiu Sewer		2,990.46		
42401.611	PW - Carlsborg Sewer		734.68		
50301.611	PW - ER&R (Equip't Rental & Revolving)		793.08		
00100.811-815	**Sheriff**	15,563.25		30.07	
00100.816	Sheriff - Jail Medical	2,827.53			
11061.811	Sheriff - 911 Enhanced		176,427.41		
11065.811	Sheriff - OPSCAN Operations		1,651.23		
11080.811	Sheriff - Inmate Commissary		1,051.04		17.60
00100.861	**Superior Court**	10,923.47			
00100.231	**Treasurer**	71.46			
12201.231	Treasurer - O&M (Operation & Maintenance)		3,069.50		
00100.931	**WSU Extension**	80,046.60			
	Total	**147,752.61**	**735,310.73**	**30.07**	**17.60**

Report Reconciliation		Totals			
Total	**883,063.34**	**General Fund**	**147,782.68**		
Final Check Lists	**883,063.34**	**Other**	**735,328.33**		
Difference	-	**Total**	**883,111.01**	**Use Tax**	**47.67**

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
9/1/2021	EVIDENT	182738A	jkoon	341.67	30.07	341.67
9/1/2021	SWANSONS SERVICES CORP.	1487000	jkoon	200.00	17.60	200.00
			Totals:	**541.67**	**47.67**	**541.67**

Final Check List
CLALLAM COUNTY

Assessor

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000360	CLALLAM COUNTY ER&R	2021.220E	8/26/2021	VEHICLE RENTAL FOR AUG	634.44	634.44
	9/7/2021	0028699	SOUND PUBLISHING INC	PDN 8-2021	8/26/2021	PDN SUBSCRIPTION	44.20	44.20
						Sub total for U S BANK:		678.64

0.*
678.64+
7,900.00+
167,762.71+
797.11+
130,539.54+
1,265.00+
2,638.05+
89,125.21+
2,340.17+
509.37+
14,347.95+
276.53+
793.08+
167,534.35+
3,725.14+
194,692.93+
2,827.53+
10,923.47+
3,140.96+
1,199.00+
80,046.60+
883,063.34*
0.*

Final Check List
CLALLAM COUNTY

Auditor

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0019068	K & H PRINTERS INC	262300	8/24/2021	ESTIMATED POSTAGE FOR 2	7,900.00	7,900.00
						Sub total for U S BANK:		7,900.00

Final Check List
CLALLAM COUNTY

BOCC

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0001113	OFFICE DEPOT, INC	188727703001	8/26/2021	PAPER	76.14	
				188729752001	8/26/2021	HAND SOAP	33.84	
				188729751001	8/26/2021	BLUE HIGHLIGHTER	8.42	118.40
	9/7/2021	0002534	STATE AUDITOR'S OFFICE	L143551	8/26/2021	ANNUAL AUDIT FEE	6,390.15	6,390.15
	9/7/2021	0020442	HABITAT FOR HUMANITY, OF	ARPA 19961.21.(	8/26/2021	ARPA FUNDING FOR AFFORE	100,000.00	100,000.00
	9/7/2021	0020849	U S BANK	amazon 6/24/20:	8/26/2021	SHELF LINERS	66.16	66.16
	9/7/2021	0027395	NORTH OLYMPIC REGIONAL \	ARPA 19961.21.(	8/26/2021	ARPA FUNDING FOR HOMELE	59,903.00	59,903.00
	9/7/2021	0045432	CBG COMMUNICATIONS, INC	162-072021	8/26/2021	SERVICES PER CONTRACT #	1,285.00	1,285.00
						Sub total for U S BANK:		167,762.71

Final Check List
CLALLAM COUNTY

DCD

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000546	EXPRESS SERVICES, INC	25849062	8/10/2021	2851 BURKHARDT 8-8-21	300.40	300.40
	9/7/2021	0001113	OFFICE DEPOT, INC	189435374001	8/18/2021	ADMIN OFFICE SUPPLIES	85.51	
				188224580001	8/12/2021	ADMIN OFFICE SUPPLIES	60.48	145.99
	9/7/2021	0001641	VERIZON WIRELESS	9884859431	7/24/2021	G146 TASK 1 $105.80 | CE $52	157.96	157.96
	9/7/2021	0028699	SOUND PUBLISHING INC	8032701 2ND O	7/31/2021	G146 TASK 1 ADVERTISING	192.76	192.76
						Sub total for U S BANK:		797.11

Final Check List
CLALLAM COUNTY

HHS

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
9882706	9/7/2021	0000769	IDEXX DISTRIBUTION INC	3090145317	8/10/2021	WLAB-LAB SUPPLIES	957.14	
				3090226577	8/11/2021	WLAB-LAB SUPPLIES	13.21	970.35
	9/7/2021	0045701	PIOTROWSKI, MICHAEL	REFUND-08052	8/5/2021	OSS-SOILS PERMIT REFUND	13.00	13.00
	9/7/2021	0000196	BILLS PLUMBING & SANIKAN	IS3609321	8/20/2021	HOPS-SDC SANIKAN	100.00	100.00
	9/7/2021	0041955	BRAILEY, KARLENA	Mileage081921	8/19/2021	HOPS-MILEAGE, COVID/VACC	78.96	78.96
	9/7/2021	0000546	EXPRESS SERVICES, INC	25849073	8/10/2021	HOPS-FLOW MONITOR	1,132.25	1,132.25
	9/7/2021	0000742	HOCH CONSTRUCTION	HCI082521	8/25/2021	HOPS-SHELTER EXPANSION	55,981.42	
				HCI082521-2	8/25/2021	HOPS-SHELTER EXPANSION	28,989.26	84,970.68
	9/7/2021	0041605	HOME DEPOT PRO	632371480	8/2/2021	HOPS-SDC PAPER CUPS	143.89	143.89
	9/7/2021	0021279	KITSAP COUNTY HEALTH DIS	632371480	8/2/2021	HOPS-EPIDEMIOLOGY SERVI	52.50	52.50
	9/7/2021	0040427	NORPOINT GROUP LLC	1198 NPG	8/22/2021	HOPS-SDC SECURITY	4,690.00	4,690.00
	9/7/2021	0028699	SOUND PUBLISHING INC	PDN934711	8/8/2021	HOPS-BOH PUBLIC HEARING	190.30	190.30
	9/7/2021	0000396	CONCERNED CITIZENS	11322-21-CC 7-2	8/6/2021	HTF - A FOOT FORWARD-SNI	2,447.91	2,447.91
	9/7/2021	0000723	HEALTHY FAMILIES OF CLALL	11322-21-HFCC	8/9/2021	HTF - SAFELY HOME PROJEC	1,959.46	1,959.46
	9/7/2021	0001433	SERENITY HOUSE OF CLALLA	11322-21-SHSO	8/11/2021	HTF - SHELTER FUNDING FO	9,423.00	
				11322-21-SHCM	8/11/2021	HTF - FAMILY SHELTER CASE	1,919.00	11,342.00
	9/7/2021	0026762	THE ANSWER FOR YOUTH	11322-21-BTG 7	8/17/2021	HTF - BRIDGING THE GAP 10	2,008.92	2,008.92
	9/7/2021	0000577	FIRST STEP FAMILY SUPPOR	11323-21-FSFSC	8/17/2021	CD/MH - PARENTS AS TEACH	12,423.08	12,423.08
	9/7/2021	0021279	KITSAP COUNTY HEALTH DIS	KPHD 8-12-21 2	8/12/2021	CD/MH - CD/MH SERVICES -	2,540.00	2,540.00
	9/7/2021	0001139	OLYMPIC PERSONAL GROWT	11323-21-OPGC	8/11/2021	CD/MH - FILLING THE GAP - J	1,225.00	1,225.00
	9/7/2021	0001763	WEST END OUTREACH	11323-21-WEO	8/12/2021	CD/MH - BEHAVIORAL HEALT	1,283.99	1,283.99
	9/7/2021	0000723	HEALTHY FAMILIES OF CLALL	11324-21-HFCC	8/5/2021	AH - EMERGENCY HOUSING	2,967.25	2,967.25
						Sub total for U S BANK:		130,539.54

Final Check List
CLALLAM COUNTY

HR

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0001113	OFFICE DEPOT, INC	187113728002	8/26/2021	INVOICE 18711372002	21.75	21.75
	9/7/2021	0001136	OLYMPIC MEDICAL CENTER	9712053968430	8/26/2021	97120539684301	725.75	725.75
	9/7/2021	0034245	CASTLE BRANCH INC	0795694-IN	8/26/2021	INVOICE 0795694-IN CUST 01	517.50	517.50
						Sub total for U S BANK:		1,265.00

Final Check List
CLALLAM COUNTY

HR LEOFF

Bank : apbank U S BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0002042	LEOFF AUG 21 I	8/26/2021	LEOFF AUG 21 RC	304.06	304.06
	9/7/2021	0022748	LEOFF AUG 21 I	8/26/2021	LEOFF AUG 21 FD	148.50	148.50
	9/7/2021	0000522	LEOFF AUG 21 I	8/26/2021	LEOFF AUG 21 DE	148.50	148.50
	9/7/2021	0002036	LEOFF AUG 21 I	8/26/2021	LEOFF AUG 21 DL	438.37	438.37
	9/7/2021	0002038	LEOFF AUG 21 I	8/26/2021	LEOFF AUG 21 DR	421.40	421.40
	9/7/2021	0002041	LEOFF AUG 21 I	8/26/2021	LEOFF AUG 21 DS	1,028.72	1,028.72
	9/7/2021	0002047	LEOFF AUG 21 I	8/26/2021	LEOFF AUG 21 RS	148.50	148.50
					Sub total for U S BANK:		2,638.05

redacted

Final Check List
CLALLAM COUNTY

IT

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000084	ANGELES COMMUNICATIONS	33826	8/26/2021	IT20210728 INSTALL LOBBY F	239.36	239.36
	9/7/2021	0000663	GLOBAL KNOWLEDGE TRNG	22183353	8/27/2021	IT20210709A - TRAINING COM	1,516.67	1,516.67
	9/7/2021	0001156	OLYPEN INC	210525-0030	8/26/2021	CLALLAM DIA	80.00	80.00
	9/7/2021	0001179	PACIFIC OFFICE EQUIPMENT	1084402	8/26/2021	COPY COUNTS BOCC	353.24	
				1084403	8/26/2021	COPY COUNTS - I.T. DEPT	111.80	
				1084404	8/26/2021	COPY COUNTS - MULTI MEDI	55.79	520.83
	9/7/2021	0001828	NIKOLA ENGINEERING INC	48613	8/26/2021	BLYN JUSTICE CTR - HI SPEE	55.00	55.00
	9/7/2021	0003410	LEMAY MOBILE SHREDDING	4710841	8/26/2021	IT SHREDDING SVC	15.95	15.95
	9/7/2021	0004211	CENTURYLINK	3604574863-082	8/26/2021	JUVI FAX LINES (3)	284.92	
				3604574397-082	8/26/2021	JUVI COURTROOM FAX	66.71	
				3604576843-082	8/26/2021	JUVI PHONE SWITCH	60.28	
				3604570323-082	8/26/2021	PA SHOP PHONE SWITCH	60.28	472.19
	9/7/2021	0020752	EDNETICS	107689	8/26/2021	IT20210405 - IT INFRASTRUC	24,282.41	
				107744	8/26/2021	IT20210825C - IT INFRASTRU	2,271.74	26,554.15
	9/7/2021	0023718	AT&T	3604574397LD-(	8/26/2021	JUVI COURTROOM FAX LONG	47.62	47.62
	9/7/2021	0036327	ANDERSON, MONICKA	INV082421-MA	9/1/2021	IT20210824 - REIMBURSEMEI	499.00	499.00
	9/7/2021	0038549	SOUTHERN COMPUTER WARI	IN000704536	8/26/2021	COV: IT20210811A - LAPTOPS	10,468.80	10,468.80
	9/7/2021	0043864	ZOOM VIDEO COMMUNICATI(	INV104240706	8/26/2021	IT20210826A - ZOOM, JUVI DI	9.80	9.80
	9/7/2021	0044188	BLACKPOINT IT SERVICES IN	256949SEA	8/26/2021	IT20210811 - IT INFRASTRUC	48,645.84	48,645.84
						Sub total for U S BANK:		89,125.21

Final Check List
CLALLAM COUNTY

Juv Svcs

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000360	CLALLAM COUNTY ER&R	2021.222E	8/22/2021	VEHICLE RENTAL/LEASE	1,500.00	1,500.00
	9/7/2021	0014681	PROFORCE LAW ENFORCEM	459345	8/20/2021	DET SUPPLIES	307.85	307.85
	9/7/2021	0017787	DAIRY FRESH FARMS INC	8082123007	8/18/2021	DET FOOD	62.54	
				8082123706	8/25/2021	DET FOOD	40.93	103.47
	9/7/2021	0026602	PUTNAM, DARLENE	81321DP	8/13/2021	TRVL/TRNG-REIMB	44.91	44.91
	9/7/2021	0028699	SOUND PUBLISHING INC	PDN934423	8/4/2021	ADVERTISING-LEGAL NOTICI	208.56	
				PDN934413	8/4/2021	ADVERTISING-LEGAL NOTICI	175.38	383.94
						Sub total for U S BANK:		2,340.17

Final Check List
CLALLAM COUNTY

Nox Weeds

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000360	CLALLAM COUNTY ER&R	2021.213E	8/25/2021	JULY, FS=423.93	423.93	423.93
	9/7/2021	0001641	VERIZON WIRELESS	9886307908	8/25/2021	GEN=1.22, FS=1.22	2.44	2.44
	9/7/2021	0045699	KAWIE, HUNTER	Kawie2021-Test	8/25/2021	KAWIE APPLICATOR TEST1-F	58.00	
				Kawie2021 Test	8/25/2021	KAWIE-LICENSE TEST 2	25.00	83.00
						Sub total for U S BANK:		509.37

Final Check List
CLALLAM COUNTY

Parks Fair Facilities

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000034	AIR FLO HEATING CO	49154740	8/26/2021	CH MOVE OUTSIDE AC UNIT	816.00	816.00
	9/7/2021	0000087	ANGELES ELECTRIC INC	17304	8/26/2021	CH FAN ELECTRICAL SERVIC	205.64	205.64
	9/7/2021	0000091	ANGELES MILLWORKS & LUM	106540	8/26/2021	SC 6" TIMBER FOR GUARD R	266.23	
				294817	8/26/2021	CB MATERIALS FOR BRIDGE	118.99	
				294113	8/26/2021	JUV PAIT AND MATERIALS	79.31	
				294818	8/26/2021	CB PRESSURE TREATED WC	52.78	
				294733	8/26/2021	CB (2) 4X8 FOR BRIDGE REP/	29.50	
				294605	8/26/2021	JUV 4 1/2" METAL GRIND	4.89	551.70
	9/7/2021	0000114	ARROW SEPTIC PUMPING SE	11215	8/26/2021	DRA SEPTIC PUMPING SERV	912.24	912.24
	9/7/2021	0000196	BILLS PLUMBING & SANIKAN	s3609180	8/26/2021	FWB SANIKANS	100.00	
				s3609426	8/26/2021	DRA SANIKAN	95.00	195.00
	9/7/2021	0000546	EXPRESS SERVICES, INC	25884016	8/26/2021	CH SC WK END 8/15/21 COVII	3,735.66	
				25849063	8/26/2021	CH SC WK END 8/8/21 COVID	3,538.69	7,274.35
	9/7/2021	0000561	FERGUSON ENTERPRISES IN	9546777	8/26/2021	SC DUMP STATION PUMP	949.38	949.38
	9/7/2021	0000917	LINCOLN INDUSTRIAL CORP	I0159465	8/26/2021	CB STEEL FOR BRIDGE REP/	23.16	23.16
	9/7/2021	0001059	NC MACHINERY CO	g1818702	8/26/2021	1906CH MANLIFT RENTAL FO	163.20	163.20
	9/7/2021	0001252	PORT ANGELES, CITY OF	48731-101384 7/	8/26/2021	VET JULY UTIL & GARBAGE	245.53	245.53
	9/7/2021	0001253	PORT ANGELES SOLID WAST	019530	8/26/2021	FG DUMP FEE	91.17	91.17
	9/7/2021	0001540	SWAIN'S GENERAL STORE IN	290235	8/26/2021	SMPK RATCHET SET	21.62	
				290548	8/26/2021	CH DETERGENT FOR ROOF (	13.02	34.64
	9/7/2021	0001612	UNITED RENTALS, INC	196802470-001	8/26/2021	1906CH BOOM LIFT RENTAL I	2,112.49	2,112.49
	9/7/2021	0001698	WA ST DEPT OF CORRECTIO	45-133982	8/26/2021	2112UP CH SIGN REPLACEMI	405.13	
				45-133968	8/26/2021	SC SIGNS	214.77	619.90
	9/7/2021	0041605	HOME DEPOT PRO	63467706	8/26/2021	DRA HANDSOAP	138.19	
				635790470	8/26/2021	CH BELT FOR VACUUM	15.36	153.55
						Sub total for U S BANK:		14,347.95

Final Check List
CLALLAM COUNTY

Prosecutor

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0001252	PORT ANGELES, CITY OF	74359-155474 8/	8/26/2021	CITY UTILITIES	213.98	213.98
	9/7/2021	0034625	SCHLOSSER, LYNNE	807769665001	8/26/2021	REIMBURSEMENT	23.91	23.91
	9/7/2021	0039815	SUTHERLAND, ROCHELLE	8/26/21SUTHER	8/26/2021	MILEAGE REIMBURSEMENT	38.64	38.64
						Sub total for U S BANK:		276.53

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
	9/7/2021	0000546	EXPRESS SERVICES, INC	25884015 E	8/18/2021	Personnel services - PA ER&R	116.23	116.23
	9/7/2021	0001300	PUBLIC UTILITY DISTRICT	21685/081921	8/19/2021	Electric utility charges-51 Bedro	345.34	345.34
	9/7/2021	0004211	CENTURYLINK	0420753B/08162	8/16/2021	Phone services - ER&R 20-FIC	311.98	311.98
	9/7/2021	0043469	PETROCARD	423208-IN	8/17/2021	Windshield washer fluid - LC	19.53	19.53
						Sub total for U S BANK:		793.08

Final Check List
CLALLAM COUNTY

Public Works Roads

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000091	ANGELES MILLWORKS & LUM	294915	8/26/2021	MAINTENANCE SUPPLIES - C	52.96	
				294819	8/25/2021	MAINTENANCE SUPPLIES - C	32.62	85.58
	9/7/2021	0000196	BILLS PLUMBING & SANIKAN	S3608742	8/1/2021	08/21~09/21 ODT SANIKANS	295.00	
				S3608695	8/1/2021	08/21~09/21 ELWHA KIOSK S/	255.00	
				S3609223	8/15/2021	08/21~09/15 SQ SHOP SANIK/	95.00	645.00
	9/7/2021	0000360	CLALLAM COUNTY ER&R	2021.215E	8/22/2021	08/21 EQUIPMENT RENT	153,575.41	153,575.41
	9/7/2021	0000366	CLALLAM COUNTY TREASUR	7194-1-DMLREE	8/15/2021	1606 REET	128.55	128.55
	9/7/2021	0000546	EXPRESS SERVICES, INC	25884015-10101	8/18/2021	08/09/21~08/15/21 ROADS	4,815.27	4,815.27
	9/7/2021	0000674	GOVCONNECTION, INC.	71648815	7/30/2021	OFFICE SUPPLIES - PRINTER	1,191.66	1,191.66
	9/7/2021	0000714	HARTNAGEL BLDG SUPPLY IN	824439	8/23/2021	MAINTENANCE SUPPLIES - C	32.53	32.53
	9/7/2021	0001300	PUBLIC UTILITY DISTRICT	110606-081721	8/17/2021	07/15/21~08/12/21 SCENIC OV	166.16	166.16
	9/7/2021	0001573	THOMAS BUILDING CENTER I	30872981	8/17/2021	MAINTENANCE SUPPLIES - S	218.61	218.61
	9/7/2021	0018007	BETTS, TRACY	BETTSCDL0223	7/23/2021	CDL PHYSICAL REIMBURSEM	150.00	150.00
	9/7/2021	0021386	STAPLES ADVANTAGE	3485203947	8/21/2021	OFFICE SUPPLIES	84.21	84.21
	9/7/2021	0033162	DLT SOLUTIONS LLC	SI531328	8/19/2021	AUTOCAD RENEWALS	5,940.94	5,940.94
	9/7/2021	0039099	O'DELL, JASON	9054967756	8/24/2021	SUPPLIES REIMBURSEMENT	468.59	468.59
	9/7/2021	0040830	HOARD, ED	31010-081821	8/18/2021	MATERIALS REIMBURSEMEN	18.98	
				29772-082421	8/24/2021	SUPPLIES REIMBURSEMENT	12.86	31.84
						Sub total for U S BANK:		167,534.35

Final Check List
CLALLAM COUNTY

Public Work's

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000074	AM TEST, INC.	122996	8/19/2021	TESTING SERVICES - WWTP	230.00	230.00
	9/7/2021	0000360	CLALLAM COUNTY ER&R	2021.218E	8/22/2021	08/21 EQUIPMENT RENT	689.50	689.50
	9/7/2021	0000361	CLALLAM COUNTY ROAD DEI	2021.055R	8/20/2021	REIMBRUSEMENT - ACCTS T	64.58	64.58
	9/7/2021	0000594	DECKER CITY HARDWARE, TI	663623	8/16/2021	MAINTENANCE SUPPLIES - W	492.92	492.92
	9/7/2021	0000546	EXPRESS SERVICES, INC	25884015-41401	8/18/2021	08/09/21~08/15/21 WWTP	426.06	426.06
	9/7/2021	0000599	FORKS OUTFITTERS	CO625WWTP08	8/19/2021	MAINTENANCE SUPPLIES - W	159.56	159.56
	9/7/2021	0000839	K & L SUPPLY INC	44474	8/11/2021	MAINTENANCE SUPPLIES - W	229.73	229.73
	9/7/2021	0001058	NCL OF WISCONSIN INC	458567	8/13/2021	MAINTENANCE SUPPLIES - W	698.11	698.11
	9/7/2021	0004211	CENTURYLINK	4574719-081421	8/14/2021	360-457-4719 856B	76.99	76.99
	9/7/2021	0000360	CLALLAM COUNTY ER&R	2021.219E	8/22/2021	08/21 EQUIPMENT RENT	101.79	101.79
	9/7/2021	0001300	PUBLIC UTILITY DISTRICT	119587-081221	8/12/2021	07/09/21~08/09/21 971 CARLS	555.90	555.90
						Sub total for U S BANK:		3,725.14

Final Check List
CLALLAM COUNTY

Sheriff

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000159	BOB BARKER CO INC	INV1607680	4/22/2021	INMATE COMMISSARY ITEMS	602.97	
				INV1598817	3/30/2021	INMATE COMMISSARY ITEMS	248.07	
				INV1639734	7/12/2021	ROLLED SPIT HOODS	115.31	966.35
	9/7/2021	0000290	CED/STUSSER - SEATTLE	5948-1008120	8/13/2021	RADIO TEAM SUPPLIES	46.50	46.50
	9/7/2021	0000334	CLALLAM COUNTY COMMISS	082521	8/25/2021	INDIRECT PAYMENT FOR E-9	3,528.56	3,528.56
	9/7/2021	0000403	COPY CAT GRAPHICS INC	15955	8/17/2021	NEW GRAPHICS FOR CHAIN	1,397.48	1,397.48
	9/7/2021	0000546	EXPRESS SERVICES, INC	25884021	8/18/2021	CALL CENTER REPRESENTA	894.00	894.00
	9/7/2021	0000628	GALLS LLC	019022301	8/10/2021	UNIFORM - BRYANT	151.45	151.45
	9/7/2021	0000672	GOOD SOURCE	SI0530551	8/23/2021	FOOD	4,707.50	4,707.50
	9/7/2021	0000714	HARTNAGEL BLDG SUPPLY IN	824354	8/20/2021	RADIO TEAM SUPPLIES	53.45	53.45
	9/7/2021	0000812	JIFFY CLEANERS	082321	8/23/2021	UNIFORM CLEANINGS	309.70	309.70
	9/7/2021	0001252	PORT ANGELES, CITY OF	082521	8/25/2021	TAX DISTRIBUTION PAYMENT	172,898.85	172,898.85
	9/7/2021	0001540	SWAIN'S GENERAL STORE IN	290591	8/26/2021	BATTERIES	43.45	43.45
	9/7/2021	0001543	SWANSONS SERVICES CORP	1487000	8/26/2021	INDIGENT PACKS	200.00	200.00
	9/7/2021	0001579	TIME KEEPING SYSTEMS, INC	CLA010213368	7/25/2021	1 YR SUPPORT GUARD 1 RE/	2,495.00	2,495.00
	9/7/2021	0001641	VERIZON WIRELESS	9886372733	8/15/2021	CELL PHONE SERVICE	3,712.70	3,712.70
	9/7/2021	0001650	VIKING SEW & VAC	147294	8/24/2021	SHORTEN SHIRTS	87.04	87.04
	9/7/2021	0001828	NIKOLA ENGINEERING INC	48614	8/20/2021	END POINTS 8/1/21 - 8/31/21	1,198.50	1,198.50
	9/7/2021	0002549	BAUMANN, IDONA	00626	7/24/2021	NEW MOP	24.99	24.99
	9/7/2021	0004211	CENTURYLINK	206-T01-0387-A	8/16/2021	DATA CONNECTION 8/16/21 -	215.37	
				360-457-9044-A	8/14/2021	TELEPHONE SERVICE 8/14/2	66.71	
				360-457-2911-A	8/14/2021	TELEPHONE SERVICE 8/14/2	64.34	
				206-Z14-0050-A	8/14/2021	TELEPHONE SERVICE 8/14/2	64.02	410.44
	9/7/2021	0018023	EVIDENT	182738A	8/17/2021	EVIDENCE SUPPLIES	341.67	341.67
	9/7/2021	0033486	LN CURTIS & SONS INC	INV518765	8/19/2021	UNIFORM - MILDON	345.85	345.85
	9/7/2021	0037042	OFFICE DEPOT	188527433001	8/16/2021	OFFICE SUPPLIES	276.30	
				185351046002	8/12/2021	OFFICE SUPPLIES	41.44	
				188528100001	8/16/2021	OFFICE SUPPLIES	25.33	343.07
	9/7/2021	0043498	SOUND UNIFORM SOLUTION	202108SU095	8/10/2021	UNIFORM - GLASS	536.38	536.38
						Sub total for U S BANK:		194,692.93

Final Check List
CLALLAM COUNTY

Sheriff Jail Med

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0001136	OLYMPIC MEDICAL CENTER	OMC 8.26.21	8/26/2021	INMATE MEDICAL	2,827.53	2,827.53
						Sub total for U S BANK:		2,827.53

Final Check List
CLALLAM COUNTY

Superior Court

Bank : apbank U S BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0023379 JUSTICE AUDIO VIDEO SOLU	SO-123785	8/23/2021	6/21/21-JAIL VIDEO CONF UN	10,923.47	10,923.47
					Sub total for U S BANK:		10,923.47

Final Check List
CLALLAM COUNTY

Treasurer

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000331	CLALLAM COUNTY AUDITOR	21-133196	8/26/2021	TREASURER'S DEED RECOR	1,638.00	
				21-133081	8/26/2021	CURRENT USE REMOVAL RE	204.50	
				21-133395	8/26/2021	CURRENT USE REMOVAL RE	204.50	
				21-133760	8/26/2021	CURRENT USE REMOVAL RE	204.50	
				21-133761	8/26/2021	DFL REMOVAL RECORDING 2	204.50	
				21-133762	8/26/2021	DFL REMOVAL RECORDING 2	204.50	
				21-133763	8/26/2021	DFL REMOVAL RECORDING 2	204.50	
				21-133764	8/26/2021	CURRENT USE REMOVAL RE	204.50	3,069.50
	9/7/2021	0037042	OFFICE DEPOT	185516740001	8/26/2021	OFFICE SUPPLIES	47.47	
				185773088001	8/26/2021	OFFICE SUPPLIES	11.99	59.46
	9/7/2021	0040381	ACI PAYMENTS INC	1000053123	8/26/2021	OPAY RETURNS	12.00	12.00
						Sub total for U S BANK:		3,140.96

Final Check List
CLALLAM COUNTY

Veterans

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	8/25/2021	0035808	HIGHLAND COMMONS	MT6122 8/25/21	8/25/2021	RENT	599.00	599.00
	9/1/2021	0020849	U S BANK	LT4801 8/25/21 \	8/25/2021	FOOD	150.00	
				MJ3268 8/25/21	8/25/2021	FOOD	150.00	
				PD1598 8/25/21	8/25/2021	FOOD	150.00	
				SD3988 8/25/21	8/25/2021	FOOD	100.00	
				SD3988 8/25/21	8/25/2021	FOOD	50.00	600.00
						Sub total for U S BANK:		1,199.00

Final Check List
CLALLAM COUNTY

WSU Ext

Bank : apbank U S BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
	9/7/2021	0000360	CLALLAM COUNTY ER&R	2021.221E	9/1/2021	RENTAL OF VEHICLE #166	405.00	405.00
	9/7/2021	0001738	WA STATE UNIVERSITY	C100006822	9/1/2021	WSU MOA 1/1 - 5/31/2021	55,809.75	55,809.75
	9/7/2021	0001738	WA STATE UNIVERSITY	C100008723	9/1/2021	WSU MOA	22,526.85	22,526.85
	9/7/2021	0045254	SLEDGEHAMMER MARKETIN	4	9/1/2021	SLEDGEHAMMER MARKETIN	1,305.00	1,305.00
						Sub total for U S BANK:		80,046.60

1b
9/7/21

Payroll Ending: 8/15/2021

Gross Earnings:	**$724,389.01**
Benefits Paid:	**$149,826.00**
Total Expenditures:	**$874,215.01**

STATE OF WASHINGTON)
)
COUNTY OF CLALLAM)

This is to certify that the foregoing 'Labor Distribution Totals by Fund' Report for the period herein indicated is a full, true, and correct representation of the earnings and benefits paid to all Clallam County employees as recorded in the books of original entry maintained by this office.

WITNESS MY HAND THIS 26th DAY OF August 2021

Sandra L. Williams
SANDRA L. WILLIAMS, CHIEF DEPUTY FOR
SHOONA RIGGS, CLALLAM COUNTY AUDITOR

CLALLAM COUNTY BOARD OF COMMISSIONERS does hereby certify that the payroll herein specified has been disbursed and that the earnings and benefits listed above are approved for payment:

BOARD OF COMMISSIONERS
CLALLAM COUNTY, WASHINGTON

RANDY JOHNSON

MARK OZIAS

BILL PEACH

(County Administrator)

COPY

Payroll and Benefits Paid for semi-monthly payroll: August 1-15, 2021

Fund Name	Fund Number	Gross Earnings Paid by Fund #	Benefits Paid by Fund #	Employees Paid by Fund #	Total Expenditures
COUNTY (Semi-Monthly)					
General Fund	00100	506,987.07	102,365.85	193	609,352.92
Sheriff: Boating Safety	11003				0.00
HHS	11301	21,392.41	4,524.58	11	25,916.99
HHS-Alcohol/Drug	11321				0.00
HHS-Homeless Task Force	11322	688.88	142.57	1	831.45
HHS-CD/MH	11323	688.89	142.57	1	831.46
HHS-Dev Disabilties	11331				0.00
Prosecutor-Local Crime Victim	11701	2,487.61	513.77	1	3,001.38
Treasurer- O&M	12201	1,076.29	223.40	1	1,299.69
Auditor-Doc Preservation	12401	1,792.97	368.83	2	2,161.80
Noxious Weed Control	13001	1,585.52	364.42	1	1,949.94
Veterans Relief	19914	4,069.88	836.34	2	4,906.22
Lwr Dungeness Floodplain	30301	576.97	118.77	1	695.74
HR-Risk Management	50401	12,050.40	2,682.23	4	14,732.63
HR-Workers Compensation	50501	1,517.75	331.63	2	1,849.38
Wellness Benefit/Transit Passes	50601				0.00
		554,914.64	**112,614.96**		**667,529.60**
ROADS					
PW - Roads	10101	141,598.69	31,205.76	61	172,804.45
PW - Flood Control	10135	4,347.41	929.39	4	5,276.80
Dungeness Reservoir	30401				0.00
PW - Carlsborg Sewer Project	30801				0.00
PW - Solid Waste	40201	246.49	50.69	1	297.18
Clallam Bay/Sekiu Sewer	41401	8,469.39	1,775.93	9	10,245.32
PW - Carlsborg Sewer M&O	42401	581.66	122.84	4	704.50
ER&R	50301	14,230.73	3,126.43	12	17,357.16
Wellness Benefit/Transit Passes	50601				0.00
		169,474.37	**37,211.04**		**206,685.41**
TOTALS		**724,389.01**	**149,826.00**		**874,215.01**

Prepared by:

Angela D Klahn, Deputy Auditor

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Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Semi-Mo

Fund Worked : 00100
 # Emps : 193

Earnings Code & Description		Amount	Hours
r	REGULAR	414,405.17	13,132.71
s	SICK	16,468.99	517.60
covid	covid SICK	13,242.91	452.00
fhp	FLOATING HOLIDAY PAID	2,158.46	56.00
accred	ACCREDITATION PAY	1,025.57	
oth	OVERTIME X 1.5 - HOURLY	700.62	50.50
aute	AUTO ALLOWANCE ELECTED	680.00	
bsba	BS/BA EDUCATION INCENTIVE	573.18	
wep	WEST END PAY	400.00	
uapr	URINE ANALYSIS PREMIUM	234.00	
aspd	SHERIFF ACTING SUP PAY DEPU	106.02	60.00
aspj	ACTING SUPERVISOR PAY JUVEI	13.13	12.00
v	VACATION	27,848.31	845.01
o15s	OVERTIME X 1.5 - SHERIFF DEPT	13,343.25	295.15
fh	FLOATING HOLIDAY	11,160.94	357.00
cu	COMP USED	1,348.89	41.75
hazpay	HAZARD PAY	912.03	
auto	AUTO ALLOWANCE CONTRACTUAL	680.00	
o15j	OVERTIME x 1.5 - JUV DETENTION	604.15	16.50
fl	FUNERAL LEAVE	487.56	24.00
phsm	PHONE STIPEND SMART PHONE	280.00	
aaas	AA/AS EDUCATION INCENTIVE	224.85	
asp	SHERIFF ACTING SUPERVISOR PAY	89.04	62.00
	Totals:	**506,987.07**	**15,922.22**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	44,214.90
pers2	PERS 2 RETIREMENT	20,756.62
icm457	ICMA DEFERRED COMP	7,365.34
leoff2	LEOFF 2 RETIREMENT	4,520.99
pers3	PERS 3 RETIREMENT	2,845.74
udteam	UNION DUES - TEAMSTERS	2,694.25
dshs	DSHS CHILD SUPPORT	962.38
n457	NATIONWIDE 457	700.76
udpd	UNION DUES - 1619 D	459.94
udcd	UNION DUES - 1619 CD C	436.95
pers1	PERS 1 RETIREMENT	348.67
udtint	TEAMSTERS INIT FEE or ADJ	150.00
garnfe	GARNISHMENT FEE	1.50
socsec	SOCIAL SECURITY	31,180.36
401a	401A DEFERRED COMPENSATION	10,086.73
medtx	MEDICARE TAX	7,292.23
psers	PSERS RETIREMENT	4,218.86
h457	MASSMUTUAL 457	2,815.72
fmlatx	WA Paid Family & Medical Leave	1,273.94
l&i	L&I - SELF INSURED	709.04
rth457	ROTH-ICMA DEFERRED COMP	585.30
a&aco	AUDIT & ADJUSTMENT CO INC	457.28
udmp	UNION DUES - 1619 MP	349.56
udlc	UNION DUES - 1619 LC	281.10
udps	UNION DUES - 1619 S	34.88
	Totals:	**144,743.04**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	33,450.03
401a	401A DEFERRED COMPENSATIOI	9,230.40
psers	PSERS RETIREMENT	6,743.72
pers3	PERS 3 RETIREMENT	4,380.40
fmlatx	WA Paid Family & Medical Leave	737.71
socsec	SOCIAL SECURITY	31,180.36
medtx	MEDICARE TAX	7,292.23
l&i	L&I - SELF INSURED	5,090.12
leoff2	LEOFF 2 RETIREMENT	2,809.07
pers1	PERS 1 RETIREMENT	595.64

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 00100
 # Emps : 193

Benefit Code and Description		Amount
unemp	UNEMPLOYMENT	470.73

Benefit Code and Description		Amount
vebahr	HRA VEBA	385.44
	Totals:	**102,365.85**
	Gross Earnings by Fund:	**506,987.07**
	Total Fund Deductions:	**144,743.04**
	Fund Net:	**362,244.03**

15,922.22

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 11301
 # Emps : 11

Earnings Code & Description		Amount	Hours
r	REGULAR	18,708.20	729.30
s	SICK	794.86	29.90
v	VACATION	309.75	15.20
fh	FLOATING HOLIDAY	808.44	21.60
oth	OVERTIME X 1.5 - HOURLY	771.16	62.50
	Totals:	**21,392.41**	**858.50**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	1,326.33
pers2	PERS 2 RETIREMENT	1,281.19
401a	401A DEFERRED COMPENSATIOI	667.93
udteam	UNION DUES - TEAMSTERS	204.39
udmp	UNION DUES - 1619 MP	58.26
l&i	L&I - SELF INSURED	39.41
fedtx	FEDERAL WITHHOLDING TAX	1,296.93
icm457	ICMA DEFERRED COMP	1,263.36
medtx	MEDICARE TAX	310.20
pers3	PERS 3 RETIREMENT	124.82
fmlatx	WA Paid Family & Medical Leave	54.20
	Totals:	**6,627.02**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	2,064.79
401a	401A DEFERRED COMPENSATIOI	381.60
l&i	L&I - SELF INSURED	260.94
fmlatx	WA Paid Family & Medical Leave	31.38
socsec	SOCIAL SECURITY	1,326.33
medtx	MEDICARE TAX	310.20
pers3	PERS 3 RETIREMENT	127.94
unemp	UNEMPLOYMENT	21.40
	Totals:	**4,524.58**

Gross Earnings by Fund:	**21,392.41**	**858.50**
Total Fund Deductions:	**6,627.02**	
Fund Net:	**14,765.39**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 11322
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	688.88	24.00
	Totals:	**688.88**	**24.00**

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	43.82
401a	401A DEFERRED COMPENSATIOI	20.67
udteam	UNION DUES - TEAMSTERS	16.25
fmlatx	WA Paid Family & Medical Leave	1.75

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	42.71
fedtx	FEDERAL WITHHOLDING TAX	19.11
medtx	MEDICARE TAX	9.99
l&i	L&I - SELF INSURED	1.24
	Totals:	**155.54**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	70.61
401a	401A DEFERRED COMPENSATIOI	13.78
l&i	L&I - SELF INSURED	3.78
unemp	UNEMPLOYMENT	0.69

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	42.71
medtx	MEDICARE TAX	9.99
fmlatx	WA Paid Family & Medical Leave	1.01
	Totals:	**142.57**

Gross Earnings by Fund:	**688.88**	**24.00**
Total Fund Deductions:	**155.54**	
Fund Net:	**533.34**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 11323
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	688.89	24.00

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	43.81
401a	401A DEFERRED COMPENSATIOI	20.66
udteam	UNION DUES - TEAMSTERS	16.25
fmlatx	WA Paid Family & Medical Leave	1.74

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	70.61
401a	401A DEFERRED COMPENSATIOI	13.78
l&i	L&I - SELF INSURED	3.78
unemp	UNEMPLOYMENT	0.69

Earnings Code & Description		Amount	Hours
	Totals:	**688.89**	**24.00**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	42.71
fedtx	FEDERAL WITHHOLDING TAX	19.10
medtx	MEDICARE TAX	9.99
l&i	L&I - SELF INSURED	1.24
	Totals:	**155.50**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	42.71
medtx	MEDICARE TAX	9.99
fmlatx	WA Paid Family & Medical Leave	1.01
	Totals:	**142.57**

Gross Earnings by Fund:	**688.89**	**24.00**
Total Fund Deductions:	**155.50**	
Fund Net:	**533.39**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 11701
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	2,487.61	84.00

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	232.33
socsec	SOCIAL SECURITY	154.23
medtx	MEDICARE TAX	36.07
fmlatx	WA Paid Family & Medical Leave	6.30

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	254.98
401a	401A DEFERRED COMPENSATIOI	49.75
l&i	L&I - SELF INSURED	12.60
unemp	UNEMPLOYMENT	2.49

Earnings Code & Description		Amount	Hours
	Totals:	**2,487.61**	**84.00**

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	158.21
401a	401A DEFERRED COMPENSATION	124.38
udmp	UNION DUES - 1619 MP	29.13
l&i	L&I - SELF INSURED	4.13
	Totals:	**744.78**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	154.23
medtx	MEDICARE TAX	36.07
fmlatx	WA Paid Family & Medical Leave	3.65
	Totals:	**513.77**

Gross Earnings by Fund:	**2,487.61**	**84.00**
Total Fund Deductions:	**744.78**	
Fund Net:	**1,742.83**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 12201
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	928.30	41.40
s	SICK	147.99	6.60
	Totals:	**1,076.29**	**48.00**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	70.52
socsec	SOCIAL SECURITY	66.73
medtx	MEDICARE TAX	15.61
fmlatx	WA Paid Family & Medical Leave	2.72
pers2	PERS 2 RETIREMENT	68.45
401a	401A DEFERRED COMPENSATION	32.29
udteam	UNION DUES - TEAMSTERS	14.99
l&i	L&I - SELF INSURED	2.15
	Totals:	**273.46**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	110.32
401a	401A DEFERRED COMPENSATIOI	21.53
l&i	L&I - SELF INSURED	6.57
unemp	UNEMPLOYMENT	1.07
socsec	SOCIAL SECURITY	66.73
medtx	MEDICARE TAX	15.61
fmlatx	WA Paid Family & Medical Leave	1.57
	Totals:	**223.40**

Gross Earnings by Fund:	**1,076.29**	**48.00**
Total Fund Deductions:	**273.46**	
Fund Net:	**802.83**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 12401
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	1,068.71	46.00

Earnings Code & Description		Amount	Hours
v	VACATION	724.26	34.00
	Totals:	**1,792.97**	**80.00**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	140.29
socsec	SOCIAL SECURITY	111.15
pers2	PERS 2 RETIREMENT	36.51
udteam	UNION DUES - TEAMSTERS	25.37
fmlatx	WA Paid Family & Medical Leave	4.53

Deduction Code and Description		Amount
401a	401A DEFERRED COMPENSATION	121.88
pers3	PERS 3 RETIREMENT	103.60
medtx	MEDICARE TAX	26.00
icm457	ICMA DEFERRED COMP	25.00
l&i	L&I - SELF INSURED	2.50
	Totals:	**596.83**

Benefit Code and Description		Amount
pers3	PERS 3 RETIREMENT	124.94
pers2	PERS 2 RETIREMENT	58.84
medtx	MEDICARE TAX	26.00
fmlatx	WA Paid Family & Medical Leave	2.62

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	111.15
401a	401A DEFERRED COMPENSATION	35.87
l&i	L&I - SELF INSURED	7.60
unemp	UNEMPLOYMENT	1.81
	Totals:	**368.83**

Gross Earnings by Fund:	**1,792.97**	**80.00**
Total Fund Deductions:	**596.83**	
Fund Net:	**1,196.14**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 13001
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	1,585.52	80.00

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	100.84
401a	401A DEFERRED COMPENSATIOI	47.57
udteam	UNION DUES - TEAMSTERS	22.50
l&i	L&I - SELF INSURED	4.13

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	162.52
l&i	L&I - SELF INSURED	44.98
medtx	MEDICARE TAX	22.99
unemp	UNEMPLOYMENT	1.59

Earnings Code & Description		Amount	Hours
	Totals:	**1,585.52**	**80.00**

Deduction Code and Description		Amount
socsec	SOCIAL SECURITY	98.30
medtx	MEDICARE TAX	22.99
fedtx	FEDERAL WITHHOLDING TAX	18.29
fmlatx	WA Paid Family & Medical Leave	4.02
	Totals:	**318.64**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	98.30
401a	401A DEFERRED COMPENSATION	31.71
fmlatx	WA Paid Family & Medical Leave	2.33
	Totals:	**364.42**

Gross Earnings by Fund:	**1,585.52**	**80.00**
Total Fund Deductions:	**318.64**	
Fund Net:	**1,266.88**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 19914
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	2,573.59	82.00
fh	FLOATING HOLIDAY	576.89	22.00
v	VACATION	919.40	40.00
	Totals:	**4,069.88**	**144.00**

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	258.85
401a	401A DEFERRED COMPENSATIOI	166.71
medtx	MEDICARE TAX	59.01
udteam	UNION DUES - TEAMSTERS	26.00
l&i	L&I - SELF INSURED	5.37
socsec	SOCIAL SECURITY	252.34
fedtx	FEDERAL WITHHOLDING TAX	157.32
udmp	UNION DUES - 1619 MP	29.13
fmlatx	WA Paid Family & Medical Leave	10.31
	Totals:	**965.04**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	417.17
401a	401A DEFERRED COMPENSATIOI	81.40
l&i	L&I - SELF INSURED	16.38
unemp	UNEMPLOYMENT	4.07
socsec	SOCIAL SECURITY	252.34
medtx	MEDICARE TAX	59.01
fmlatx	WA Paid Family & Medical Leave	5.97
	Totals:	**836.34**

Gross Earnings by Fund:	**4,069.88**	**144.00**
Total Fund Deductions:	**965.04**	
Fund Net:	**3,104.84**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 30301
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	398.47	11.05
v	VACATION	34.26	0.95
s	SICK	144.24	4.00
	Totals:	**576.97**	**16.00**

Deduction Code and Description		Amount
icm457	ICMA DEFERRED COMP	60.00
pers2	PERS 2 RETIREMENT	36.69
401a	401A DEFERRED COMPENSATIOI	17.32
fmlatx	WA Paid Family & Medical Leave	1.47
fedtx	FEDERAL WITHHOLDING TAX	59.18
socsec	SOCIAL SECURITY	35.77
medtx	MEDICARE TAX	8.37
l&i	L&I - SELF INSURED	0.83
	Totals:	**219.63**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	59.14
401a	401A DEFERRED COMPENSATIOI	11.55
l&i	L&I - SELF INSURED	2.52
unemp	UNEMPLOYMENT	0.58
socsec	SOCIAL SECURITY	35.77
medtx	MEDICARE TAX	8.37
fmlatx	WA Paid Family & Medical Leave	0.84
	Totals:	**118.77**

Gross Earnings by Fund:	**576.97**	**16.00**
Total Fund Deductions:	**219.63**	
Fund Net:	**357.34**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 50401
 # Emps : 4

Earnings Code & Description		Amount	Hours
r	REGULAR	10,364.97	213.56
fh	FLOATING HOLIDAY	234.52	8.00
auto	AUTO ALLOWANCE CONTRACTU	170.00	
v	VACATION	1,048.20	28.00
s	SICK	232.71	3.00
	Totals:	**12,050.40**	**252.56**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	1,417.18
socsec	SOCIAL SECURITY	786.60
medtx	MEDICARE TAX	183.96
401a	401A DEFERRED COMPENSATIOI	140.73
l&i	L&I - SELF INSURED	13.43
h457	MASSMUTUAL 457	1,012.21
pers2	PERS 2 RETIREMENT	370.74
icm457	ICMA DEFERRED COMP	162.72
fmlatx	WA Paid Family & Medical Leave	30.53
	Totals:	**4,118.10**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	786.60
pers2	PERS 2 RETIREMENT	597.51
medtx	MEDICARE TAX	183.96
fmlatx	WA Paid Family & Medical Leave	17.69
h457	MASSMUTUAL 457	620.25
401a	401A DEFERRED COMPENSATION	358.63
l&i	L&I - SELF INSURED	105.71
unemp	UNEMPLOYMENT	11.88
	Totals:	**2,682.23**

Gross Earnings by Fund:	**12,050.40**	**252.56**
Total Fund Deductions:	**4,118.10**	
Fund Net:	**7,932.30**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : 50501
 # Emps : 2

Earnings Code & Description		Amount	Hours
r	REGULAR	1,162.44	27.81
s	SICK	89.40	1.00
v	VACATION	265.91	5.60
	Totals:	**1,517.75**	**34.41**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	156.55
401a	401A DEFERRED COMPENSATIOI	102.49
socsec	SOCIAL SECURITY	94.41
fmlatx	WA Paid Family & Medical Leave	3.85
icm457	ICMA DEFERRED COMP	112.31
pers2	PERS 2 RETIREMENT	95.36
medtx	MEDICARE TAX	22.08
l&i	L&I - SELF INSURED	1.44
	Totals:	**588.49**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	155.58
401a	401A DEFERRED COMPENSATIOI	51.41
l&i	L&I - SELF INSURED	4.41
unemp	UNEMPLOYMENT	1.51
socsec	SOCIAL SECURITY	94.41
medtx	MEDICARE TAX	22.08
fmlatx	WA Paid Family & Medical Leave	2.23
	Totals:	**331.63**

Gross Earnings by Fund:	**1,517.75**	**34.41**
Total Fund Deductions:	**588.49**	
Fund Net:	**929.26**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : - Totals -
 # Emps : 210

Earnings Code & Description		Amount	Hours
r	REGULAR	455,060.75	14,495.83
s	SICK	17,878.19	562.10
covid	covid SICK	13,242.91	452.00
fhp	FLOATING HOLIDAY PAID	2,158.46	56.00
cu	COMP USED	1,348.89	41.75
hazpay	HAZARD PAY	912.03	
aute	AUTO ALLOWANCE ELECTED	680.00	
bsba	BS/BA EDUCATION INCENTIVE	573.18	
wep	WEST END PAY	400.00	
uapr	URINE ANALYSIS PREMIUM	234.00	
aspd	SHERIFF ACTING SUP PAY DEPU	106.02	60.00
aspj	ACTING SUPERVISOR PAY JUVEI	13.13	12.00
v	VACATION	31,150.09	968.76
o15s	OVERTIME X 1.5 - SHERIFF DEPT	13,343.25	295.15
fh	FLOATING HOLIDAY	12,780.79	408.60
oth	OVERTIME X 1.5 - HOURLY	1,471.78	113.00
accred	ACCREDITATION PAY	1,025.57	
auto	AUTO ALLOWANCE CONTRACTUAL	850.00	
o15j	OVERTIME x 1.5 - JUV DETENTION	604.15	16.50
fl	FUNERAL LEAVE	487.56	24.00
phsm	PHONE STIPEND SMART PHONE	280.00	
aaas	AA/AS EDUCATION INCENTIVE	224.85	
asp	SHERIFF ACTING SUPERVISOR PAY	89.04	62.00
	Totals:	**554,914.64**	**17,567.69**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	47,801.70
pers2	PERS 2 RETIREMENT	23,251.09
icm457	ICMA DEFERRED COMP	8,988.73
leoff2	LEOFF 2 RETIREMENT	4,520.99
h457	MASSMUTUAL 457	3,827.93
udteam	UNION DUES - TEAMSTERS	3,020.00
dshs	DSHS CHILD SUPPORT	962.38
n457	NATIONWIDE 457	700.76
udmp	UNION DUES - 1619 MP	466.08
a&aco	AUDIT & ADJUSTMENT CO INC	457.28
pers1	PERS 1 RETIREMENT	348.67
udtint	TEAMSTERS INIT FEE or ADJ	150.00
garnfe	GARNISHMENT FEE	1.50
socsec	SOCIAL SECURITY	34,191.64
401a	401A DEFERRED COMPENSATION	11,549.36
medtx	MEDICARE TAX	7,996.50
psers	PSERS RETIREMENT	4,218.86
pers3	PERS 3 RETIREMENT	3,074.16
fmlatx	WA Paid Family & Medical Leave	1,395.36
l&i	L&I - SELF INSURED	784.91
rth457	ROTH-ICMA DEFERRED COMP	585.30
udpd	UNION DUES - 1619 D	459.94
udcd	UNION DUES - 1619 CD C	436.95
udlc	UNION DUES - 1619 LC	281.10
udps	UNION DUES - 1619 S	34.88
	Totals:	**159,506.07**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	37,472.10
401a	401A DEFERRED COMPENSATIOI	10,281.41
psers	PSERS RETIREMENT	6,743.72
pers3	PERS 3 RETIREMENT	4,633.28
fmlatx	WA Paid Family & Medical Leave	808.01
socsec	SOCIAL SECURITY	34,191.64
medtx	MEDICARE TAX	7,996.50
l&i	L&I - SELF INSURED	5,559.39
leoff2	LEOFF 2 RETIREMENT	2,809.07
h457	MASSMUTUAL 457	620.25

Labor Distribution Totals By Fund

CLALLAM COUNTY

08/01/2021 to 08/15/2021-2 Cycle sc

Fund Worked : - Totals -
 # Emps : 210

Benefit Code and Description		Amount
pers1	PERS 1 RETIREMENT	595.64
vebahr	HRA VEBA	385.44
unemp	UNEMPLOYMENT	518.51

Totals:	**112,614.96**	
Grand Total Gross Earnings:	**554,914.64**	**17,567.69**
Grand Total Deductions:	**159,506.07**	
Grand Total Net:	**395,408.57**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle s

Roads

Fund Worked : 10101
 # Emps : 61

Earnings Code & Description		Amount	Hours
r	REGULAR	115,357.38	3,751.75
o15r	OVERTIME X 1.5 - ROADS DEPT	7,321.46	182.50
fh	FLOATING HOLIDAY	4,101.00	120.50
cu	COMP USED	1,056.20	40.25
auto	AUTO ALLOWANCE CONTRACTU	170.00	
v	VACATION	9,680.06	286.00
s	SICK	4,683.48	158.00
covid	covid SICK	1,585.78	52.00
cpr	COMP TIME PAID - PW ROADS	242.18	9.00
c15r	COMP EARNED X 1.5 ROADS	-2,598.85	-65.50
	Totals:	**141,598.69**	**4,534.50**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	12,719.11
pers2	PERS 2 RETIREMENT	8,405.91
medtx	MEDICARE TAX	2,053.10
401a	401A DEFERRED COMPENSATIOI	1,426.11
c13gar	CHAPTER 13 GARNISHMENT	538.00
fmlatx	WA Paid Family & Medical Leave	358.36
l&i	L&I - SELF INSURED	208.77
udtint	TEAMSTERS INIT FEE or ADJ	50.00
garnfe	GARNISHMENT FEE	0.50
socsec	SOCIAL SECURITY	8,778.78
icm457	ICMA DEFERRED COMP	2,706.64
udteam	UNION DUES - TEAMSTERS	1,518.36
h457	MASSMUTUAL 457	879.74
pers3	PERS 3 RETIREMENT	457.58
n457	NATIONWIDE 457	250.00
udmp	UNION DUES - 1619 MP	185.36
perscu	PERS RETIREMENT CATCH UP	2.48
	Totals:	**40,538.80**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	13,544.67
l&i	L&I - SELF INSURED	2,924.88
medtx	MEDICARE TAX	2,055.04
fmlatx	WA Paid Family & Medical Leave	207.72
perscu	PERS RETIREMENT CATCH UP	4.37
socsec	SOCIAL SECURITY	8,787.06
401a	401A DEFERRED COMPENSATION	2,588.75
pers3	PERS 3 RETIREMENT	951.75
unemp	UNEMPLOYMENT	141.52
	Totals:	**31,205.76**

Gross Earnings by Fund:	**141,598.69**	**4,534.50**
Total Fund Deductions:	**40,538.80**	
Fund Net:	**101,059.89**	

Fund Worked : 10135
 # Emps : 4

Earnings Code & Description		Amount	Hours
r	REGULAR	4,347.41	91.75

Earnings Code & Description		Amount	Hours
	Totals:	**4,347.41**	**91.75**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	402.63
socsec	SOCIAL SECURITY	269.59
medtx	MEDICARE TAX	63.05
h457	MASSMUTUAL 457	23.58
l&i	L&I - SELF INSURED	4.73

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	276.24
401a	401A DEFERRED COMPENSATION	205.23
udmp	UNION DUES - 1619 MP	32.64
fmlatx	WA Paid Family & Medical Leave	11.02
icm457	ICMA DEFERRED COMP	2.37
	Totals:	**1,291.08**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	445.62
401a	401A DEFERRED COMPENSATIOI	88.19
l&i	L&I - SELF INSURED	52.22
unemp	UNEMPLOYMENT	4.35

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	269.59
medtx	MEDICARE TAX	63.05
fmlatx	WA Paid Family & Medical Leave	6.37
	Totals:	**929.39**

Gross Earnings by Fund:	**4,347.41**	**91.75**
Total Fund Deductions:	**1,291.08**	
Fund Net:	**3,056.33**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle s

Fund Worked : 40201
 # Emps : 1

Earnings Code & Description		Amount	Hours
r	REGULAR	246.49	6.75
	Totals:	**246.49**	**6.75**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	32.34
socsec	SOCIAL SECURITY	15.28
medtx	MEDICARE TAX	3.57
fmlatx	WA Paid Family & Medical Leave	0.63

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	15.68
icm457	ICMA DEFERRED COMP	4.93
udmp	UNION DUES - 1619 MP	2.37
l&i	L&I - SELF INSURED	0.34
	Totals:	**75.14**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	25.27
401a	401A DEFERRED COMPENSATIOI	4.93
l&i	L&I - SELF INSURED	1.03
unemp	UNEMPLOYMENT	0.25

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	15.28
medtx	MEDICARE TAX	3.57
fmlatx	WA Paid Family & Medical Leave	0.36
	Totals:	**50.69**

Gross Earnings by Fund:	**246.49**	**6.75**
Total Fund Deductions:	**75.14**	
Fund Net:	**171.35**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle s

Fund Worked : 41401
 # Emps : 9

Earnings Code & Description		Amount	Hours
r	REGULAR	4,628.51	119.50
o15r	OVERTIME X 1.5 - ROADS DEPT	3,840.88	69.50
	Totals:	**8,469.39**	**189.00**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	1,094.48
socsec	SOCIAL SECURITY	525.36
icm457	ICMA DEFERRED COMP	70.54
h457	MASSMUTUAL 457	28.70
fmlatx	WA Paid Family & Medical Leave	21.47
udmp	UNION DUES - 1619 MP	5.21

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	536.82
medtx	MEDICARE TAX	122.87
udteam	UNION DUES - TEAMSTERS	48.42
401a	401A DEFERRED COMPENSATION	22.52
l&i	L&I - SELF INSURED	9.31
pers3	PERS 3 RETIREMENT	0.42
	Totals:	**2,486.12**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	867.25
l&i	L&I - SELF INSURED	139.91
401a	401A DEFERRED COMPENSATIOI	98.79
unemp	UNEMPLOYMENT	8.48

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	525.36
medtx	MEDICARE TAX	122.87
fmlatx	WA Paid Family & Medical Leave	12.42
pers3	PERS 3 RETIREMENT	0.85
	Totals:	**1,775.93**

Gross Earnings by Fund:	**8,469.39**	**189.00**
Total Fund Deductions:	**2,486.12**	
Fund Net:	**5,983.27**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle s

Fund Worked : 42401
 # Emps : 4

Earnings Code & Description		Amount	Hours
r	REGULAR	581.66	16.50

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	62.75
socsec	SOCIAL SECURITY	36.07
medtx	MEDICARE TAX	8.44
udteam	UNION DUES - TEAMSTERS	3.63
fmlatx	WA Paid Family & Medical Leave	1.48

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	59.62
401a	401A DEFERRED COMPENSATIOI	11.63
l&i	L&I - SELF INSURED	5.65
unemp	UNEMPLOYMENT	0.58

Earnings Code & Description		Amount	Hours
	Totals:	**581.66**	**16.50**

Deduction Code and Description		Amount
pers2	PERS 2 RETIREMENT	36.99
icm457	ICMA DEFERRED COMP	11.39
401a	401A DEFERRED COMPENSATION	8.41
udmp	UNION DUES - 1619 MP	3.07
l&i	L&I - SELF INSURED	0.72
	Totals:	**172.95**

Benefit Code and Description		Amount
socsec	SOCIAL SECURITY	36.07
medtx	MEDICARE TAX	8.44
fmlatx	WA Paid Family & Medical Leave	0.85
	Totals:	**122.84**

Gross Earnings by Fund:	**581.66**	**16.50**
Total Fund Deductions:	**172.95**	
Fund Net:	**408.71**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle s

Fund Worked : 50301
 # Emps : 12

Earnings Code & Description		Amount	Hours
r	REGULAR	14,104.78	480.00
o15r	OVERTIME X 1.5 - ROADS DEPT	125.95	3.00
	Totals:	**14,230.73**	**483.00**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	1,100.15
pers2	PERS 2 RETIREMENT	793.70
icm457	ICMA DEFERRED COMP	212.93
udteam	UNION DUES - TEAMSTERS	153.59
pers3	PERS 3 RETIREMENT	94.24
udmp	UNION DUES - 1619 MP	33.52
garnfe	GARNISHMENT FEE	0.50
socsec	SOCIAL SECURITY	890.59
dshs	DSHS CHILD SUPPORT	410.00
medtx	MEDICARE TAX	208.30
401a	401A DEFERRED COMPENSATION	112.60
fmlatx	WA Paid Family & Medical Leave	36.42
l&i	L&I - SELF INSURED	23.32
	Totals:	**4,069.86**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	1,279.17
l&i	L&I - SELF INSURED	301.12
medtx	MEDICARE TAX	206.36
fmlatx	WA Paid Family & Medical Leave	20.87
socsec	SOCIAL SECURITY	882.31
401a	401A DEFERRED COMPENSATION	242.86
pers3	PERS 3 RETIREMENT	179.49
unemp	UNEMPLOYMENT	14.25
	Totals:	**3,126.43**

Gross Earnings by Fund:	**14,230.73**	**483.00**
Total Fund Deductions:	**4,069.86**	
Fund Net:	**10,160.87**	

Labor Distribution Totals By Fund
CLALLAM COUNTY
08/01/2021 to 08/15/2021-2 Cycle s

Fund Worked : - Totals -
 # Emps : 64

Earnings Code & Description		Amount	Hours
r	REGULAR	139,266.23	4,466.25
v	VACATION	9,680.06	286.00
fh	FLOATING HOLIDAY	4,101.00	120.50
cu	COMP USED	1,056.20	40.25
auto	AUTO ALLOWANCE CONTRACTU	170.00	
o15r	OVERTIME X 1.5 - ROADS DEPT	11,288.29	255.00
s	SICK	4,683.48	158.00
covid	covid SICK	1,585.78	52.00
cpr	COMP TIME PAID - PW ROADS	242.18	9.00
c15r	COMP EARNED X 1.5 ROADS	-2,598.85	-65.50
	Totals:	**169,474.37**	**5,321.50**

Deduction Code and Description		Amount
fedtx	FEDERAL WITHHOLDING TAX	15,411.46
pers2	PERS 2 RETIREMENT	10,065.34
medtx	MEDICARE TAX	2,459.33
udteam	UNION DUES - TEAMSTERS	1,724.00
pers3	PERS 3 RETIREMENT	552.24
fmlatx	WA Paid Family & Medical Leave	429.38
udmp	UNION DUES - 1619 MP	262.17
l&i	L&I - SELF INSURED	247.19
perscu	PERS RETIREMENT CATCH UP	2.48
socsec	SOCIAL SECURITY	10,515.67
icm457	ICMA DEFERRED COMP	3,008.80
401a	401A DEFERRED COMPENSATION	1,774.87
h457	MASSMUTUAL 457	932.02
c13gar	CHAPTER 13 GARNISHMENT	538.00
dshs	DSHS CHILD SUPPORT	410.00
n457	NATIONWIDE 457	250.00
udtint	TEAMSTERS INIT FEE or ADJ	50.00
garnfe	GARNISHMENT FEE	1.00
	Totals:	**48,633.95**

Benefit Code and Description		Amount
pers2	PERS 2 RETIREMENT	16,221.60
l&i	L&I - SELF INSURED	3,424.81
medtx	MEDICARE TAX	2,459.33
fmlatx	WA Paid Family & Medical Leave	248.59
perscu	PERS RETIREMENT CATCH UP	4.37
socsec	SOCIAL SECURITY	10,515.67
401a	401A DEFERRED COMPENSATION	3,035.15
pers3	PERS 3 RETIREMENT	1,132.09
unemp	UNEMPLOYMENT	169.43
	Totals:	**37,211.04**

Grand Total Gross Earnings:	**169,474.37**	**5,321.50**
Grand Total Deductions:	**48,633.95**	
Grand Total Net:	**120,840.42**	

BOARD of CLALLAM COUNTY COMMISSIONERS
MINUTES for the week of August 30 – September 3, 2021

IC amzi

WORK SESSION – 9 a.m.

The work session convened at 9 a.m., Monday, August 30, 2021. Present were Commissioners Ozias, Johnson, and Peach and Administrator Sill.

Items of discussion per the agenda published August 26 were:

- Calendar/Correspondence
- Agreement amendment with Department of Commerce for funding for placement of youth in Secure Residential Crisis Center and Ancillary Therapeutic Services
- Agreement amendment #21 with Department of Health for funding for testing and sampling of recreational beaches
- Notice of hearing to be held Tuesday, September 21, 2021 at 10:30 a.m. for an Ordinance adding a new section within Title 27 Environment, of the Clallam County Code, Adopting Stormwater Management
- Notice of hearing to be held Tuesday, September 28, 2021 at 10:30 a.m. for an Ordinance amending Clallam County Code Title 33 Zoning, and adding a new section adopting standards for Recreational Vehicles, Park Models, and Camping
- Resolution appointing Julie Mowbray and Tara West to the Fair Advisory Board
- Resolution appointing Kimberly Williams to the Conservation Futures Program Advisory Board
- Review the "How Did We Do" reports comparing each month's actual performance against the 2021 Annual Budget
- Vote on Chapter 11 Bankruptcy Mallinckrodt PLC, et al

Meeting adjourned at 10:53 a.m.

REGULAR MEETING OF THE BOARD OF CLALLAM COUNTY COMMISSIONERS

Chair Ozias called the meeting to order at 10 a.m., Tuesday, August 31, 2021. Also present were Commissioners Johnson and Peach, and Administrator Sill.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

Amended:

3b Notice of call for bids to be received no later than 10 a.m. Tuesday, September 28, 2021 **and plan coversheet** for Sequim-Dungeness Way/Woodcock Road Round-about, CRP C1257

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

CONSENT AGENDA

1a Approval of vouchers for the week of August 23

1b Approval of minutes for the week of August 23

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

REPORTS AND PRESENTATIONS

- CBP commented on Ian's Sea to Sound Ride, Economic Development Council, American Rescue Plan Act, Veterans Ceremony
- CRJ commented on Port Angeles Chamber of Commerce, Ian's Sea to Sound Ride, Olympic Discovery Tail
- CMO commented on Ian's Sea to Sound Ride, Olympic Discovery Trail

CONTRACTS AND AGREEMENTS

2a Agreement with Washington State Health Care Authority for Substance Use Disorder Prevention Services

ACTION TAKEN: CRJm to approve, CBPs, mc

DRAFT

2b Agreement with Washington State Department of Commerce through the Multi-Jurisdictional Drug-Task Force Program for Olympic Peninsula Narcotics Enforcement Team (OPNET) operating costs
ACTION TAKEN: CRJm to approve, CBPs, mc

2c Agreement with Scarsella Brothers for the for the Lower Dungeness River Floodplain Restoration and Levee/Road Realignment Project – Phase 1 Earthwork
ACTION TAKEN: CRJm to approve, CBPs, mc

BIDS AND AWARDS

3a Bid opening - Clallam County VAV Replacement Project

Contractor	Amount
Aldergrove Construction, Inc	$ 335,065

ACTION TAKEN: CRJm to forward the proposal to Parks, Fair and Facilities Department for review and recommendation, CBPs, mc

3b Notice of call for bids to be received no later than 10 a.m. Tuesday, September 28, 2021 and plan coversheet for Sequim-Dungeness Way/Woodcock Road Round-about, CRP C1257
ACTION TAKEN: CRJm to issue notice and sign plan coversheet, CBPs, mc

BUDGET

4a Resolution adopting the following Budget Revisions:
Parks & Facilities – Reallocation of funds to pay wages for one Seasonal Ranger hired through Express Personnel for four months/$13,862
ACTION TAKEN: CRJm to adopt, CBPs, mc

4b Resolution adopting the following Supplemental Appropriations:
Non Departmental – Additional funds from FEMA COVID-19 Relief funding projected to be received this year/$400,000
Sheriff – Jail – Additional funds from Washington State Department of Ecology Solid Waste Management Community Litter Cleanup Program for cleanup crew supervisor and tool costs/$31,000
Sheriff – Nine-One-One Enhanced – Additional funding from reimbursement from Washington State Military Department, State E911 Coordination Office for County Coordinator Professional Development Contracts #E21-010 and #E22-012/$43,480
Health and Human Services – Environmental Health

- Additional funding from the Department of Health Consolidated Contract #22 for the shellfish program, Group A water system, and mosquito trapping/$11,000
- Additional funding from Department of Health Consolidated Contract #21 for the BEACH program/$6,500

Public Works – Flood Control – Additional funding from Washington State Department of Ecology for Stormwater Discharge Phase 1 consultant costs/$30,000
ACTION TAKEN: CRJm to adopt, CBPs, mc

ADMINISTRATION

5a Vote on Chapter 11 Bankruptcy Mallinckrodt PLC, et al.
ACTION TAKEN: CRJm to approve and authorize Elizabeth Stanley to submit recommendation on behalf of the BOCC, CBPs, mc

HEARING(S)

H1 Consideration of resolution adopting the following Debatable Emergencies:
General Fund Reserves

- Additional funding to provide bridge working capital for the Dungeness Off-Channel Reservoir Project (1 of 4)/$300,000

- Repayment of funds used to provide bridge working capital for the Dungeness Off-Channel Reservoir Project (4 of 4)/$300,000
  Department of Community Development – Dungeness Reservoir
- Additional funding to provide bridge working capital for the Dungeness Off-Channel Reservoir Project (2 of 4)/$300,000
- Repayment of funds used to provide bridge working capital for the Dungeness Off-Channel Reservoir Project (3 of 4)/$300,000
  Treasurer – REET Electronic Technology – Additional funding to migrate Harris Govern Tax Assessment Software from old server to new server/$2,800
  Clerk – Additional Funding for costs relating to resentencing and refunding Legal Financial obligations as a result of the Supreme Court Blake decision/$75,000
  Human Resources – Workers' Compensation Claims – Additional funding to cover the Department of Labor & Industries costs for 2021/$50,000
  Human Resources – Unemployment Compensation – Additional funding to cover unanticipated costs due to fraudulent claims during COVID pandemic/$20,000
  Auditor – Additional funding to expend balance of CTCL COVID response funds received in 2020 and return unused funds to the granting entity/$23,943
  Non Departmental – Opportunity Fund – Additional funding from Opportunity Fund to fund higher portion of Clallam County Economic Development Council's personnel costs/$230,000
  Parks & Facilities - Additional funding for expenses related to COVID-19 for services expenditures incurred in July, 2021 expected to be reimbursed through FEMA/$9,022
- ARS read the agenda item summary into the record.

ACTION TAKEN: CRJm to open the public hearing, CBPs, mc

- CMO noted no one signed up to speak

ACTION TAKEN: CRJm to close the public hearing and adopt, CBPs, mc

Meeting concluded at 10:40a.m. and continued to 9 a.m., Tuesday, September 7.

There are no Zoom chat logs for the week of August 30.

The Board of Commissioners attended a WSAC Virtual Assembly – COVID 19 update and a COVID-19 Briefing during the week of August 30.

PASSED AND ADOPTED this seventh day of September 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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anb21

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 9-7-21**

REGULAR AGENDA ☒ **Meeting Date: 9-7-21**

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 - Letter

Documents exempt from public disclosure attached: ☐

Executive summary:
Habitat for Humanity of Clallam County is an outstanding organization with an excellent track record in Clallam County. This organization continues to be a key player in our County as we evaluate the methods to increase "affordable workforce housing", and their organization is one of the solutions to help all of us solve this problem. Habitat's plan to purchase a 4.5 acres property will provide a long-term opportunity for approximately forty homes. Habitat's homeownership self-help home ownership program is unique in that it will help to provide home ownership to families that would be unable to afford these homes without their large commitment of their personal time.

Approval of letter of support to Department of Commerce.

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

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approval of a letter of support to Department of Commerce.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: Board of Commissioners

Date submitted: August 31, 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)

habitat for Humanity letter of support 9-7-21.docx
Revised: 3-04-2019

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

Board of Clallam County Commissioners

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015
360.417.2233 Fax: 360.417.2493
Email: commissioners@co.clallam.wa.us

MARK OZIAS, District 1, Chair
RANDY JOHNSON, District 2
BILL PEACH, District 3

RICH SILL, County Administrator

DRAFT

September 7, 2021

Department of Commerce
Housing Trust Fund
1011 Plum Street SE
P.O. Box 42525
Olympia, WA 98504-2525

Re: Habitat for Humanity

We, the Clallam County Commissioners, consider this letter a great opportunity to provide support for a grant request by Habitat for Humanity from the Department of Commerce Housing Trust Fund.

Habitat for Humanity of Clallam County is an outstanding organization with an excellent track record in Clallam County. This organization continues to be a key player in our County as we evaluate the methods to increase "affordable workforce housing" and their organization is one of the solutions to help all of us solve this problem. Habitat's plan to purchase a 4.5 acres property will provide a long-term opportunity for approximately forty homes. Habitat's self-help home ownership program is unique in that it will help to provide home ownership to families that would be unable to afford these homes without their large commitment of their personal time.

However, there is always the issue of finding and being able to purchase land. This land must meet all the required infrastructure, zoning, and affordability issues at a price that will make the finished product reasonably priced. The opportunity being brought to the Housing Trust Fund meets the criteria to provide an affordable land base for Habitat.

This opportunity meets the unique requirements for affordable work force housing and will help to provide Habitat with a land base in Sequim. Without land, other affordable housing goals become moot.

Another issue when funding a project similar to this is a record of achievement Habitat for Humanity of Clallam County has operated successfully for decades in this County with an unblemished record.

The Clallam County Commissioners strongly recommend that you favorably consider funding the Miller purchase in Sequim.

Sincerely,

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair | Randy Johnson | Bill Peach

IR
9/7/21

PROCLAMATION

Recognizing September 2021 as Clallam County's "eat local month"

WHEREAS, Clallam County, WA farmers, producers and fisheries produce a remarkable variety of locally grown and raised, healthy and delicious food available to the public all year round;

WHEREAS, Clallam County, WA residents seek locally grown, produced, and harvested food products for many reasons including good nutrition, to live in a more sustainable way for our environment, and to support our local economy; and

WHEREAS, Clallam County, WA farmers, producers and fisheries continue to provide access to fresh fruits and vegetables, dairy, eggs, meats and seafood that are high quality and high in nutritional value; and

WHEREAS, Clallam County, WA encourages the growth of local businesses, including farmers, producers and fisheries, and supporting these keeps more consumer food dollars recirculating in the local economy, and

WHEREAS, knowing where your food comes from and who produced it adds to our food security and contributes to healthier lifestyle choices, and

WHEREAS, eating more Clallam County-grown foods helps preserve Clallam County's working landscape and the way of life we cherish, and

WHEREAS, Clallam County, WA strives to ensure all of our residents have access to healthy, local food regardless of income, and

WHEREAS, supporting farmer's markets, grocers, restaurants and institutional buyers who support Clallam County's local farmers, producers and fisheries also helps contribute to all of the above, and

NOW, THEREFORE BE IT PROCLAIMED that the Board of Clallam County Commissioners, do support Eat Local First, the Olympic Peninsula's "Eat Local Month" campaign and hereby proclaim September 2021 as Clallam County's 'Eat Local Month', and call this to the attention of all citizens

Signed this seventh day of September 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____

Mark Ozias, Chair

_____

Randy Johnson

_____

Bill Peach

2a
9/7/21

AGENDA ITEM SUMMARY

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

Department: Juvenile Services

WORK SESSION ☒ **Meeting Date: 08/30/2021**

REGULAR AGENDA ☒ **Meeting Date: 09/07/2021**

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

Item summary:

☐ Call for Hearing ☒ Contract/Agreement/MOU #851.21.004-Amended

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☐ Other Discussion only

Documents exempt from public disclosure attached: ☐

Executive summary:
Amended program name from Street Outreach Services (SOS) to Secure Residential Crisis Center.

Contract agreement between Department of Commerce and Clallam County Juvenile & Family Services to provide funding for placement of youth in our Secure Residential Crisis Center (SCRC) and additional funding for Ancillary Therapeutic Services (ATS).

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

No budgetary impact at this time.

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

County Official signature & print name: Cynthia Hanson

Name of Employee/Stakeholder attending meeting: Jody Jacobsen & Cynthia Hanson

Relevant Departments: _____

Date submitted: 8/23/2021

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

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

DocuSign Envelope ID: 607B0F3D-5A69-4A20-A600-F08DF625E72E

#851.21.004

2a
7/20/21

Washington State Department of Commerce

Grant Agreement with

Clallam County Juvenile and Family Services

through

Community Services and Housing Division
Housing Assistance Unit
Office of Homeless Youth

For

Office of Homeless Youth Core Programs

Start date: July 1, 2021

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Attachment A, Scope of Work

Attachment B, Budget

Attachment C, Program Guidelines

Attachment D, Grant Application

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FACE SHEET

Contract Number: 22-46302-104

Washington State Department of Commerce
Community Services and Housing Division
Housing Assistance Unit
OHY Core Programs

1. Grantee	2. Grantee Doing Business As (optional)
Clallam County Juvenile and Family Services 1912 W. 18th Street Port Angeles, WA 98363	
3. Grantee Representative	**4. COMMERCE Representative**
Cindy Hanson Administrative Specialist (360) 565-2646 chanson@co.clallam.wa.us	Cole Ketcherside Program Manager 360-725-5056 Fax (360) 586-5880 cole.ketcherside@commerce.wa.gov P.O. Box 42525 1011 Plum Street SE Olympia, WA 98504-2525

5. Grant Amount	6. Funding Source	7. Start Date	8. End Date
$508,954	Federal: ☐ State: ☒ Other: ☐ N/A: ☐	July 1, 2021	June 30, 2023

9. Federal Funds (as applicable)	Federal Agency:	CFDA Number
N/A	N/A	N/A

10. Tax ID #	11. SWV #	12. UBI #	13. DUNS #
N/A	SWV0000200-36	054-004-559	N/A

14. Grant Purpose

The purpose of this grant is to provide safety and stability to unaccompanied youth and young adults experiencing homelessness and housing instability in WA State by providing a continuum of outreach, shelter, housing, and associated services as specified in the contract Scope of Work.

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 to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grant Terms and Conditions including Attachment "A" – Scope of Work, Attachment "B" – Budget, Attachment "C" - Program Guidelines (as they may be revised from time to time), and Attachment "D" - Grant Application.

FOR GRANTEE	FOR COMMERCE
Board of Clallam County Commissioners Signature Mark Ozias, Chair Print Name and Title 7/20/21 Date	DocuSigned by: Diane Klontz 96CD1778CA2E4F3... Diane Klontz, Assistant Director Community Services and Housing Division 7/23/2021 | 8:40 AM PDT Date **APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE**

Last revision 10/13/2020

Approved as to form only by:

Elizabeth Stanley
Civil Deputy Prosecuting Attorney
Clallam County

SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS

1. **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 grant 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.

2. **COMPENSATION**

COMMERCE shall pay an amount not to exceed the amount shown on the Grant Face Sheet (Box 5) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. Grantee's compensation for services rendered shall be based in accordance with Attachment B – Budget.

3. **BILLING PROCEDURES AND PAYMENT**

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. Exceptions to the single billing per month can be made by Commerce on a case-by-case basis.

All invoices shall include a Monthly Voucher Detail and any other reports required by Commerce. The invoice shall include the Grant Number.

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 subgrants/subcontracts.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report or completion of the project, etc.

4. **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 Grant performed by subcontractors and the portion of Grant 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.

5. INSURANCE

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subgrantee/subcontractor, or agents of either, while performing under the terms of this Grant. Failure to maintain the required insurance coverage may result in termination of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of the Grant start date a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, if required or requested, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days' advance written notice of cancellation.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Local Government Grantees that Participate in a Self-Insurance Program

Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from COMMERCE, the Grantee may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the Grantee shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. Grantee's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

Grantee shall provide annually to COMMERCE a summary of coverages and a letter of self-insurance, evidencing continued coverage under Grantee's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self-insurance will be provided on the anniversary of the start date of this Agreement.

6. 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

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SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
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- Attachment A – Scope of Work
- Attachment B – Budget
- Program Guidelines, as revised
- Grant application

GENERAL TERMS AND CONDITIONS
GENERAL GRANT
STATE 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 Exhibits, 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. "Subgrantee/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 Grant with the Grantee. The terms "subgrantee/subcontractor" refers to any tier.

H. "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.

I. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

2. **ACCESS TO DATA**

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

3. **ADVANCE PAYMENTS PROHIBITED**

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

4. **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.

5. **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.

GENERAL TERMS AND CONDITIONS
GENERAL GRANT
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6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. ASSIGNMENT

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

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorney's fees and costs.

9. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

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

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

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

3. All personal information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal Information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

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.

10. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the COMMERCE may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Grantee and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on the Commerce program

administering this Grant, including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24 month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the Grantee may be disqualified from further consideration for the award of a Grant.

In the event this contract is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the Grantee as it could pursue in the event of a breach of the contract by the Grantee. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

11. 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 Grantee 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.

12. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Contract number; and
- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

13. DUPLICATE PAYMENT

COMMERCE shall not pay the Grantee, if the GRANTEE has charged or will charge the State of Washington or any other party under any other Grant, subgrant/subcontract, or agreement, for the same services or expenses.

14. GOVERNING LAW AND VENUE

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

15. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

The Grantee expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Grantee's or any subgrantee's/subcontractor's performance or failure to perform the Grant. Grantee's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

16. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Grant. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Contractor will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

17. INDUSTRIAL INSURANCE COVERAGE

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

GENERAL TERMS AND CONDITIONS
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18. LAWS

The Grantee shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

19. 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 Contract.

20. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Authorized Representative.

21. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further grants with COMMERCE. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this grant.

22. PAY EQUITY

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
B. Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
    (I) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.

    (II) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

    (III) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by the Department, if the Department or the Department of Enterprise services determines that the Grantee is not in compliance with this provision.

23. POLITICAL ACTIVITIES

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

24. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

25. 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.

26. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this Grant 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 Grant.

The Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant, 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.

27. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

28. RIGHT OF INSPECTION

The Grantee shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

29. 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.

30. SEVERABILITY

GENERAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS

The provisions of this Grant 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 Grant.

31. SITE SECURITY

While on COMMERCE premises, Grantee, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

32. SUBGRANTING/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.

33. 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.

34. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

35. TERMINATION FOR CAUSE

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this Grant in a timely manner, COMMERCE has the right to suspend or terminate this Grant. Before suspending or terminating the Grant, 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 Grant 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 Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the Grant, 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 Grant. 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 Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.

GENERAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS

36. 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.

37. TERMINATION PROCEDURES

Upon termination of this Grant, COMMERCE, in addition to any other rights provided in this Grant, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Grant 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 Grant. 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 Grant on the date, and to the extent specified, in the notice;

B. Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant 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 subgrants/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 subgrants/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 Grant 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 Grant, which is in the possession of the Grantee and in which COMMERCE has or may acquire an interest.

38. 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 Grant, shall pass to and vest in COMMERCE upon delivery of such property by the

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Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, 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 Grant.

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 Grant

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

39. 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

A. Grantee agrees to operate the following programs as specified in the grant application and OHY guidelines

- The Secure Crisis Residential Center (SCRC) grant provides resources for emergency, temporary residence, assessment, referrals, family reconciliation and permanency-planning services for youth ages 12-17. Number of approved beds: 4
- Ancillary Therapeutic Services (ATS) funding provides behavioral health services to eligible youth in crisis within HOPE, CFC, and licensed overnight youth shelters.

B. Grantee shall comply with all the administrative requirements, policies and procedures, required trainings, and program implementation requirements specified in the applicable OHY program guidelines for each of the programs funded through this grant.

C. Grantee shall submit Monthly Voucher Details with each invoice and any other report that Commerce may develop as specified in the applicable OHY program guidelines.

D. Grantee must enter data in HMIS in accordance with any applicable HMIS user agreements, and as specified by Commerce in the applicable OHY program guidelines.

X Director signature

X Board of Clallam County Commissioners
Mark Ozias, Chair

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Attachment B

Budget

Budget Category	FY 22 Amount	FY 23 Amount
Admin	$38,172	$38,172
Program Operations	$216,305	$216,305
Facilities	$0	$0
Total	$254,477	$254,477

Total Grant Amount: $508,954

AGENDA ITEM SUMMARY

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

26
9/7/21

Department: Health and Human Services

WORK SESSION ☒ **Meeting Date: August 30, 2021**

REGULAR AGENDA ☒ **Meeting Date: September 7, 2021**

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

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 11301-18-CONCON, Amendment #21
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
Attached is Consolidated Contract Amendment #21 between Department of Health and Clallam County Health and Human Services, which adds supplemental funding to the HHS 2021 budget for the following:

- EPA Swimming Beach Act Grant for the BEACH program to provide testing and sampling of recreational beaches, in the amount of $6,500.

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?)

Approve and move to regular BOCC meeting for final signature.

County Official signature & print name: Kevin LaPicola

Name of Employee/Stakeholder attending meeting: Jennifer Garcelon

Relevant Departments: Health and Human Services

Date submitted: August 25, 2021

11301-18 - ConCon, Amend #21

CLALLAM COUNTY HEALTH & HUMAN SERVICES
2018 – 2021 CONSOLIDATED CONTRACT

CONTRACT NUMBER: CLH18239 **AMENDMENT NUMBER: 21**

PURPOSE OF CHANGE: To amend this contract between the DEPARTMENT OF HEALTH hereinafter referred to as "DOH", and CLALLAM COUNTY HEALTH & HUMAN SERVICES, a Local Health Jurisdiction, hereinafter referred to as "LHJ", pursuant to the Modifications/Waivers clause, and to make necessary changes within the scope of this contract and any subsequent amendments thereto.

IT IS MUTUALLY AGREED: That the contract is hereby amended as follows:

1. Exhibit A Statements of Work, attached and incorporated by this reference, are amended as follows:

   ☒ Adds Statements of Work for the following programs:

   - BEACH Program - Effective March 1, 2021

   ☒ Amends Statements of Work for the following programs:

   - COVID-19 Emergency Language & Community Outreach Services - Effective July 1, 2020
   - OSS LMP Implementation - Effective July 1, 2019

   ☐ Deletes Statements of Work for the following programs:

2. Exhibit B-21 Allocations, attached and incorporated by this reference, amends and replaces Exhibit B-20 Allocations as follows:

   ☒ Increase of **$6,500** for a revised maximum consideration of **$7,280,448**.

   ☐ Decrease of _____ for a revised maximum consideration of _____.

   ☐ No change in the maximum consideration of _____.
   Exhibit B Allocations are attached only for informational purposes.

3. Exhibit C-20 Schedule of Federal Awards, attached and incorporated by this reference, amends and replaces Exhibit C-19.

Unless designated otherwise herein, the effective date of this amendment is the date of execution.

ALL OTHER TERMS AND CONDITIONS of the original contract and any subsequent amendments remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has affixed his/her signature in execution thereof.

CLALLAM COUNTY BOARD OF COUNTY COMMISSIONERS

_____
Date

STATE OF WASHINGTON
DEPARTMENT OF HEALTH

_____
Date

APPROVED AS TO FORM ONLY
Assistant Attorney General

2018-2021 CONSOLIDATED CONTRACT
EXHIBIT A
STATEMENTS OF WORK
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DOH Program Name or Title: BEACH Program - Effective March 1, 2021 3
DOH Program Name or Title: COVID-19 Emergency Language & Community Outreach Services - Effective July 1, 2020 5
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Exhibit A
Statement of Work
Contract Term: 2018-2021

DOH Program Name or Title: BEACH Program - Effective March 1, 2021

Local Health Jurisdiction Name: Clallam County Health & Human Services
Contract Number: CLH18239

SOW Type: Original **Revision # (for this SOW)**

Period of Performance: March 1, 2021 through October 31, 2021

Funding Source	Federal Compliance (check if applicable)	Type of Payment
☒ Federal Subrecipient ☐ State ☐ Other	☒ FFATA (Transparency Act) ☐ Research & Development	☒ Reimbursement ☐ Fixed Price

Statement of Work Purpose: The Beach Environmental Assessment, Communication, and Health (BEACH) Program monitors water at marine swimming beaches for bacteria and provides public notification when levels are unsafe.

Revision Purpose: N/A

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding Period (LHJ Use Only) Start Date	Funding Period (LHJ Use Only) End Date	Current Consideration	Change Increase (+)	Total Consideration
FFY20 Swimming Beach Act Grant IAR (ECY)	66.472	333.66.47	26505920	03/01/21	10/31/21	0	6,500	6,500
TOTALS						**0**	**6,500**	**6,500**

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
1	BEACH Program Administration and Annual Meeting: Time spent on administrative duties related to the BEACH Program and the 2021 Annual meeting.		Summarize time spent on administrative duties in annual report.	Annual meeting held in March 2021. Annual report due October 31, 2021.	Reimbursement for actual costs up to $6,500 for tasks 1-3. Subrecipient may use its own discretion in prioritizing which task(s) to pay with this award.
2	Bacteria Monitoring & Public Notification • Collect samples and field observations in accordance with BEACH Program Quality Assurance Project Plan (QAPP). Notify BEACH Program Manager in advance if samples cannot be collected. Coordinate deviations from the QAPP and/or schedule with the BEACH Program Manager. • Post and/or remove swimming advisory signs as needed. Provide public education about beach water quality. Notify BEACH Program Manager of swimming advisories as soon as possible.		1. Enter data into Department of Ecology's BEACH Program Database. 2. Email or mail copies of laboratory analytical reports to BEACH Program Data Manager. 3. Include a list of swimming advisories in annual report.	1. Enter data results into database by Friday each week of sample collection. 2. Email or mail copies of reports upon receipt. 3. Annual report due October 31, 2021.	

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
3	Illness Pollution Investigations Notify BEACH Program Manager of any illness reports related to recreational swimming beaches. Conduct illness investigations as needed.		1. Provide notification via telephone to BEACH Program Manager. 2. Summarize illness investigation in annual report.	1. Within fourteen (14) business days. 2. Annual report due October 31, 2021.	

***For Information Only:**
Funding is not tied to the revised Standards/Measures listed here. This information may be helpful in discussions of how program activities might contribute to meeting a Standard/Measure. More detail on these and/or other Public Health Accreditation Board (PHAB) Standards/Measures that may apply can be found at:
http://www.phaboard.org/wp-content/uploads/PHAB-Standards-and-Measures-Version-1.0.pdf

Program Specific Requirements/Narrative

The funds for this project are being provided by an Environmental Protection Agency grant, Agreement Number CU-01J49701-1, Catalog of Federal Domestic Assistance Number 66.472 – Beach Monitoring and Notification Program Implementation Grants.

Special Requirements
Federal Funding Accountability and Transparency Act (FFATA)
This statement of work is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how the federal funds are spent.

To comply with this act and be eligible to perform the activities in this statement of work, the LHJ must have a Data Universal Numbering System (DUNS®) number.

Information about the LHJ and this statement of work will be made available on USASpending.gov by DOH as required by P.L. 109-282.

Program Manual, Handbook, Policy References
Quality Assurance Project Plan at: https://fortress.wa.gov/ecy/publications/SummaryPages/1903119.html

DOH Program Contact
Laura Hermanson, BEACH Program, Office of Environmental Health and Safety, PO Box 47824, Olympia, WA 98504-7824, 360-480-4868, laura.hermanson@ecy.wa.gov

DOH Fiscal Contact
Taylor Warren, Budget Specialist, Office of Environmental Health and Safety, P.O. Box 47824, Olympia, WA 98504-7824, 360-236-3348, taylor.warren@doh.wa.gov

Exhibit A
Statement of Work
Contract Term: 2018-2021

DOH Program Name or Title: COVID-19 Emergency Language & Community Outreach Services - Effective July 1, 2020

Local Health Jurisdiction Name: Clallam County Health & Human Services

Contract Number: CLH18239

SOW Type: Revision **Revision # (for this SOW)** 1

Period of Performance: July 1, 2020 through June 30, 2021

Funding Source	Federal Compliance (check if applicable)	Type of Payment
☒ Federal Subrecipient ☐ State ☐ Other	☒ FFATA (Transparency Act) ☐ Research & Development	☒ Reimbursement ☐ Fixed Price

Statement of Work Purpose: The LHJ will work with community organizations and partners to provide emergency language and outreach services and ensure messaging is culturally relevant and linguistically appropriate. The LHJ will focus all efforts on communities disproportionately impacted by COVID-19 and the response to the pandemic, with an intentional focus on reaching culturally and linguistically diverse communities.

The messages, materials, products, dissemination channels, and activities will be in the format that is most appropriate for the community as defined by the community. The LHJ will share back completed products with the Washington State Department of Health for sharing with other LHJs and communities across the state (as relevant).

Revision Purpose: The purpose of this revision is to extend the period of performance, funding end date, and deliverable due dates from December 31, 2020 to June 30, 2021 and change DOH program contact information.

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding Period (LHJ Use Only) Start Date	Funding Period (LHJ Use Only) End Date	Current Consideration	Change None	Total Consideration
SS COMMUNITY OUTREACH PN	21.019	333.21.01	9811929V	07/01/20	06/30/21	20,000	0	20,000
TOTALS						**20,000**	**0**	**20,000**

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
1	Translate existing LHJ or other public health agency COVID-19 materials, communications, and information into additional languages.	3.1, 3.2	Provide link to translated material	~~*By December 30, 2020*~~ *By June 30, 2021*	Payment for all tasks will be reimbursement for actual expenses not to exceed the total funding consideration.
2	Develop in-language COVID-19 webpages	3.1, 3.2	Provide link(s) to in-language webpages	~~*By December 30, 2020*~~ *By June 30, 2021*	
3	Provide interpretation services for COVID-19 community/partner meetings or events (spoken or signed language, virtual or in-person)	3.1, 3.2, 4.1, 4.2	Submit the following information: date, purpose COVID-19 community/partner meeting, and number of attendees	~~*By December 30, 2020*~~ *By June 30, 2021*	

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
4	Organize radio interviews, ads, public service announcements (PSAs with community media and multilingual media stations about COVID-19 topics	3.1, 3.2	Final product, script, and/or link to interview	~~*By December 30, 2020*~~ *By June 30, 2021*	
5	Create community-tailored audio and video recordings of key COVID-19 information	3.1, 3.2, 4.1, 4.2	Provide a copy of or a link to the final product	~~*By December 30, 2020*~~ *By June 30, 2021*	
6	Disseminate culturally and linguistically appropriate COVID-19 messages via mail, radio, TV, social media, or other channels.	3.1, 3.2	Submit a copy of the final product or provide a link	~~*By December 30, 2020*~~ *By June 30, 2021*	
7	Provide Computer Assisted Real-time Transcription (CART) services for COVID-19 related community/partner meetings or events	3.1, 3.2, 4.1, 4.2	Submit the following information: date, purpose of COVID-19 community/partner meeting, and number of attendees	~~*By December 30, 2020*~~ *By June 30, 2021*	

***For Information Only:**
Funding is not tied to the revised Standards/Measures listed here. This information may be helpful in discussions of how program activities might contribute to meeting a Standard/Measure. More detail on these and/or other Public Health Accreditation Board (PHAB) Standards/Measures that may apply can be found at: http://www.phaboard.org/wp-content/uploads/PHAB-Standards-and-Measures-Version-1.0.pdf

Program Specific Requirements/Narrative

Special Requirements
Federal Funding Accountability and Transparency Act (FFATA)
This statement of work is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how the federal funds are spent.

To comply with this act and be eligible to perform the activities in this statement of work, the LHJ must have a Data Universal Numbering System (DUNS®) number.

Information about the LHJ and this statement of work will be made available on USASpending.gov by DOH as required by P.L. 109-282.

Definitions

Interpretation: Immediate verbal (or signed) communication of meaning from one language (the source language) into another (the target language). Messages are conveyed orally. Interpretation services that occur over-the-phone are referred to as telephonic interpretation services.

Translation: The conversion of written communication from one language (source language) to another (target language) in a written form. An accurate translation is one that conveys the intent and essential meaning of the original text.

In-language: Refers to being provided in the language that the audience will understand. For example: Webpages that were created for Spanish speakers would be "in-language" webpages. A live interview on a radio station in Russian by a Russian speaker would be "in-language."

Special Instructions
The listed tasks/activities serve as a menu that the LHJ can choose from. LHJs have the ability to prioritize activities and languages based off of the needs of their communities. LHJs are asked to review the top languages groups within their jurisdiction, but have flexibility in which languages they prioritize the funding for. Source (OFM LEP Population Estimates) https://ofm.wa.gov/washington-data-research/population-demographics/population-estimates/special-subject-estimates.

Other
Subcontracting with community-based, community-rooted, and community-led organizations is encouraged. Community-rooted and community-led organizations and groups are better positioned and equipped to listen, understand, and respond to the needs of their community members in the most culturally relevant and linguistically appropriate way.

Below are some considerations for subcontractor selection:

1. Community-rooted, community-led, and community-based.

2. Are a current, trusted messenger to the community/communities they plan to serve.

3. Serve community/communities who are disproportionately impacted by COVID-19

4. Proposed activities that align with the scope of this funding opportunity and focus on outreach, and the actual approach to COVID-19 outreach is community-informed and culturally and linguistically appropriate.

DOH Program
~~*Bella Mendez, CLAS Coordinator*~~
Galen Van Horn, Contracts Manager
WA State Department of Health,
Center for Public Affairs
PO Box 47890, Olympia, WA 98504-7890
~~*(360) 481-9165; Bella.Mendez@doh.wa.gov*~~
(360) 236-3468; galen.vanhorn@doh.wa.gov

Exhibit A
Statement of Work
Contract Term: 2018-2021

DOH Program Name or Title: OSS LMP Implementation - Effective July 1, 2019

Local Health Jurisdiction Name: Clallam County Health & Human Services
Contract Number: CLH18239

SOW Type: Revision **Revision # (for this SOW)** 2

Period of Performance: July 1, 2019 through June 30, 2021

Funding Source	Federal Compliance (check if applicable)	Type of Payment
☐ Federal <Select One>	☐ FFATA (Transparency Act)	☒ Reimbursement
☒ State	☐ Research & Development	☐ Fixed Price
☐ Other		

Statement of Work Purpose: The purpose of this statement of work is to fund implementation of the on-site sewage system (OSS) local management plan (LMP).

Revision Purpose: The purpose of this revision is to redistribute funds between tasks.

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding Period (LHJ Use Only) Start Date	Funding Period (LHJ Use Only) End Date	Current Consideration	Change None	Total Consideration
Small Onsite Management (ALEA)	N/A	334.04.93	26705100	07/01/19	06/30/20	45,000	0	45,000
Small Onsite Management (ALEA)	N/A	334.04.93	26705100	07/01/20	06/30/21	15,000	0	15,000
Wastewater Management (GFS)	N/A	334.04.93	26701100	01/01/21	06/30/21	30,000	0	30,000
TOTALS						**90,000**	**0**	**90,000**

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
1	**Administration** This task is to fund the required financial and reporting activities necessary to meet state DOH and Auditor requirements including administration of LHJ OSS loan program. Also included are activities such as attending necessary meetings (including travel costs) and training that is germane to the overall project, and supplies and services needed to complete tasks. Clallam County Environmental Health Department (EHD) staff will also participate in meetings and conferences on regional projects including Puget Sound On-site Sewage Funding Programs and Best Management Project.		• Meet reporting requirements. • Attend DOH sponsored meetings. • Attend any necessary training. • Attend meetings and conferences on regional projects as needed.	Report Due Date: January 15, 2020 June 15, 2020 December 31, 2020 June 15, 2021 Task is ongoing throughout the project period.	~~*$22,500*~~ *$17,405*

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
2	**Data Management & QA/QC** Clallam County EHD is in the process of developing & maintaining quality assurance / quality control (QA/QC) on operation and maintenance (O&M) tracking methods for all septic systems in the OSS database developed in previous biennium funding rounds. Tasks include • Updating address and parcel records for related O&M cases as needed and investigating previous on-site sewage system (OSS) designation; • Performing outlier analysis of existing data sets and correcting systemic errors as needed; • Continuing to track and report on failing systems; • Updating our database by entering inspection reports, existing hard copy permits and as-built drawings; • Tracking and mapping progress in identifying unknown OSS and performing necessary database updates; and, • Continue to scan additional records as located or submitted.		• QA/QC of database to address information for tracking permits. • Continue to make database updates and reporting function improvements. • Enter OSS inspection and other related records in the database (i.e. keep database current). • Prepare and manipulate data for mapping and reporting purposes. • Produce GIS maps of OSS in the marine recovery areas (MRA). • Maintain OSS records available online.	Report Due Date: January 15, 2020 June 15, 2020 December 31, 2020 June 15, 2021 Task is ongoing throughout the project period.	~~*$45,000*~~ *$37,257*
3	**OSS Owner Outreach & Education** LHJ will offer Septics 101 and Septics 201 clinics to homeowners, and perform other educational activities as needed, such as staffing booths at local festivals and presenting to local groups. Classroom instruction is needed to supplement online trainings to serve all populations. Septics 101 is focused on homeowner education and provides information about septic system maintenance and the importance of having systems inspected regularly. Septics 201 provides homeowners an overview of the What, Why, & How of safely inspecting their septic system. If Septics 201 is completed appropriately, it can provide the OSS owner with certification to perform their own septic inspections under certain eligibility conditions. DVD and CD copies of Septics 101 and 201 will be generated and made available to Clallam County libraries and at the EHD counter for loan to OSS		• Hold up to three (3) Septic in-person, or virtual, clinics for general public. Whether Septics 101 or Septics 201 is presented will depend on public requests. • Copy Septics 101 and 201 videos to CD and DVDs for loan at Clallam County libraries and the EH counter. • Other educational activities as needed such as participating at festivals and presenting septic information to local community groups or school events.	Report Due Date: January 15, 2020 June 15, 2020 December 31, 2020 June 15, 2021 Task is ongoing throughout the project period.	~~*$15,000*~~ *$19,969*

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	owners who are not computer savvy or do not have a high speed internet connection.				
4	**Incentives** This task is to provide incentives to homeowners for having septic system inspections performed; unknown septic systems located and diagrams of the system developed; septic tank pumping, if appropriate; and OSS upgraded to make systems easily accessible for future inspections. OSS upgrades could include installing risers on the OSS access points, observation ports, or other improvements.		• Subsidize the cost of OSS inspections, locates, pumping, and/or upgrades to facilitate future inspections, while funding lasts. • Anticipate providing at least thirty (30) incentives.	Report Due Date: January 15, 2020 June 15, 2020 December 31, 2020 June 15, 2021 Task is ongoing throughout the project period.	~~*$7,500*~~ *$15,369*

***For Information Only:**
Funding is not tied to the revised Standards/Measures listed here. This information may be helpful in discussions of how program activities might contribute to meeting a Standard/Measure. More detail on these and/or other Public Health Accreditation Board (PHAB) Standards/Measures that may apply can be found at:
http://www.phaboard.org/wp-content/uploads/PHAB-Standards-and-Measures-Version-1.0.pdf

Program Specific Requirements/Narrative

Restrictions on Funds (what funds can be used for which activities, not direct payments, etc)
These funds can NOT be used for local match to federal grants.

Special References (RCWs, WACs, etc)
WAC 246-272A and RCW 70A.110

State funds from the Aquatic Lands Enhancement Account must be used to implement elements and activities of the local on-site sewage management plans that do not conflict with and are consistent with the goals, strategies, objectives, and actions of the Puget Sound Action Agenda.

Definitions
Failure: A condition of an on-site sewage system or component that threatens the public health by inadequately treating sewage or by creating a potential for direct or indirect contact between sewage and the public. Examples of failure include: (a) Sewage on the surface of the ground; (b) Sewage backing up into a structure caused by slow soil absorption of septic tank effluent; (c) Sewage leaking from a sewage tank or collection system; (d) Cesspools or seepage pits where evidence of ground water or surface water quality degradation exists; (e) Inadequately treated effluent contaminating ground water or surface water; or (f) Noncompliance with standards stipulated on the permit.

Maintenance and Monitoring: The actions necessary to keep the on-site sewage system components functioning as designed. Periodic or continuous checking of an on-site sewage system, which is performed by observations and measurements, to determine if the system is functioning as intended and if system maintenance is needed. Monitoring also includes maintaining accurate records that document monitoring activities.

Special Billing Requirements
Billing Information

1. Billings are submitted on an A19-1A form, which is provided by DOH.
2. A19-1A forms may be submitted monthly and must be submitted bi-monthly at minimum.

Special Instructions
Semiannual progress reports, including marine recovery area (MRA) mapping data, are due to DOH via email to ~~*jeremy.simmons@doh.wa.gov*~~ *roger.parker@doh.wa.gov* and taylor.warren@doh.wa.gov. Progress Report Due Dates: January 15, 2020, June 15, 2020, December 31, 2020, and June 15, 2021.

The report format will be provided by DOH and may be modified throughout the contract period via email announcement.

DOH Program Contacts:
Roger Parker, Wastewater Management Section, Office of Environmental Health and Safety, PO Box 47824, Olympia WA 98504-7824; 360-236-3379; roger.parker@doh.wa.gov

Jeremy Simmons, Office of Environmental Health and Safety, PO Box 47824, Olympia WA 98504-7824; 360-236-3346; jeremy.simmons@doh.wa.gov

DOH Fiscal Contact:
Taylor Warren, Office of Financial Services, PO Box 47820, Olympia WA 98504-7820, 360-236-3348, taylor.warren@doh.wa.gov

Clallam County Health & Human Services

EXHIBIT B-21
ALLOCATIONS
Contract Term 2018-2021

Contract Number: CLH18239
Date: March 15, 2021

Indirect Rate as of January 2018 through December 2018: 34.23%
Indirect Rate as of January 2019 through December 2020: 25.77%
Indirect Rate as of January 2021 through December 2021: 33.33%

Chart of Accounts Program Title	Federal Award Identification #	Amend #	CFDA*	BARS Revenue Code**	Statement of Work Funding Period Start Date	Statement of Work Funding Period End Date	DOH Use Only Chart of Accounts Funding Period Start Date	DOH Use Only Chart of Accounts Funding Period End Date	Amount	Funding Period Sub Total	Chart of Accounts Total
FFY21 USDA WIC Program Mgnt CSS	217WAWA7W1003	Amd 19	10.557	333.10.55	10/01/20	09/30/21	10/01/20	09/30/21	$2,450	$2,450	$425,820
FFY21 USDA WIC Program Mgnt CSS	217WAWA7W1003	Amd 15	10.557	333.10.55	10/01/20	12/31/20	10/01/20	12/31/20	($60,750)	$0	
FFY21 USDA WIC Program Mgnt CSS	217WAWA7W1003	Amd 6	10.557	333.10.55	10/01/20	12/31/20	10/01/20	12/31/20	$2,120		
FFY21 USDA WIC Program Mgnt CSS	217WAWA7W1003	N/A	10.557	333.10.55	10/01/20	12/31/20	10/01/20	12/31/20	$58,630		
FFY20 USDA WIC Program Mgnt CSS	207WAWA7W1003	Amd 15	10.557	333.10.55	10/01/19	09/30/20	10/01/19	09/30/20	($243,000)	$0	
FFY20 USDA WIC Program Mgnt CSS	207WAWA7W1003	Amd 6	10.557	333.10.55	10/01/19	09/30/20	10/01/19	09/30/20	$8,480		
FFY20 USDA WIC Program Mgnt CSS	207WAWA7W1003	N/A	10.557	333.10.55	10/01/19	09/30/20	10/01/19	09/30/20	$234,520		
FFY19 CSS USDA WIC Program Mgnt	187WAWA7W1003	Amd 6	10.557	333.10.55	10/01/18	09/30/19	10/01/18	09/30/19	$2,610	$242,380	
FFY19 CSS USDA WIC Program Mgnt	187WAWA7W1003	Amd 5	10.557	333.10.55	10/01/18	09/30/19	10/01/18	09/30/19	$5,250		
FFY19 CSS USDA WIC Program Mgnt	187WAWA7W1003	N/A	10.557	333.10.55	10/01/18	09/30/19	10/01/18	09/30/19	$234,520		
FFY18 CSS USDA WIC Program Mgnt	187WAWA7W1003	Amd 2	10.557	333.10.55	01/01/18	09/30/18	10/01/17	09/30/18	$5,100	$180,990	
FFY18 CSS USDA WIC Program Mgnt	187WAWA7W1003	N/A	10.557	333.10.55	01/01/18	09/30/18	10/01/17	09/30/18	$175,890		
FFY22 USDA WIC Client Svs Contracts	NGA Not Received	Amd 19	10.557	333.10.55	10/01/21	12/31/21	10/01/21	12/31/21	$60,995	$60,995	$592,815
FFY21 USDA WIC Client Svs Contracts	217WAWA7W1003	Amd 19	10.557	333.10.55	10/01/20	09/30/21	10/01/20	09/30/21	$182,985	$243,735	
FFY21 USDA WIC Client Svs Contracts	217WAWA7W1003	Amd 15, 19	10.557	333.10.55	10/01/20	09/30/21	10/01/20	09/30/21	$60,750		
FFY20 USDA WIC Client Svs Contracts	207WAWA7W1003	Amd 18	10.557	333.10.55	10/01/19	09/30/20	10/01/19	09/30/20	$42,435	$288,085	
FFY20 USDA WIC Client Svs Contracts	207WAWA7W1003	Amd 15	10.557	333.10.55	10/01/19	09/30/20	10/01/19	09/30/20	$243,000		
FFY20 USDA WIC Client Svs Contracts	207WAWA7W1003	Amd 12	10.557	333.10.55	10/01/19	09/30/20	10/01/19	09/30/20	$2,650		
FFY20 USDA WIC Nutrition Ed	207WAWA7W1003	Amd 17	10.557	333.10.55	10/01/19	09/30/20	10/01/19	09/30/20	$1,665	$1,665	$1,665
FFY20 USDA FMNP Prog Mgmt	207WAWA7Y8604	Amd 16	10.572	333.10.57	10/01/19	09/30/20	10/01/19	09/30/20	$555	$555	$1,781
FFY19 CSS USDA FMNP Prog Mgnt	197WAWA7Y8604	Amd 8	10.572	333.10.57	01/01/19	09/30/19	10/01/18	09/30/19	$615	$615	
FFY18 CSS USDA FMNP Prog Mgnt	187WAWA7Y8604	Amd 2	10.572	333.10.57	01/01/18	09/30/18	10/01/17	09/30/18	$611	$611	
FFY16 Cascades USDA WIC Prog Mgnt-MIS	16157WAWA6W522	Amd 6, 8	10.578	333.10.57	10/01/18	09/30/19	03/11/16	09/30/19	$3,510	$3,510	$3,510
FFY19 MIS Tech Grant	197WAWA1G5212	Amd 8	10.578	333.10.57	10/01/19	09/30/20	10/01/18	09/30/20	$1,310	$1,310	$1,310
BITV-COVID Ed LHJ Allocation-CARES	NGA Not Received	Amd 19	21.019	333.21.01	07/01/20	12/30/21	07/01/20	12/30/21	$308,526	$411,368	$411,368
BITV-COVID Ed LHJ Allocation-CARES	NGA Not Received	Amd 17, 19	21.019	333.21.01	07/01/20	12/30/21	07/01/20	12/30/21	$102,842		
COVID LHJ OFM Allocation-CARES	NGA Not Received	Amd 17, 19	21.019	333.21.01	03/01/20	06/30/21	03/01/20	06/30/21	$1,520,200	$1,520,200	$1,520,200
SS Community Outreach PN	NGA Not Received	Amd 18, **21**	21.019	333.21.01	07/01/20	**06/30/21**	07/01/20	06/30/21	$20,000	$20,000	$20,000
PS SSI 1-5 BEACH Task 4	01JJ18001	Amd 7	66.123	333.66.12	03/01/19	10/31/19	07/01/17	10/31/19	$4,700	$4,700	$9,400
PS SSI 1-5 BEACH Task 4	01JJ18001	Amd 1	66.123	333.66.12	03/01/18	10/31/18	07/01/17	06/30/19	$4,700	$4,700	

Clallam County Health & Human Services

EXHIBIT B-21
ALLOCATIONS
Contract Term 2018-2021

Contract Number: CLH18239
Date: March 15, 2021

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PS SSI 1-5 OSS Task 4	01J18001	Amd 12, 19	66.123	333.66.12	05/01/19	12/31/21	07/01/17	06/30/23	$240,000	$240,000	$393,700
PS SSI 1-5 OSS Task 4	01J18001	Amd 2	66.123	333.66.12	01/01/18	03/31/19	07/01/17	06/30/23	$22,866	$153,700	
PS SSI 1-5 OSS Task 4	01J18001	N/A	66.123	333.66.12	01/01/18	03/31/19	07/01/17	06/30/23	$130,834		
PS SSI 1-5 PIC Task 4	01J18001	Amd 19	66.123	333.66.12	11/01/20	12/31/21	07/01/17	06/30/23	$322,815	$322,815	$518,447
PS SSI 1-5 PIC Task 4	01J18001	Amd 2, 8, 10	66.123	333.66.12	01/01/18	11/30/19	07/01/17	06/30/23	$8,832	$195,632	
PS SSI 1-5 PIC Task 4	01J18001	N/A, Amd 8, 10	66.123	333.66.12	01/01/18	11/30/19	07/01/17	06/30/23	$186,800		
PS SSI 1-5 Subaward Process Task 4	01J18001	Amd 12	66.123	333.66.12	05/01/19	12/31/20	07/01/16	08/31/23	($240,000)	$0	$0
PS SSI 1-5 Subaward Process Task 4	01J18001	Amd 9	66.123	333.66.12	05/01/19	12/31/20	07/01/16	08/31/23	$240,000		
FFY20 Swimming Beach Act Grant IAR (ECY)	**01J49701**	**Amd 21**	**66.472**	**333.66.47**	03/01/21	10/31/21	12/15/19	10/31/21	**$6,500**	**$6,500**	**$25,400**
FFY20 Swimming Beach Act Grant IAR (ECY)	01J49701	Amd 15	66.472	333.66.47	03/01/20	10/31/20	12/15/19	10/31/21	$8,100	$8,100	
FFY19 Swimming Beach Act Grant IAR (ECY)	01J49701	Amd 7	66.472	333.66.47	03/01/19	10/31/19	12/15/18	10/31/19	$5,400	$5,400	
FFY18 Swimming Beach Act Grant IAR (ECY)	00J75501	Amd 1	66.472	333.66.47	03/01/18	10/31/18	12/15/17	12/14/18	$5,400	$5,400	
FFY17 EPR PHEP BP1 LHJ Funding	NU90TP921889-01	Amd 2	93.069	333.93.06	01/01/18	06/30/18	07/01/17	07/02/18	$20,391	$44,198	$44,198
FFY17 EPR PHEP BP1 LHJ Funding	NU90TP921889-01	N/A	93.069	333.93.06	01/01/18	06/30/18	07/01/17	07/02/18	$23,807		
FFY18 EPR PHEP BP1 Supp LHJ Funding	NU90TP921889-01	Amd 5	93.069	333.93.06	07/01/18	06/30/19	07/01/18	06/30/19	$1,062	$58,979	$58,979
FFY18 EPR PHEP BP1 Supp LHJ Funding	NU90TP921889-01	Amd 4	93.069	333.93.06	07/01/18	06/30/19	07/01/18	06/30/19	$57,917		
FFY20 PHEP BP2 LHJ Funding	NU90TP922043	Amd 18	93.069	333.93.06	07/01/20	06/30/21	07/01/20	06/30/21	$23,592	$58,979	$117,958
FFY20 PHEP BP2 LHJ Funding	NU90TP922043	Amd 17, 18	93.069	333.93.06	07/01/20	06/30/21	07/01/20	06/30/21	$35,387		
FFY19 PHEP BP1 LHJ Funding	NU90TP922043	Amd 10	93.069	333.93.06	07/01/19	06/30/20	07/01/19	06/30/20	$58,979	$58,979	
FFY20 Overdose Data to Action Prev	**NU17CE925007**	Amd 19	93.136	333.93.13	09/01/20	08/31/21	09/01/20	08/31/21	$28,415	$116,054	$176,914
FFY20 Overdose Data to Action Prev	**NU17CE925007**	Amd 17, 19	93.136	333.93.13	09/01/20	08/31/21	09/01/20	08/31/21	$87,639		
FFY19 Overdose Data to Action Prev	NU17CE925007	Amd 11	93.136	333.93.13	09/01/19	08/31/20	09/01/19	08/31/20	$60,860	$60,860	
FFY18 Prescription Drug OD-Supp	NU17CE002734	Amd 4	93.136	333.93.13	09/01/18	08/31/19	09/01/18	08/31/19	$57,707	$57,707	$99,107
FFY17 Prescription Drug OD-Supp	U17CE002734	N/A	93.136	333.93.13	01/01/18	08/31/18	09/01/17	08/31/18	$41,400	$41,400	
FFY18 Suicide Prevention Works	U79SM061734	Amd 7	93.243	333.93.24	09/30/18	09/29/19	09/30/18	09/29/19	$20,000	$120,000	$220,000
FFY18 Suicide Prevention Works	U79SM061734	Amd 5	93.243	333.93.24	09/30/18	09/29/19	09/30/18	09/29/19	$100,000		
FFY17 Suicide Prevention Works	SM061734	Amd 3	93.243	333.93.24	03/01/18	09/29/18	09/30/17	09/30/18	$100,000	$100,000	
FFY17 317 Ops	5NH23IP000762-05-00	N/A	93.268	333.93.26	01/01/18	06/30/18	04/01/17	06/30/18	$1,277	$1,277	$1,277
FFY17 AFIX	5NH23IP000762-05-00	N/A	93.268	333.93.26	01/01/18	06/30/18	04/01/17	06/30/18	$3,640	$3,640	$3,640

Clallam County Health & Human Services

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FFY21 COVID19 Vaccine Services-CARES	NH23IP922619	Amd 20	93.268	333.93.26	07/01/20	12/31/21	07/01/20	12/31/21	$354,803	$369,385	$369,385
FFY21 COVID19 Vaccine Services-CARES	NH23IP922619	Amd 19, 20	93.268	333.93.26	07/01/20	12/31/21	07/01/20	12/31/21	$14,582		
FFY17 Increasing Immunization Rates	NH23IP000762	Amd 3, 4	93.268	333.93.26	07/01/18	06/30/19	07/01/18	06/30/19	$5,600	$5,600	$5,600
FFY20 PPHF Ops	NH23IP922619	Amd 15	93.268	333.93.26	07/01/19	06/30/20	07/01/19	06/30/20	($500)	($500)	$500
FFY20 PPHF Ops	NH23IP922619	Amd 9	93.268	333.93.26	07/01/19	06/30/20	07/01/19	06/30/20	$500	$500	
FFY17 PPHF Ops	NH23IP000762	Amd 4	93.268	333.93.26	07/01/18	06/30/19	04/01/18	06/30/19	$500	$500	
FFY21 VFC Ops	NH23IP922619	Amd 16	93.268	333.93.26	07/01/20	12/31/20	07/01/20	06/30/21	$2,800	$2,800	$10,813
FFY20 VFC Ops	NH23IP922619	Amd 9	93.268	333.93.26	07/01/19	06/30/20	07/01/19	06/30/20	$5,600	$5,600	
FFY17 VFC Ops	5NH23IP000762-05-00	N/A	93.268	333.93.26	01/01/18	06/30/18	04/01/17	06/30/18	$2,413	$2,413	
FFY19 COVID CARES	NU50CK000515	Amd 16, 19	93.323	333.93.32	06/01/20	12/31/21	06/01/20	12/31/21	$118,242	$118,242	$118,242
FFY19 ELC COVID Ed LHJ Allocation	NGA Not Received	Amd 20	93.323	333.93.32	01/01/21	12/31/21	01/01/21	12/31/21	$349,731	$349,731	$349,731
FFY20 ELC EDE LHJ Allocation	NGA Not Received	Amd 20	93.323	333.93.32	01/15/21	12/31/21	01/15/21	12/31/21	$782,083	$782,083	$782,083
FFY20 CDC COVID-19 Crisis Resp LHJ-Tribe	NU90TP922069	Amd 14, 19, 20	93.354	333.93.35	01/20/20	12/31/21	01/01/20	12/31/21	$130,871	$130,871	$130,871
FFY21 MCHBG LHJ Contracts	B0440169	Amd 18	93.994	333.93.99	10/01/20	09/30/21	10/01/20	09/30/21	$66,916	$66,916	$250,935
FFY20 MCHBG LHJ Contracts	B04MC32578	Amd 10	93.994	333.93.99	10/01/19	09/30/20	10/01/19	09/30/20	$66,916	$66,916	
FFY19 MCHBG LHJ Contracts	B04MC32578	Amd 4	93.994	333.93.99	10/01/18	09/30/19	10/01/18	09/30/19	$66,916	$66,916	
FFY18 MCHBG LHJ Contracts	B04MC31524	N/A	93.994	333.93.99	01/01/18	09/30/18	10/01/17	09/30/18	$50,187	$50,187	
FEMA-75 COVID LHJ Allocation	NGA Not Received	Amd 19	97.036	333.97.03	07/01/20	12/30/20	07/01/20	12/30/20	($308,526)	$0	$0
FEMA-75 COVID LHJ Allocation	NGA Not Received	Amd 17	97.036	333.97.03	07/01/20	12/30/20	07/01/20	12/30/20	$308,526		
Zoonotics-GFS		Amd 9	N/A	334.04.91	07/01/19	06/30/20	07/01/19	06/30/21	$2,095	$2,095	$2,600
Zoonotics-GFS		Amd 9	N/A	334.04.91	06/01/19	06/30/19	07/01/17	06/30/19	$505	$505	
FY20/21 COVID-19 Disaster Response Acct		Amd 14, 19	N/A	334.04.92	01/20/20	06/30/21	01/01/20	06/30/21	$119,129	$119,129	$119,129
SFY2 Lead Environments of Children		Amd 8	N/A	334.04.93	07/01/18	06/30/19	07/01/18	06/30/19	($1,000)	$500	$2,000
SFY2 Lead Environments of Children		Amd 4	N/A	334.04.93	07/01/18	06/30/19	07/01/18	06/30/19	$1,500		
SFY1 Lead Environments of Children		Amd 1	N/A	334.04.93	01/01/18	06/30/18	07/01/17	06/30/18	$1,500	$1,500	

Clallam County Health & Human Services

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Contract Term 2018-2021

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Rec Shellfish/Biotoxin		Amd 19	N/A	334.04.93	07/01/19	06/30/21	07/01/19	06/30/21	$1,500	$6,500	$11,750
Rec Shellfish/Biotoxin		Amd 16, 19	N/A	334.04.93	07/01/19	06/30/21	07/01/19	06/30/21	$2,000		
Rec Shellfish/Biotoxin		Amd 9, 16, 19	N/A	334.04.93	07/01/19	06/30/21	07/01/19	06/30/21	$3,000		
Rec Shellfish/Biotoxin		N/A	N/A	334.04.93	01/01/18	06/30/19	07/01/17	06/30/19	$5,250	$5,250	
Small Onsite Management (ALEA)		Amd 9, 19	N/A	334.04.93	07/01/20	06/30/21	07/01/19	06/30/21	$15,000	$15,000	$104,088
Small Onsite Management (ALEA)		Amd 9	N/A	334.04.93	07/01/19	06/30/20	07/01/19	06/30/21	$45,000	$45,000	
Small Onsite Management (ALEA)		Amd 9	N/A	334.04.93	01/01/18	06/30/19	07/01/17	06/30/19	$29,088	$44,088	
Small Onsite Management (ALEA)		N/A	N/A	334.04.93	01/01/18	06/30/19	07/01/17	06/30/19	$15,000		
Wastewater Management-GFS		Amd 19	N/A	334.04.93	01/01/21	06/30/21	07/01/19	06/30/21	$30,000	$30,000	$45,912
Wastewater Management-GFS		Amd 9	N/A	334.04.93	07/01/18	06/30/19	07/01/17	06/30/19	($29,088)	$11,213	
Wastewater Management-GFS		Amd 6	N/A	334.04.93	07/01/18	06/30/19	07/01/17	06/30/19	($4,699)		
Wastewater Management-GFS		N/A	N/A	334.04.93	07/01/18	06/30/19	07/01/17	06/30/19	$45,000		
Wastewater Management-GFS		Amd 6	N/A	334.04.93	01/01/18	06/30/18	07/01/17	06/30/19	$4,699	$4,699	
FPHS Funding for LHJs		Amd 17, 19	N/A	336.04.25	07/01/20	06/30/21	07/01/19	06/30/21	$87,313	$129,313	$300,626
FPHS Funding for LHJs		Amd 10, 19	N/A	336.04.25	07/01/20	06/30/21	07/01/19	06/30/21	$42,000		
FPHS Funding for LHJs		Amd 17	N/A	336.04.25	07/01/19	06/30/20	07/01/19	06/30/21	$87,313	$129,313	
FPHS Funding for LHJs		Amd 10	N/A	336.04.25	07/01/19	06/30/20	07/01/19	06/30/21	$42,000		
FPHS Funding for LHJs Dir		Amd 3	N/A	336.04.25	07/01/18	06/30/19	07/01/17	06/30/19	$42,000	$42,000	
YR 20 SRF - Local Asst (15%) (FS) SS		Amd 3	N/A	346.26.64	01/01/18	12/31/18	07/01/15	12/31/18	($3,000)	$0	$0
YR 20 SRF - Local Asst (15%) (FS) SS		N/A, Amd 3	N/A	346.26.64	01/01/18	12/31/18	07/01/15	12/31/18	$3,000		
YR 21 SRF - Local Asst (15%) (FS) SS		Amd 10	N/A	346.26.64	01/01/18	06/30/19	07/01/17	06/30/19	($2,800)	$4,200	$4,200
YR 21 SRF - Local Asst (15%) (FS) SS		Amd 6, 10	N/A	346.26.64	01/01/18	06/30/19	07/01/17	06/30/19	$4,000		
YR 21 SRF - Local Asst (15%) (FS) SS		Amd 3, 6, 10	N/A	346.26.64	01/01/18	06/30/19	07/01/17	06/30/19	$3,000		
YR 22 SRF - Local Asst (15%) (FO-SW) SS		Amd 15	N/A	346.26.64	01/01/19	12/31/20	01/01/19	06/30/21	($400)	$5,200	$5,200
YR 22 SRF - Local Asst (15%) (FO-SW) SS		Amd 12	N/A	346.26.64	01/01/19	12/31/20	01/01/19	06/30/21	$2,800		
YR 22 SRF - Local Asst (15%) (FO-SW) SS		Amd 10, 12	N/A	346.26.65	01/01/19	12/31/20	01/01/19	06/30/21	$2,800		
YR 23 SRF - Local Asst (15%) (FO-SW) SS		Amd 20	N/A	346.26.64	01/01/21	12/31/21	09/01/20	12/31/21	$5,600	$5,600	$5,600
Sanitary Survey Fees (FO-SW) SS-State		Amd 15	N/A	346.26.65	01/01/18	12/31/20	07/01/17	06/30/21	($400)	$9,400	$9,400
Sanitary Survey Fees (FO-SW) SS State		Amd 12	N/A	346.26.65	01/01/18	12/31/20	07/01/17	06/30/21	$2,800		
Sanitary Survey Fees (FO-SW) SS State		Amd 6, 12	N/A	346.26.65	01/01/18	12/31/20	07/01/17	06/30/21	$4,000		
Sanitary Survey Fees (FO-SW) SS State		N/A, Amd 3, 6, 12	N/A	346.26.65	01/01/18	12/31/20	07/01/17	06/30/21	$3,000		

EXHIBIT B-21
ALLOCATIONS
Contract Term 2018-2021

Clallam County Health & Human Services | **Contract Number:** CLH18239 | **Date:** March 15, 2021

Indirect Rate as of January 2018 through December 2018: 34.23%
Indirect Rate as of January 2019 through December 2020: 25.77%
Indirect Rate as of January 2021 through December 2021: 33.33%

Chart of Accounts Program Title	Federal Award Identification #	Amend #	CFDA*	BARS Revenue Code**	Statement of Work Funding Period Start Date	Statement of Work Funding Period End Date	DOH Use Only Chart of Accounts Funding Period Start Date	DOH Use Only Chart of Accounts Funding Period End Date	Amount	Funding Period Sub Total	Chart of Accounts Total
YR 20 SRF - Local Asst (15%) (FS) TA		Amd 3	N/A	346.26.66	01/01/18	12/31/18	07/01/17	12/31/18	($2,000)	$0	$0
YR 20 SRF - Local Asst (15%) (FS) TA		N/A, Amd 3	N/A	346.26.66	01/01/18	12/31/18	07/01/17	12/31/18	$2,000		
YR 21 SRF - Local Asst (15%) (FS) TA		Amd 10	N/A	346.26.66	01/01/18	06/30/19	07/01/17	06/30/19	($3,348)	$652	$652
YR 21 SRF - Local Asst (15%) (FS) TA		Amd 6, 10	N/A	346.26.66	01/01/18	06/30/19	07/01/17	06/30/19	$2,000		
YR 21 SRF - Local Asst (15%) (FS) TA		Amd 3, 6, 10	N/A	346.26.66	01/01/18	06/30/19	07/01/17	06/30/19	$2,000		
YR 22 SRF - Local Asst (15%) (FO-SW) TA		Amd 15	N/A	346.26.66	01/01/19	12/31/20	01/01/19	06/30/21	($1,358)	$2,642	$2,642
YR 22 SRF - Local Asst (15%) (FO-SW) TA		Amd 12	N/A	346.26.66	01/01/19	12/31/20	01/01/19	06/30/21	$2,000		
YR 22 SRF - Local Asst (15%) (FO-SW) TA		Amd 10, 12	N/A	346.26.66	01/01/19	12/31/20	01/01/19	06/30/21	$2,000		
YR 23 SRF - Local Asst (15%) (FO-SW) TA		Amd 20	N/A	346.26.66	01/01/21	12/31/21	09/01/20	12/31/21	$1,000	$1,000	$1,000
TOTAL									**$7,280,448**	**$7,280,448**	

Total consideration:	**$7,273,948**		
	$6,500		
GRAND TOTAL	**$7,280,448**	**GRAND TOTAL**	**$7,280,448**
		Total Fed	**$6,665,649**
		Total State	**$614,799**

*Catalog of Federal Domestic Assistance
**Federal revenue codes begin with "333". State revenue codes begin with "334".

Exhibit C-20 Schedule of Federal Awards

AMENDMENT #21

Date: March 15, 2021

CLALLAM COUNTY-HEALTH & HUMAN-SWV0000200-00
CONTRACT CLH18239-Clallam County Health & Human Services
CONTRACT PERIOD: 01/01/2018-12/31/2021

Chart of Account Program Title	BARS	DOH Federal Award Date	Total Amt Federal Award	Allocation Period Start Date	Allocation Period End Date	Contract Amt	CFDA	CFDA Program Title	Federal Agency Name	Federal Award Identification Number	Federal Grant Award Name
FFY22 USDA WIC CLIENT SVS CONTRACTS	333.10.55	NGA Not Received	NGA Not Received	10/01/21	12/31/21	$60,995	10.557	Special Supplemental Nutrition Program for Women, Infants, and Children	Department of Agriculture Food and Nutrition Service	NGA Not Received	NGA Not Received
FFY21 USDA WIC PROGRAM MGMT CSS	333.10.55	10/01/20	$11,664,919	10/01/20	09/30/21	$2,450	10.557	Special Supplemental Nutrition Program for Women, Infants, and Children	Department of Agriculture Food and Nutrition Service	217WAWA7W1003	WOMEN, INFANTS AND CHILDREN (2 YR)
FFY21 USDA WIC CLIENT SVS CONTRACTS	333.10.55	10/01/20	$11,664,919	10/01/20	09/30/21	$243,735	10.557	Special Supplemental Nutrition Program for Women, Infants, and Children	Department of Agriculture Food and Nutrition Service	217WAWA7W1003	WOMEN, INFANTS AND CHILDREN (2 YR)
FFY20 USDA WIC NUTRITION ED	333.10.55	10/01/19	$6,161,312	10/01/19	09/30/20	$1,665	10.557	Special Supplemental Nutrition Program for Women, Infants, and Children	Department of Agriculture Food and Nutrition Service	207WAWA7W1003	WOMEN, INFANTS AND CHILDREN
FFY20 USDA WIC CLIENT SVS CONTRACTS	333.10.55	10/01/19	$6,161,312	10/01/19	09/30/20	$288,085	10.557	Special Supplemental Nutrition Program for Women, Infants, and Children	Department of Agriculture Food and Nutrition Service	207WAWA7W1003	WOMEN, INFANTS AND CHILDREN
FFY19 CSS USDA WIC PROGRAM MGMT	333.10.55	10/01/17	$40,101,357	10/01/18	09/30/19	$242,360	10.557	Special Supplemental Nutrition Program for Women, Infants, and Children	Department of Agriculture Food and Nutrition Service	187WAWA7W1003	WOMEN, INFANTS AND CHILDREN
FFY18 CSS USDA WIC PROGRAM MGMT	333.10.55	10/02/17	$27,576,710	01/01/18	09/30/18	$180,990	10.557	Special Supplemental Nutrition Program for Women, Infants, and Children	Department of Agriculture Food and Nutrition Service	187WAWA7W1003	USDA-WIC ADMIN
FFY20 USDA FMNP PROG MGMT	333.10.57	10/01/19	$129,791	10/01/19	09/30/20	$555	10.572	WIC Farmers' Market Nutrition Program (FMNP)	Department of Agriculture-Food and Nutrition Service	207WAWA7Y8604	COMMODITY ASSISTANCE PROGRAM
FFY19 CSS USDA FMNP PROG MGNT	333.10.57	10/01/18	$130,973	01/01/19	09/30/19	$615	10.572	WIC Farmers' Market Nutrition Program (FMNP)	Department of Agriculture-Food and Nutrition Service	197WAWA7Y8604	COMMODITY ASSISTANCE PROGRAM
FFY18 CSS USDA FMNP PROG MGNT	333.10.57	10/01/17	$86,117	01/01/18	09/30/18	$611	10.572	WIC Farmers' Market Nutrition Program (FMNP)	Department of Agriculture Food and Nutrition Service	187WAWA7Y8604	COMMODITY ASSISTANCE PROGRAM
FFY19 MIS TECH GRANT	333.10.57	01/28/19	$2,209,026	10/01/19	09/30/20	$1,310	10.578	WIC Grants to States (WGS)	Department of Agriculture Food and Nutrition Service	197WAWA1G5212	WIC CONTINGECY
FFY16 CASCADES USDA WIC PROG MGNT-MIS	333.10.57	03/11/16	$2,224,476	10/01/18	09/30/19	$3,510	10.578	WIC Grants to States (WGS)	Department of Agriculture Food and Nutrition Service	16157WAWA6W522	WOMEN, INFANTS AND CHILDREN WIC SAM PROJECTS
SS COMMUNITY OUTREACH PN	333.21.01	NGA Not Received	NGA Not Received	07/01/20	06/30/21	$20,000	21.019	Coronavirus Relief Fund	Department of the Treasury	NGA Not Received	NGA Not Received
COVID LHJ OFM ALLOCATION-CARES	333.21.01	NGA Not Received	NGA Not Received	03/01/20	06/30/21	$1,520,200	21.019	Coronavirus Relief Fund	Department of the Treasury	NGA Not Received	NGA Not Received
BITV-COVID ED LHJ ALLOCATION-CARES	333.21.01	NGA Not Received	NGA Not Received	07/01/20	12/30/21	$411,368	21.019	Coronavirus Relief Fund	Department of the Treasury	NGA Not Received	NGA Not Received

Exhibit C-20 Schedule of Federal Awards

AMENDMENT #21

Date: March 15, 2021

CLALLAM COUNTY-HEALTH & HUMAN-SWV0000200-00
CONTRACT CLH18239-Clallam County Health & Human Services
CONTRACT PERIOD: 01/01/2018-12/31/2021

Chart of Account Program Title	BARS	DOH Federal Award Date	Total Amt Federal Award	Allocation Period Start Date	Allocation Period End Date	Contract Amt	CFDA	CFDA Program Title	Federal Agency Name	Federal Award Identification Number	Federal Grant Award Name
PS SSI 1-5 PIC TASK 4	333.66.12	08/02/16	$5,000,000	01/01/18	12/31/21	$518,447	66.123	Puget Sound Action Agenda: Technical Investigations and Implementation Assistance Program	Environmental Protection Agency Region 10	01J18001	PUGET SOUND SHELLFISH STRATEGIC INITIATIVE LEAD
PS SSI 1-5 OSS TASK 4	333.66.12	08/02/16	$5,000,000	01/01/18	12/31/21	$393,700	66.123	Puget Sound Action Agenda: Technical Investigations and Implementation Assistance Program	Environmental Protection Agency Region 10	01J18001	PUGET SOUND SHELLFISH STRATEGIC INITIATIVE LEAD
PS SSI 1-5 BEACH TASK 4	333.66.12	08/02/16	$9,200,000	03/01/18	10/31/19	$9,400	66.123	Puget Sound Action Agenda: Technical Investigations and Implementation Assistance Program	Environmental Protection Agency Region 10	01J18001	PUGET SOUND SHELLFISH STRATEGIC INITIATIVE LEAD
FFY20 SWIMMING BEACH ACT GRANT IAR (ECY)	333.66.47	09/26/19	$237,000	03/01/20	10/31/21	$14,600	66.472	Beach Monitoring and Notificaiton Program Implementaiton Grants	Environmental Protection Agency Office of Water	01J49701	MARINE SWIMMING BEACH MONITORING AND PUBLIC NOTIFICATION
FFY19 SWIMMING BEACH ACT GRANT IAR (ECY)	333.66.47	12/01/18	$91,991	03/01/19	10/31/19	$5,400	66.472	Beach Monitoring and Notificaiton Program Implementaiton Grants	Environmental Protection Agency Office of Water	01J49701	MARINE SWIMMING BEACH MONITORING AND PUBLIC NOTIFICATION
FFY18 SWIMMING BEACH ACT GRANT IAR (ECY)	333.66.47	12/15/17	$91,990	03/01/18	10/31/18	$5,400	66.472	Beach Monitoring and Notificaiton Program Implementaiton Grants	Environmental Protection Agency Office of Water	00J75501	MARINE SWIMMING BEACH MONITORING AND PUBLIC NOTIFICATION
FFY20 PHEP BP2 LHJ FUNDING	333.93.06	06/12/20	$11,365,797	07/01/20	06/30/21	$58,979	93.069	Public Health Emeigency Preparedness	Department of Health and Human Services Centers for Disease Control and Prevention	NU90TP922043	PUBLIC HEALTH EMERGENCY PREPAREDNESS (PHEP) COOPERATIVE AGREEMENT
FFY19 PHEP BP1 LHJ FUNDING	333.93.06	06/29/19	$11,307,904	07/01/19	06/30/20	$58,979	93.069	Public Health Emergency Preparedness	Department of Health and Human Services Centers for Disease Control and Prevention	NU90TP922043	PUBLIC HEALTH EMERGENCY PREPAREDNESS (PHEP) COOPERATIVE AGREEMENT
FFY18 EPR PHEP BP1 SUPP LHJ FUNDING	333.93.06	08/01/18	$11,062,782	07/01/18	06/30/19	$58,979	93.069	Public Health Emergency Preparedness	Department of Health and Human Services Centers for Disease Control and Prevention	NU90TP921889-01	HOSPITAL PREPAREDNESS PROGRAM AND PUBLIC HEALTH EMERGENCY PREPAREDNESS COOPERATIVE AGREEMENT
FFY17 EPR PHEP BP1 LHJ FUNDING	333.93.06	07/18/17	$11,062,782	01/01/18	06/30/18	$44,198	93.069	Public Health Emergency Preparedness	Department of Health and Human Services Centers for Disease Control and Prevention	NU90TP921889-01	HPP AND PHEP COOPERATIVE AGREEMENT
FFY20 OVERDOSE DATA TO ACTION PREV	333.93.13	11/06/20	$4,390,240	09/01/20	08/31/21	$116,054	93.136	Injury Prevention and Control Research and State and Community Based Programs	Department of Health and Human Services Centers for Disease Control and Prevention	NU17CE925007	WASHINGTON STATE DEPARTMENT OF HEATLH OVERDOSE DATA TO ACTION
FFY19 OVERDOSE DATA TO ACTION PREV	333.93.13	08/12/19	$4,390,240	09/01/19	08/31/20	$60,860	93.136	Injury Prevention and Control Research and State and Community Based Programs	Department of Health and Human Services-Centers for Disease Control and Prevention-National Center for Injury Prevention and	NU17CE925007	WASHINGTON STATE DEPARTMENT OF HEATLH OVERDOSE DATA TO ACTION
FFY18 PRESCRIPTION DRUG OD-SUPP	333.93.13	05/31/17	$6,223,623	09/01/18	08/31/19	$57,707	93.136	Injury Prevention and Control Research and State and Community Based Programs	Department of Health and Human Services Centers for Disease Control and Prevention	NU17CE002734	PRESCRIPTION DRUG OVERDOSE FOR STATES
FFY17 PRESCRIPTION DRUG OD-SUPP	333.93.13	03/16/16	$4,031,632	01/01/18	08/31/18	$41,400	93.136	Injury Prevention and Control Research and State and Community Based Programs	Department of Health and Human Services Centers for Disease Control and Prevention	U17CE002734	PRESCRIPTION DRUG OVERDOSE FOR STATES
FFY18 SUICIDE PREVENTION WORKS	333.93.24	09/30/14	$3,679,752	09/30/18	09/29/19	$120,000	93.243	Substance Abuse and Mental Health Services_Projects of Regional and National Significance	Department of Health and Human Services Substance Abuse and Mental Health Services Administration	U79SM061734	SUICIDE PREVENTION WORKS

Exhibit C-20 Schedule of Federal Awards

AMENDMENT #21

Date: March 15, 2021

CLALLAM COUNTY-HEALTH & HUMAN-SWV0000200-00
CONTRACT CLH18239-Clallam County Health & Human Services
CONTRACT PERIOD: 01/01/2018-12/31/2021

Chart of Account Program Title	BARS	DOH Federal Award Date	Total Amt Federal Award	Allocation Period Start Date	Allocation Period End Date	Contract Amt	CFDA	CFDA Program Title	Federal Agency Name	Federal Award Identification Number	Federal Grant Award Name
FFY17 SUICIDE PREVENTION WORKS	333.93.24	09/30/14	$2,943,772	03/01/18	09/29/18	$100,000	93.243	Substance Abuse and Mental Health Services_Projects of Regional and National Significance	Department of Health and Human Services Substance Abuse and Mental Health Services Administration	SM061734	SUICIDE PREVENTION WORKS
FFY21 VFC OPS	333.93.26	07/01/20	$9,082,252	07/01/20	12/31/20	$2,800	93.268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	NH23IP922619	IMMUNIZATION GRANT AND VACCINES FOR CHILDREN PROGRAM
FFY21 COVID19 VACCINE SERVICES-CARES	333.93.26	01/15/21	$68,807,053	07/01/20	12/31/21	$369,385	93.268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	NH23IP922619	IMMUNIZATION GRANT AND VACCINES FOR CHILDREN PROGRAM
FFY20 VFC OPS	333.93.26	07/01/19	$9,234,835	07/01/19	06/30/20	$5,600	93.268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	NH23IP922619	IMMUNIZATION GRANT AND VACCINES FOR CHILDREN PROGRAM
FFY17 VFC OPS	333.93.26	03/03/17	$1,201,605	01/01/18	06/30/18	$2,413	93.268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	5NH23IP000762-05-00	IMMUNIZATION GRANT AND VACCINES FOR CHILDREN'S PROGRAM
FFY17 PPHF OPS	333.93.26	06/29/18	$3,634,512	07/01/18	06/30/19	$500	93.268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	NH23IP000762	IMMUNIZATION GRANT AND VACCINES FOR CHILDREN'S PROGRAM
FFY17 INCREASING IMMUNIZATION RATES	333.93.26	06/29/18	$1,722,443	07/01/18	06/30/19	$5,600	93.268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	NH23IP000762	IMMUNIZATION GRANT AND VACCINES FOR CHILDREN'S PROGRAM
FFY17 AFIX	333.93.26	03/03/17	$1,672,289	01/01/18	06/30/18	$3,640	93.268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	5NH23IP000762-05-00	IMMUNIZATION GRANT AND VACCINES FOR CHILDREN'S PROGRAM
FFY17 317 OPS	333.93.26	03/03/17	$575,969	01/01/18	06/30/18	$1,277	93.268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	5NH23IP000762-05-00	IMMUNIZATION GRANT AND VACCINES FOR CHILDREN'S PROGRAM
FFY20 ELC EDE LHJ ALLOCATION	333.93.32	NGA Not Received	NGA Not Received	01/15/21	12/31/21	$782,083	93.323	Epidemiology and Laboratory Capacity for Infectious Diseases (ELC)-Building and Strengthening Epidemiology, Laboratory and	Department of Health and Human Services Centers for Disease Control and Prevention	NGA Not Received	NGA Not Received
FFY19 ELC COVID ED LHJ ALLOCATION	333.93.32	NGA Not Received	NGA Not Received	01/01/21	12/31/21	$349,731	93.323	Epidemiology and Laboratory Capacity for Infectious Diseases (ELC)-Building and Strengthening Epidemiology, Laboratory and	Department of Health and Human Services Centers for Disease Control and Prevention	NGA Not Received	NGA Not Received
FFY19 COVID CARES	333.93.32	04/23/20	$22,581,799	06/01/20	12/31/21	$118,242	93.323	Epidemiology and Laboratory Capacity for Infectious Diseases (ELC)-Building and Strengthening Epidemiology, Laboratory and	Department of Health and Human Services Centers for Disease Control and Prevention	NU50CK000515	EPIDEMIOLOGY & LABORATORY CAPACITY FOR INFECTIOUS DISEASES (ELC)-BUILDING & STRENGTHENING EPIDEMIOLOGY,
FFY20 CDC COVID-19 CRISIS RESP LHJ-TRIBE	333.93.35	03/16/20	$13,230,799	01/20/20	12/31/21	$130,871	93.354	Public Health Emergency Response: Cooperative Agreement for Emergency Response: Public Health Crisis Response	Department of Health and Human Services Centers for Disease Control and Prevention	NU90TP922069	CDC COOPERATIVE AGREEMENT FOR EMERGENCY RESPONSE: PUBLIC HEALTH CRISIS RESPONSE CDC-RFA-TP18-1802
FFY21 MCHBG LHJ CONTRACTS	333.93.99	02/08/21	$2,662,201	10/01/20	09/30/21	$66,916	93.994	Maternal and Child Health Services Block Grant to the States	Department of Health and Human Services Health Resources and Services Administration	B0440169	MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT
FFY20 MCHBG LHJ CONTRACTS	333.93.99	11/14/18	$2,225,977	10/01/19	09/30/20	$66,916	93.994	Maternal and Child Health Services Block Grant to the States	Department of Health and Human Services Health Resources and Services Administration	B04MC32578	MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

Exhibit C-20 Schedule of Federal Awards

AMENDMENT #21

Date: March 15, 2021

CLALLAM COUNTY-HEALTH & HUMAN-SWV0000200-00
CONTRACT CLH18239-Clallam County Health & Human Services
CONTRACT PERIOD: 01/01/2018-12/31/2021

Chart of Account Program Title	BARS	DOH Federal Award Date	Total Amt Federal Award	Allocation Period Start Date	Allocation Period End Date	Contract Amt	CFDA	CFDA Program Title	Federal Agency Name	Federal Award Identification Number	Federal Grant Award Name
FFY19 MCHBG LHJ CONTRACTS	333.93.99	11/14/18	$2,225,977	10/01/18	09/30/19	$66,916	93.994	Maternal and Child Health Services Block Grant to the States	Department of Health and Human Services Health Resources and Services Administration	B04MC32578	MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT
FFY18 MCHBG LHJ CONTRACTS	333.93.99	10/20/17	$1,650,528	01/01/18	09/30/18	$50,187	93.994	Maternal and Child Health Services Block Grant to the States	Department of Health and Human Services Health Resources and Services Administration	B04MC31524	MATERNAL AND CHILD HEALTH SERVICES
					TOTAL	$8,665,849					

RECEIVED
CLALLAM CO. FINANCE
AUG 06 2021

CLALLAM COUNTY BUDGET CHANGE FORM

Date Submitted: 8/3/21 **Budget Hearing/Meeting Date:** 8/31/21

_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 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	33366.47.2000	EPA Swimming Beach Act Grant	6,500
Total				6,500

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.511	HHS – Env Health	56252.31.0075	Laboratory Supplies	1,000
00100.511	HHS – Env Health	56259.42.0020	Postage	1,000
00100.293	General Fund Reserves	50800.00.0000	Ending Fund Balance	4,500
Total				6,500

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Department of Health Consolidated Contract #21 adds $6,500 for the BEACH program to provide testing and sampling of recreational county beaches.

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

COPY

2C

AGENDA ITEM SUMMARY

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

9/7/21

Department: Finance

WORK SESSION ☒ **Meeting Date: 09/07/2021**

REGULAR AGENDA ☒ **Meeting Date: 09/07/2021**

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

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 19961.21.004
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

ARPA DIRECT GRANT ASSISTANCE AGREEMENT—NORTH OLYMPIC REGIONAL VETERANS HOUSING NETWORK-- FOR PROVISION OF COMPLETITION OF HOBUCKET HOUSE FOR HOMELESS DISABLED VETERANS:

BACKGROUND

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

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

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

Based on discussions held during this Work Session in which affordable housing requests from various entities including Habitat for Humanity, Peninsula Housing Authority, and North Olympic Regional

Veteran's Housing Network were discussed, the BOCC approved the initial granting of $360,000 of ARPA-funded directed toward supporting affordable housing initiatives.

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

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

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

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

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

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

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

b. Building stronger neighborhoods and communities, **including supportive housing and other services for individuals experiencing 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").

As provided under FAQs 2.11 and 2.17 of US Treasury's Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions, ARPA funds may be used to support those segments of the population and geographies who were disproportionately negatively impacted by the pandemic, which include populations that reside within Qualified Census Tracts, those who have experienced unemployment, increased food or housing insecurity, or are of low- or moderate income (i.e. those whose household income are below 80% of the County's average median income). As a result, we believe the provision of supportive homelessness housing and affordable housing economic support using ARPA funds to those low to moderate income or homeless households experiencing housing

insecurity in Clallam County represents an eligible and proper use of ARPA funds to address the negative economic impacts of the COVID-19 pandemic.

NORTH OLYMPIC REGIONAL VETERANS HOUSING NETWORK OF CLALLAM COUNTY—OVERVIEW OF THEIR MISSION, THE IMPACT OF COVID-19 ON ITS HOMELESS AND DISABLED VETERANS AFFORDABLE HOUSING EFFORTS, AND RESULTING NEED FOR ARPA FUNDING

As outlined in the attached application and overview, North Olympic Regional Veterans Housing Network (NORVHN) has been providing shelter and housing to homeless and disabled Veterans and if applicable, their families, in Clallam County since 2000. NORVHN has housed, since 2011, 218 homeless and disabled Veterans whose household income is 50% or less of AMI. In order to qualify for Hobucket House an applicant must be homeless and disabled. Qualifying Veterans must be able to pay 30% of their income for rent.

Like many non-profits, NORVHN was negatively financially impacted by the COVID pandemic in the following ways:

- During the pandemic NORVHN had to reduce the number of residents who would typically be able to stay at Sarge's Place (one of their homeless Veterans shelters) due to social distancing requirements and many mental health issues among residents. This lowered their monthly income by $5,000 dollars and turned more residents away to live in substandard conditions or to find other shelters to stay.

- NORVHN is currently building through modular homebuilder Timberland Homes a 7-bedroom, 2,778 square foot group home to be located at 251 Ash Avenue in Forks, Washington, a Qualified Census Tract. This group home, called "Hobucket House", will house seven homeless veterans with household incomes of less than 50% of County AMI who suffer from mental or medical disabilities, and will be managed and owned by the Recipient with an onsite manager living on the premises. Qualified residents shall pay NORVHN 30% of their income for rent. With a total cost of $1,022,854, this affordable housing project is being primarily financed through a Washington State Commerce Housing Trust Fund grant totaling $876,293. Together with donations received to-date of $55,000, the Hobucket House project is currently projected to have total funding of $931,293, leaving a funding gap of $91,561.

- NORVHN also experienced a sharp increase in its building costs due to the COVID-19 public health emergency. Home construction material costs increased dramatically during the pandemic due to supply chain and labor shortage disruptions, coupled with high demand for building materials during the pandemic. As reported by NORVHN their construction costs have increased $105,986 dollars since November 2019 when planning first began on Hobucket House.

- Due to the revenue impact of reducing their residents served during the pandemic coupled with the significant increase in building material costs expected to be incurred by NORVHN in its current affordable housing building efforts, NORVHN's reserves available for usage in this project are insufficient to fully fund this increase in building material costs, and as a result NORVHN has requested $59,903 in ARPA Funds from the County to cover the increased costs of the project.

NORVHN DIRECT GRANT ASSISTANCE AGREEMENT

Based on guidance received from the WA State Department of Commerce, we have structured this awarding of ARPA funds to NORVHN as a direct beneficiary grant assistance agreement, given that NORVHN use of ARPA funds to be provided are being limited to being used solely for its Hobucket House affordable housing project, which NORVHN will own and operation following project completion.

Eligible Use Criteria:
Funds are to be used for affordable housing expenses incurred from March 1, 2020 thru December 31, 2024 incurred by NORVHN for the Hobucket House affordable housing group home being built in Clallam County for homeless, disabled Veterans with incomes of 50% of County AMI or less.

Such eligible costs incurred for the Hobucket House project may include:

- Infrastructure costs to include Foundation/Excavation/Utilities;
- Timberland Homes House Build costs;
- Furniture, Appliances & Household Contents; and
- Exterior decking, fencing, and landscaping.

As mentioned earlier, disbursement of funds to NORVHN by the County will be made following execution of this Agreement rather than on a reimbursement basis due to the cash flow constraints they are experiencing until their Commerce Grant is disbursed. NORVHN will be required to submit monthly A-19 equivalent reports to the County detailing eligible affordable housing costs incurred for the Hobucket House project funded by the ARPA funds and certified by NORVHN as meeting the eligibility requirements outlined in the agreement.

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 authorize the release of $59,903 of ARPA funds from the American Rescue Plan Act special revenue fund to NORVHN upon execution of this Agreement and increase the original request approved on July 6, 2021 for Affordable Housing/Homelessness Support from $360,000 to $369,903.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
In an effort to support NORVHN efforts to cover funding gaps in its current build of the Hobucket House for homeless and disabled Veterans, we request the Commissioner's feedback and approval to proceed in submitting this agreement for approval during the next BOCC meeting scheduled on Tuesday, September 7, 2021.

County Official signature & print name: Chelsea Lierly Chelsea Lierly

Name of Employee/Stakeholder attending meeting: Mark Lane, Chelsea Lierly

Relevant Departments: ____Finance, BOCC_____

Date submitted: September 1, 2021

Contract # 19961.21.004

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 North Olympic Regional Veteran's Housing Network (Federal Tax ID 91-2046528, DUNS # 008856977), a Washington state non-profit 501(c)(3) organization ("Recipient").

WHEREAS, the U.S. Department of the Treasury ("Treasury") has allocated to the County $15,020,640 of federal stimulus funding from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds under CFDA No. 21.027 ("ARPA Funds") under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act ("ARPA Act"), of which $7,510,320 was outlayed to the County on May 28, 2021 with the remainder of funds of $7,510,320 to be disbursed by Treasury to the County one year thereafter, for the limited purposes identified in the Interagency Agreement between the Treasury and Clallam County designated under FAIN #SLFRP2169 ("IGA"), identified as Attachment A, the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule ("Interim Final Rule"), identified as Attachment B, and the Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds ("Compliance & Reporting Guidelines"), identified as Attachment C. Attachments A, B & C are attached hereto and incorporated herein by this reference.

WHEREAS, the ARPA Act authorizes the County to expend ARPA Funds awarded to the County for the following eligible purposes as outlined in the Interim Final Rule as follows:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
(4) To make necessary investments in water, sewer, or broadband infrastructure;
(5) To address the disparate impact of COVID-19 on certain populations and geographics, additional eligible services may include:

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

b. Building stronger neighborhoods and communities, including supportive housing and other services for individuals experiencing 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 ARPA Act, Eligible Uses under this non-R&D federal program must be obligated no earlier than March 3, 2021 and no later than December 31, 2024, with final disbursement of all funds no later than December 31, 2026.

WHEREAS, the County desires to allocate portions of the ARPA Funds awarded to Clallam County in support of non-profit organizations and other agencies engaged in supporting and developing affordable housing in Clallam County to meet the housing needs of low income households, those residents residing in Qualified Census Tracts, and other vulnerable populations or geographic areas disproportionately-impacted by the COVID public health emergency in the County who are experiencing housing insecurity, substandard living conditions or homelessness, which is consistent with Item 5 (b) of the Eligible Uses of ARPA Funds outlined above.

WHEREAS, the Recipient, a Clallam County non-profit organization that provides disabled homeless Veterans with access to permanent and supportive housing that have an average income of 50% of County AMI or less, has incurred substantial negative economic impact during the COVID-19 public health emergency which has significantly impaired its ability to fund and complete planned homeless Veterans housing projects in Clallam County. Notable economic and operational impacts experienced by the Recipient during the pandemic include the following:

- During the pandemic the Recipient had to reduce the number of residents who would typically be able to stay at Sarge's Place (one of their homeless Veterans shelters) due to social distancing requirements and many mental health issues among residents. This lowered their monthly income by $5,000 dollars and turned more residents away to live in substandard conditions or to find other shelters to stay.

- The Recipient is currently building through modular homebuilder Timberland Homes a 7-bedroom, 2,778 square foot group home to be located at 251 Ash Avenue in Forks, Washington, a Qualified Census Tract. This group home, called "Hobucket House", will house seven homeless veterans with household incomes of less than 50% of County AMI who suffer from mental or medical disabilities, and will be managed and owned by the Recipient with an onsite manager living on the premises. Qualified residents shall pay the Recipient 30% of their income for rent. With a total cost of $1,022,854, this affordable housing project is being primarily financed through a Washington State Commerce Housing Trust Fund grant totaling $876,293. Together with donations received to-date of $55,000, the Hobucket House project is currently projected to have total funding of $931,293, leaving a funding gap of $91,561.

- The Recipient also experienced a sharp increase in its building costs due to the COVID-19 public health emergency. Home construction material costs increased dramatically during the pandemic due to supply chain and labor shortage disruptions, coupled with high demand for building materials during the pandemic. As reported by The Recipient their construction costs have increased $105,986 dollars since November 2019 when planning first began on Hobucket House.

- Due to the revenue impact of reducing their residents served during the pandemic coupled with the significant increase in building material costs expected to be incurred by the Recipient in its current affordable housing building efforts, the Recipient's reserves available for usage in this project are insufficient to fully fund this increase in building material costs, and as a result the Recipient has requested $59,903 in ARPA Funds from the County to cover the increased costs of the project.

WHEREAS, the County believes the provision of economic support to the Recipient is necessary and appropriate given the Recipient's critical role in providing affordable housing to impacted, vulnerable Veterans in Clallam County experiencing homelessness, the financial impact to the Recipient of limiting the number of residents it is able to serve due to COVID-19 and higher building materials and operating costs being incurred by the Recipient due to the COVID-19 pandemic which the Recipient is not able to fully fund its affordable housing project, and represents an eligible use of ARPA Funds as outlined previously;

WHEREAS, the County and Recipient desire to enter into this Agreement so that the County may advance ARPA Funds to the Recipient via a direct economic support grant to the Recipient to provide the Recipient with additional cash flow needed to enable the Recipient to proceed with completing its Hobucket House affordable housing project within Clallam County 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 December 31, 2024, unless terminated by the County in writing.

2. ARPA Funds. The County agrees to provide the Recipient a total sum not to exceed $59,903 which may be used by the Recipient to support the completion of The Hobucket House in Forks, Washington. As funds are needed to address immediate cash flow needs of the Recipient that are hindering its ability to complete its current affordable Veterans housing project, the County agrees to disburse funds to the Recipient upon execution of this Agreement. All funds advanced to the Recipient must be expended no later than December 31, 2024 based on eligible uses of funds outlined in Attachment D, with any unspent grant funds advanced to the Recipient by the County to be refunded to the County upon earlier of the end of the term of the Agreement, or the termination of the Agreement by the County.

3. Ineligible Uses. Non-allowable uses of ARPA Funds include, without limitation, the following: a) usage of funds to either directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation or administrative interpretation during the covered period that reduces any tax or delays the imposition of any tax or tax increase; b) damages covered by insurance; c) usage of funds as a deposit into any pension fund; d) expenses that have been or will be reimbursed under any federal program; e) debt service costs; f) contributions to a "rainy day" fund; and d) legal settlements.

4. Reporting Requirements. To verify that ARPA funding advanced to the Recipient are utilized in accordance with Attachment D and meet the County's reporting requirements of ARPA funding under the IGA, the Recipient will submit an A-19 equivalent schedule in a form specified and approved by the County, on or before the 10th day of each month of this Agreement, detailing the eligible expenses incurred by the Recipient that were funded with ARPA Funds in accordance with eligible uses outlined in Attachment D, until such time as such funds are fully depleted. Such schedule may be modified with the prior approval of the County. Such schedule will be accompanied by copies of all invoices and related support for each expenditure listed in the schedule submitted by the Recipient. Failure to provide any of the required documentation may result in termination of the Agreement and refunding of all grant funds paid to the Recipient by the County under the Agreement.

5. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the Recipient.

6. 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.

7. 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.

8. 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.

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 five (5) years following termination of this Agreement. If it is determined during the course of the audit that the Recipient was reimbursed for unallowable costs under this Agreement, the Recipient agrees to promptly reimburse the County for such payments upon request.

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
North Olympic Regional Veteran's Housing Network
Attn: Cheri Tinker, President & Executive Director
250 Ash Ave.
Forks, WA 98331

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 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 31st day of August, 2021.

RECIPIENT

By: Cheri Tinker

Print Name: Cheri Tinker

Its: President & Executive Director

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 U.S. DEPARTMENT OF TREASURY AND
CLALLAM COUNTY

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OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address:	DUNS Number: 075739235
CLALLAM COUNTY 223 EAST FOURTH STREET, SUITE 4 PORT ANGELES, Washington, 98362-3015	Taxpayer Identification Number: 916001298 Assistance Listing Number: 21.019

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient: DocuSigned by: MARK OZIAS 9C5FE664B8F24C1...

Authorized Representative: MARK OZIAS

Title: CHAIRMAN, BOARD OF CLALLAM COUNTY COMMISSIONERS

Date signed: 5/19/2021

U.S. Department of the Treasury:

_____

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE
The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

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U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
   a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.

4. Maintenance of and Access to Records
   a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.

   c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

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9. Compliance with Applicable Law and Regulations.
   a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

   b. Federal regulations applicable to this award include, without limitation, the following:

      i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

      ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

      iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

      iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

      v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

      vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

      vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

      viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

      ix. Generally applicable federal environmental laws and regulations.

   c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

      i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

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ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

14. Debts Owed the Federal Government.
    a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

    b. Any debts determined to be owed the federal government must be paid promptly by

Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.
    a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.

    b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.
    a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

    b. The list of persons and entities referenced in the paragraph above includes the following:
        i. A member of Congress or a representative of a committee of Congress;
        ii. An Inspector General;
        iii. The Government Accountability Office;
        iv. A Treasury employee responsible for contract or grant oversight or management;
        v. An authorized official of the Department of Justice or other law enforcement agency;
        vi. A court or grand jury; or
        vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

    c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit http://www.lep.gov.

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4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.

5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

   The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.

7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.

8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.

9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

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agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

CLALLAM COUNTY

Recipient

5/19/2021

Date

DocuSigned by:
MARK OZIAS
9C5FE664B8F24C1...

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

ATTACHMENT B

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

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505–AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Interim final rule.

SUMMARY: The Secretary of the Treasury (Treasury) is issuing this interim final rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: *Effective date:* The provisions in this interim final rule are effective May 17, 2021.

Comment date: Comments must be received on or before July 16, 2021.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: *http://www.regulations.gov.* Comments can be mailed to the Office of the Undersecretary for Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically. All comments should be captions with "Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments." Please include your name, organization affiliation, address, email address and telephone number in your comment. Where appropriate, a comment should include a short executive summary.

In general, comments received will be posted on *http://www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Katharine Richards, Senior Advisor, Office of Recovery Programs, Department of the Treasury, (844) 529–9527.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Overview

Since the first case of coronavirus disease 2019 (COVID–19) was discovered in the United States in January 2020, the disease has infected over 32 million and killed over 575,000 Americans.[1] The disease has impacted every part of life: As social distancing became a necessity, businesses closed, schools transitioned to remote education, travel was sharply reduced, and millions of Americans lost their jobs. In April 2020, the national unemployment rate reached its highest level in over seventy years following the most severe month-over-month decline in employment on record.[2] As of April 2021, there were still 8.2 million fewer jobs than before the pandemic.[3] During this time, a significant share of households have faced food and housing insecurity.[4] Economic disruptions impaired the flow of credit to households, State and local governments, and businesses of all sizes.[5] As businesses weathered closures and sharp declines in revenue, many were forced to shut down, especially small businesses.[6]

Amid this once-in-a-century crisis, State, territorial, Tribal, and local governments (State, local, and Tribal governments) have been called on to respond at an immense scale. Governments have faced myriad needs to prevent and address the spread of COVID–19, including testing, contact tracing, isolation and quarantine, public communications, issuance and enforcement of health orders, expansions to health system capacity like alternative care facilities, and in recent months, a massive nationwide mobilization around vaccinations. Governments also have supported major efforts to prevent COVID–19 spread through safety measures in settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and public facilities. The pandemic's impacts on behavioral health, including the toll of pandemic-related stress, have increased the need for behavioral health resources.

At the same time, State, local and Tribal governments launched major efforts to address the economic impacts of the pandemic. These efforts have been tailored to the needs of their communities and have included expanded assistance to unemployed workers; food assistance; rent, mortgage, and utility support; cash assistance; internet access programs; expanded services to support individuals experiencing homelessness; support for individuals with disabilities and older adults; and assistance to small businesses facing closures or revenue loss or implementing new safety measures.

In responding to the public health emergency and its negative economic impacts, State, local, and Tribal governments have seen substantial increases in costs to provide these services, often amid substantial declines in revenue due to the economic downturn and changing economic patterns during the pandemic.[7] Facing these budget challenges, many State, local, and Tribal governments have been forced to make cuts to services or their workforces, or delay critical investments. From February to May of 2020, State, local, and Tribal governments reduced their workforces by more than 1.5 million jobs and, in April of 2021, State, local, and Tribal government employment remained nearly 1.3 million jobs below pre-pandemic levels.[8] These cuts to State, local, and Tribal government workforces

[1] Centers for Disease Control and Prevention, COVID Data Tracker, *http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home* (last visited May 8, 2021).

[2] U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/UNRATE,* May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNU02000000,* May 3, 2021.

[3] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/PAYEMS,* May 7, 2021.

[4] Nirmita Panchal et al., The Implications of COVID–19 for Mental Health and Substance Abuse (Feb. 10, 2021), https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis; U.S. Census Bureau, Household Pulse Survey: Measuring Social and Economic Impacts during the Coronavirus Pandemic, https://www.census.gov/programs-surveys/household-pulse-survey.html (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 1—October 17, 2020, Morb. Mortal. Wkly. Rep. 69(45):1675–80 (Nov. 13, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm.*

[5] Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), *https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm.*

[6] Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), *https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/.*

[7] Michael Leachman, House Budget Bill Provides Needed Fiscal Aid for States, Localities, Tribal Nations, and Territories (Feb. 10, 2021), *https://www.cbpp.org/research/state-budget-and-tax/house-budget-bill-provides-needed-fiscal-aid-for-states-localities.*

[8] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES90920000001* 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.*

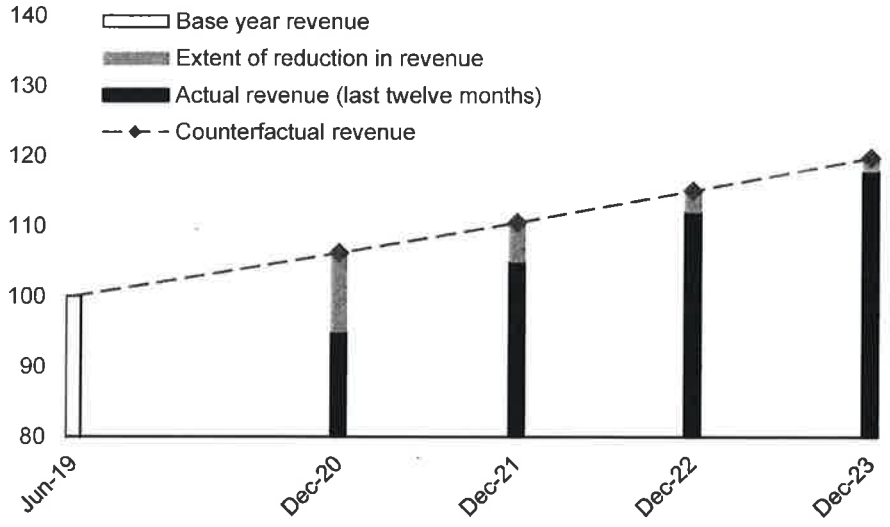
years prior to the COVID–19 public health emergency.

- *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

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/101030085118517/FCC%20RDOF%20Jan%203%20Ex%20Parte.pdf.*Additional information on historic growth in data usage is provided in Schools, Health & Libraries Broadband Coalition, *Common Sense Solutions for Closing the Digital Divide,* Apr. 29, 2021.

[147] *Id. See also* United States's Mobile and Broadband internet Speeds—Speedtest Global Index, *available at https://www.speedtest.net/global-index/united-states#fixed.*

to create and share content using video sharing, video conferencing, and other applications.[148]

The increasing use of data accelerated markedly during the pandemic as households across the country became increasingly reliant on tools and applications that require greater internet capacity, both to download data but also to upload data. Sending information became as important as receiving it. A video consultation with a healthcare provider or participation by a child in a live classroom with a teacher and fellow students requires video to be sent and received simultaneously.[149] As an example, some video conferencing technology platforms indicate that download and upload speeds should be roughly equal to support two-way, interactive video meetings.[150] For both work and school, client materials or completed school assignments, which may be in the form of PDF files, videos, or graphic files, also need to be shared with others. This is often done by uploading materials to a collaboration site, and the upload speed available to a user can have a significant impact on the time it takes for the content to be shared with others. [151] These activities require significant capacity from home internet connections to both download and upload data, especially when there are multiple individuals in one household engaging in these activities simultaneously.

This need for increased broadband capacity during the pandemic was reflected in increased usage patterns seen over the last year. As OpenVault noted in recent advisories, the pandemic significantly increased the amount of data users consume. Among data users observed by OpenVault, per-subscriber average data usage for the fourth quarter of 2020 was 482.6 gigabytes per month, representing a 40 percent increase over the 344 gigabytes consumed in the fourth quarter of 2019 and a 26 percent increase over the third quarter 2020 average of 383.8 gigabytes.[152] OpenVault also noted significant increases in upstream usage among the data users it observed, with upstream data usage growing 63 percent—from 19 gigabytes to 31 gigabytes—between December, 2019 and December, 2020.[153] According to an OECD Broadband statistic from June 2020, the largest percentage of U.S. broadband subscribers have services providing speeds between 100 Mbps and 1 Gbps.[154]

Jurisdictions and Federal programs are increasingly responding to the growing demands of their communities for both heightened download and upload speeds. For example, Illinois now requires 100 Mbps symmetrical service as the construction standard for its state broadband grant programs. This standard is also consistent with speed levels, particularly download speed levels, prioritized by other Federal programs supporting broadband projects. Bids submitted as part of the FCC in its Rural Digital Opportunity Fund (RDOF), established to support the construction of broadband networks in rural communities across the country, are given priority if they offer faster service, with the service offerings of 100 Mbps download and 20 Mbps upload being included in the "above baseline" performance tier set by the FCC.[155] The Broadband Infrastructure Program (BBIP) [156] of the Department of Commerce, which provides Federal funding to deploy broadband infrastructure to eligible service areas of the country also prioritizes projects designed to provide broadband service with a download speed of not less than 100 Mbps and an upload speed of not less than 20 Mbps.[157]

The 100 Mbps upload and download speeds will support the increased and growing needs of households and businesses. Recognizing that, in some instances, 100 Mbps upload speed may be impracticable due to geographical, topographical, or financial constraints, the interim final rule permits upload speeds of between at least 20 Mbps and 100 Mbps in such instances. To provide for investments that will accommodate technologies requiring symmetry in download and upload speeds, as noted above, eligible projects that are not designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical speeds of 100 Mbps because it would be impracticable to do so should be designed so that they can be scalable to such speeds. Recipients are also encouraged to prioritize investments in fiber optic infrastructure where feasible, as such advanced technology enables the next generation of application solutions for all communities.

Under the interim final rule, eligible projects are expected to focus on locations that are unserved or underserved. The interim final rule treats users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload as households and businesses lacking this level of access are generally not viewed as being able to originate and receive high-quality voice, data, graphics, and video telecommunications. This threshold is consistent with the FCC's benchmark for an "advanced telecommunications capability." [158] This threshold is also consistent with thresholds used in other Federal programs to identify eligible areas to be served by programs to improve broadband services. For example, in the FCC's RDOF program, eligible areas include those without current (or already funded) access to terrestrial broadband service providing 25 Mbps download and 3 Mbps upload speeds.[159] The Department of Commerce's BBIP also considers households to be "unserved" generally if they lack access to broadband service

[148] *Id.*

[149] One high definition Zoom meeting or class requires approximately 3.8 Mbps/3.0 Mbps (up/down).

[150] *See, e.g.,* Zoom, System Requirements for Windows, macOS, and Linux, *https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h_d278c327-e03d-4896-b19a-96a8f3c0c69c* (last visited May 8, 2021).

[151] By one estimate, to upload a one gigabit video file to YouTube would take 15 minutes at an upload speed of 10 Mbps compared with 1 minute, 30 seconds at an upload speed of 100 Mbps, and 30 seconds at an upload speed of 300 Mbps. *Reviews.org:* What is Symmetrical internet? (March 2020).

[152] OVBI: Covid-19 Drove 15 percent Increase in Broadband Traffic in 2020, OpenVault, Quarterly Advisory, (Feb. 10, 2021), *available at https://openvault.com/ovbi-covid-19-drove-51-increase-in-broadband-traffic-in-2020; See* OpenVault's data set incorporates information on usage by subscribers across multiple continents, including North America and Europe. Additional data and detail on increases in the amount of data users consume and the broadband speeds they are using is provided in *OpenVault Broadband Insights Report Q4,* Quarterly Advisory (Feb. 10, 2021), *available at https://openvault.com/complimentary-report-4q20/.*

[153] OVBI Special Report: 202 Upstream Growth Nearly 4X of Pre-Pandemic Years, OpenVault, Quarterly Advisory, (April 1, 20201), *available at https://openvault.com/ovbi-special-report-2020-upstream-growth-rate-nearly-4x-of-pre-pandemic-years/;* Additional data is provided in *OpenVault Broadband Insights Pandemic Impact on Upstream Broadband Usage and Network Capacity, available at https://openvault.com/upstream-whitepaper/.*

[154] Organisation for Economic Co-operation and Development, Fixed broadband subscriptions per 100 inhabitants, per speed tiers (June 2020), *https://www.oecd.org/sti/broadband/5.1-FixedBB-SpeedTiers-2020-06.xls www.oecd.org/sti/broadband/broadband-statistics.*

[155] *Rural Digital Opportunity Fund,* Report and Order, 35 FCC Rcd 686, 690, para. 9 (2020), *available at https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0.*

[156] The BIPP was authorized by the Consolidated Appropriations Act, 2021, Section 905, Public Law 116–260, 134 Stat. 1182 (Dec. 27, 2020).

[157] Section 905(d)(4) of the Consolidated Appropriations Act, 2021.

[158] *Deployment Report, supra* note 142.

[159] *Rural Digital Opportunity Fund, supra* note 156.

with a download speed of not less than 25 Mbps download and 3 Mbps upload, among other conditions. In selecting an area to be served by a project, recipients are encouraged to avoid investing in locations that have existing agreements to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload by December 31, 2024, in order to avoid duplication of efforts and resources.

Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved households and businesses, recipients are encouraged to focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections. Treasury also encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

Under sections 602(c)(1)(A) and 603(c)(1)(A), assistance to households facing negative economic impacts due to COVID–19 is also an eligible use, including internet access or digital literacy assistance. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic.

Question 22: What are the advantages and disadvantages of setting minimum symmetrical download and upload speeds of 100 Mbps? What other minimum standards would be appropriate and why?

Question 23: Would setting such a minimum be impractical for particular types of projects? If so, where and on what basis should those projects be identified? How could such a standard be set while also taking into account the practicality of using this standard in particular types of projects? In addition to topography, geography, and financial factors, what other constraints, if any, are relevant to considering whether an investment is impracticable?

Question 24: What are the advantages and disadvantages of setting a minimum level of service at 100 Mbps download and 20 Mbps upload in projects where it is impracticable to set minimum symmetrical download and upload speeds of 100 Mbps? What are the advantages and disadvantages of setting a scalability requirement in these cases? What other minimum standards would be appropriate and why?

Question 25: What are the advantages and disadvantages of focusing these investments on those without access to a wireline connection that reliably delivers 25 Mbps download by 3 Mbps upload? Would another threshold be appropriate and why?

Question 26: What are the advantages and disadvantages of setting any particular threshold for identifying unserved or underserved areas, minimum speed standards or scalability minimum? Are there other standards that should be set (e.g., latency)? If so, why and how? How can such threshold, standards, or minimum be set in a way that balances the public's interest in making sure that reliable broadband services meeting the daily needs of all Americans are available throughout the country with the providing recipients flexibility to meet the varied needs of their communities?

III. Restrictions on Use

As discussed above, recipients have considerable flexibility to use Fiscal Recovery Funds to address the diverse needs of their communities. To ensure that payments from the Fiscal Recovery Funds are used for these congressionally permitted purposes, the ARPA includes two provisions that further define the boundaries of the statute's eligible uses. Section 602(c)(2)(A) of the Act provides that States and territories may not "use the funds . . . to either directly or indirectly offset a reduction in . . . net tax revenue . . . resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax . . . or delays the imposition of any tax or tax increase." In addition, sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, nonentitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund. These restrictions support the use of funds for the congressionally permitted purposes described in Section II of this Supplementary Information by providing a backstop against the use of funds for purposes outside of the eligible use categories.

These provisions give force to Congress's clear intent that Fiscal Recovery Funds be spent within the four eligible uses identified in the statute—(1) to respond to the public health emergency and its negative economic impacts, (2) to provide premium pay to essential workers, (3) to provide government services to the extent of eligible governments' revenue losses, and (4) to make necessary water, sewer, and broadband infrastructure investments—and not otherwise. These four eligible uses reflect Congress's judgment that the Fiscal Recovery Funds should be expended in particular ways that support recovery from the COVID–19 public health emergency. The further restrictions reflect Congress's judgment that tax cuts and pension deposits do not fall within these eligible uses. The interim final rule describes how Treasury will identify when such uses have occurred and how it will recoup funds put toward these impermissible uses and, as discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, establishes a reporting framework for monitoring the use of Fiscal Recovery Funds for eligible uses.

A. Deposit Into Pension Funds

The statute provides that recipients may not use Fiscal Recovery Funds for "deposit into any pension fund." For the reasons discussed below, Treasury interprets "deposit" in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the interim final rule does not permit this assistance to be used to make a payment into a pension fund if both:

1. The payment reduces a liability incurred prior to the start of the COVID–19 public health emergency, and

2. the payment occurs outside the recipient's regular timing for making such payments.

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries.

As discussed above, eligible uses for premium pay and responding to the negative economic impacts of the COVID–19 public health emergency include hiring and compensating public sector employees. Interpreting the scope of "deposit" to exclude contributions that are part of payroll contributions is more consistent with these eligible uses and would reduce administrative burden for recipients. Accordingly, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans

(Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Treasury anticipates that this approach to employees' covered benefits will be comprehensive and, for employees whose wage and salary costs are eligible expenses, will allow all covered benefits listed in the previous paragraph to be eligible under the Fiscal Recovery Funds. Treasury expects that this will minimize the administrative burden on recipients by treating all the specified covered benefit types as eligible expenses, for employees whose wage and salary costs are eligible expenses.

Question 27: Beyond a "deposit" and a "payroll contribution," are there other types of payments into a pension fund that Treasury should consider?

B. Offset a Reduction in Net Tax Revenue

For States and territories (recipient governments [160]), section 602(c)(2)(A)—the offset provision—prohibits the use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation [161] during the covered period. If a State or territory uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the State or territory must repay to the Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount received by the State or territory under the ARPA. *See* Section IV of this **SUPPLEMENTARY INFORMATION.** As discussed below Section IV of this **SUPPLEMENTARY INFORMATION**, a State or territory that chooses to use Fiscal Recovery Funds to offset a reduction in net tax revenue does not forfeit its entire allocation of Fiscal Recovery Funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-ARPA funding received.

The interim final rule implements these conditions by establishing a framework for States and territories to determine the cost of changes in law, regulation, or interpretation that reduce tax revenue and to identify and value the sources of funds that will offset—*i.e.*, cover the cost of—any reduction in net tax revenue resulting from such changes. A recipient government would only be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue resulting from changes in law, regulation, or interpretation if, and to the extent that, the recipient government could not identify sufficient funds from sources other than the Fiscal Recovery Funds to offset the reduction in net tax revenue. If sufficient funds from other sources cannot be identified to cover the full cost of the reduction in net tax revenue resulting from changes in law, regulation, or interpretation, the remaining amount not covered by these sources will be considered to have been offset by Fiscal Recovery Funds, in contravention of the offset provision. The interim final rule recognizes three sources of funds that may offset a reduction in net tax revenue other than Fiscal Recovery Funds—organic growth, increases in revenue (*e.g.*, an increase in a tax rate), and certain cuts in spending.

In order to reduce burden, the interim final rule's approach also incorporates the types of information and modeling already used by States and territories in their own fiscal and budgeting processes. By incorporating existing budgeting processes and capabilities, States and territories will be able to assess and evaluate the relationship of tax and budget decisions to uses of the Fiscal Recovery Funds based on information they likely have or can obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of the Fiscal Recovery Funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue, making them potentially subject to recoupment.

Reporting on both the eligible uses and on a State's or territory's covered tax changes that would reduce tax revenue will enable identification of, and recoupment for, use of Fiscal Recovery Funds to directly offset reductions in tax revenue resulting from tax relief. Moreover, this approach recognizes that, because money is fungible, even if Fiscal Recovery Funds are not explicitly or directly used to cover the costs of changes that reduce net tax revenue, those funds may be used in a manner inconsistent with the statute by indirectly being used to substitute for the State's or territory's funds that would otherwise have been needed to cover the costs of the reduction. By focusing on the cost of changes that reduce net tax revenue—and how a recipient government is offsetting those reductions in constructing its budget over the covered period—the framework prevents efforts to use Fiscal Recovery Funds to indirectly offset reductions in net tax revenue for which the recipient government has not identified other offsetting sources of funding.

As discussed in greater detail below in this preamble, the framework set forth in the interim final rule establishes a step-by-step process for determining whether, and the extent to which, Fiscal Recovery Funds have been used to offset a reduction in net tax revenue. Based on information reported annually by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process. The sum of these values in the year for which the government is reporting is the amount it needs to "pay for" with sources other than Fiscal Recovery Funds (total value of revenue reducing changes).
- Second, the interim final rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a de minimis level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.
- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which they are reporting. If the recipient government's actual tax revenue is greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.
- Fourth, if the recipient government's actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any sources of funds that have been used to permissibly offset the total value of covered tax changes other than Fiscal Recovery Funds. These are:
  - State or territory tax changes that would increase any source of general

[160] In this sub-section, "recipient governments" refers only to States and territories. In other sections, "recipient governments" refers more broadly to eligible governments receiving funding from the Fiscal Recovery Funds.

[161] For brevity, referred to as "changes in law, regulation, or interpretation" for the remainder of this preamble.

fund revenue, such as a change that would increase a tax rate; and

○ Spending cuts in areas not being replaced by Fiscal Recovery Funds.

The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that, is, how much of the tax change has not been paid for. The recipient government will then compare that value to the difference between the baseline and actual tax revenue. A recipient government will not be required to repay to the Treasury an amount that is greater than the recipient government's actual tax revenue shortfall relative to the baseline (*i.e.,* fiscal year 2019 tax revenue adjusted for inflation). This "revenue reduction cap," together with Step 3, ensures that recipient governments can use organic revenue growth to offset the cost of revenue reductions.

• Finally, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts. This process is discussed in greater detail in Section IV of this **SUPPLEMENTARY INFORMATION**.

Together, these steps allow Treasury to identify the amount of reduction in net tax revenue that both is attributable to covered changes and has been directly or indirectly offset with Fiscal Recovery Funds. This process ensures Fiscal Recovery Funds are used in a manner consistent with the statute's defined eligible uses and the offset provision's limitation on these eligible uses, while avoiding undue interference with State and territory decisions regarding tax and spending policies.

The interim final rule also implements a process for recouping Fiscal Recovery Funds that were used to offset reductions in net tax revenue, including the calculation of any amounts that may be subject to recoupment, a process for a recipient government to respond to a notice of recoupment, and clarification regarding amounts excluded from recoupment. *See* Section IV of this **SUPPLEMENTARY INFORMATION**.

The interim final rule includes several definitions that are applicable to the implementation of the offset provision.

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from "a change in law, regulation, or administrative interpretation." A covered change includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. Changed administrative interpretations would not include corrections to replace prior inaccurate interpretations; such corrections would instead be treated as changes implementing legislation enacted or regulations issued prior to the covered period; the operative change in those circumstances is the underlying legislation or regulation that occurred prior to the covered period. Moreover, only the changes within the control of the State or territory are considered covered changes. Covered changes do not include a change in rate that is triggered automatically and based on statutory or regulatory criteria in effect prior to the covered period. For example, a state law that sets its earned income tax credit (EITC) at a fixed percentage of the Federal EITC will see its EITC payments automatically increase—and thus its tax revenue reduced—because of the Federal Government's expansion of the EITC in the ARPA.[162] This would not be considered a covered change. In addition, the offset provision applies only to actions for which the change in policy occurs during the covered period; it excludes regulations or other actions that implement a change or law substantively enacted prior to March 3, 2021. Finally, Treasury has determined and previously announced that income tax changes—even those made during the covered period—that simply conform with recent changes in Federal law (including those to conform to recent changes in Federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program) are permissible under the offset provision.

Baseline. For purposes of measuring a reduction in net tax revenue, the interim final rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline will be calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator.[163]

FY 2019 was chosen as the starting year for the baseline because it is the last full fiscal year prior to the COVID–19 public health emergency.[164] This baseline year is consistent with the approach directed by the ARPA in sections 602(c)(1)(C) and 603(c)(1)(C), which identify the "most recent full fiscal year of the [State, territory, or Tribal government] prior to the emergency" as the comparator for measuring revenue loss. U.S. gross domestic product is projected to rebound to pre-pandemic levels in 2021,[165] suggesting that an FY 2019 pre-pandemic baseline is a reasonable comparator for future revenue levels. The FY 2019 baseline revenue will be adjusted annually for inflation to allow for direct comparison of actual tax revenue in each year (reported in nominal terms) to baseline revenue in common units of measurement; without inflation adjustment, each dollar of reported actual tax revenue would be worth less than each dollar of baseline revenue expressed in 2019 terms.

Reporting year. The interim final rule defines "reporting year" as a single year within the covered period, aligned to the current fiscal year of the recipient government during the covered period, for which a recipient government reports the value of covered changes and any sources of offsetting revenue increases ("in-year" value), regardless of when those changes were enacted. For the fiscal years ending in 2021 or 2025 (partial years), the term "reporting year" refers to the portion of the year falling within the covered period. For example, the reporting year for a fiscal year beginning July 2020 and ending June 2021 would be from March 3, 2021 to July 2021.

Tax revenue. The interim final rule's definition of "tax revenue" is based on the Census Bureau's definition of taxes, used for its Annual Survey of State Government Finances.[166] It provides a consistent, well-established definition with which States and territories will be familiar and is consistent with the approach taken in Section II.C of this **SUPPLEMENTARY INFORMATION** describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, regarding revenue loss. Consistent with the approach described in Section II.C of this **SUPPLEMENTARY INFORMATION**, tax

[162] *See, e.g.,* Tax Policy Center, How do state earned income tax credits work?, *https://www.taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work/* (last visited May 9, 2021).

[163] U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, *https://www.bea.gov/data/prices-inflation/gdp-price-deflator* (last visited May 9, 2021).

[164] Using Fiscal Year 2019 is consistent with section 602 as Congress provided for using that baseline for determining the impact of revenue loss affecting the provision of government services. *See* section 602(c)(1)(C).

[165] Congressional Budget Office, An Overview of the Economic Outlook: 2021 to 2031 (February 1, 2021), *available at https://www.cbo.gov/publication/56965.*

[166] U.S. Census Bureau, Annual Survey of State and Local Government Finances Glossary, *https://www.census.gov/programs-surveys/state/about/glossary.html* (last visited Apr. 30, 2021).

revenue does not include revenue taxed and collected by a different unit of government (*e.g.*, revenue from taxes levied by a local government and transferred to a recipient government).

Framework. The interim final rule provides a step-by-step framework, to be used in each reporting year, to calculate whether the offset provision applies to a State's or territory's use of Fiscal Recovery Funds:

(1) *Covered changes that reduce tax revenue.* For each reporting year, a recipient government will identify and value covered changes that the recipient government predicts will have the effect of reducing tax revenue in a given reporting year, similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Further, estimation approaches should not use dynamic methodologies that incorporate the projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework. Relative to these dynamic scoring methodologies, scoring methodologies that do not incorporate projected effects of macroeconomic growth rely on fewer assumptions and thus provide greater consistency among States and territories. Dynamic scoring that incorporates macroeconomic growth may also increase the likelihood of underestimation of the cost of a reduction in tax revenue.

In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities. In addition, the approach of using the projected value of changes in law that enact fiscal policies to estimate the net effect of such policies is consistent with the way many States and territories already consider tax changes.[167]

(2) *In excess of the de minimis.* The recipient government will next calculate the total value of all covered changes in the reporting year resulting in revenue reductions, identified in Step 1. If the total value of the revenue reductions resulting from these changes is below the de minimis level, the recipient government will be deemed not to have any revenue-reducing changes for the purpose of determining the recognized net reduction. If the total is above the de minimis level, the recipient government must identify sources of in-year revenue to cover the full costs of changes that reduce tax revenue.

The de minimis level is calculated as 1 percent of the reporting year's baseline. Treasury recognizes that, pursuant to their taxing authority, States and territories may make many small changes to alter the composition of their tax revenues or implement other policies with marginal effects on tax revenues. They may also make changes based on projected revenue effects that turn out to differ from actual effects, unintentionally resulting in minor revenue changes that are not fairly described as "resulting from" tax law changes. The de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. Treasury determined the 1 percent level by assessing the historical effects of state-level tax policy changes in state EITCs implemented to effect policy goals other than reducing net tax revenues.[168] The 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies.

(3) *Safe harbor.* The recipient government will then compare the reporting year's actual tax revenue to the baseline. If actual tax revenue is greater than the baseline, Treasury will deem the recipient government not to have any recognized net reduction for the reporting year, and therefore to be in a safe harbor and outside the ambit of the offset provision. This approach is consistent with the ARPA, which contemplates recoupment of Fiscal Recovery Funds only in the event that such funds are used to offset a reduction in net tax revenue. If net tax revenue has not been reduced, this provision does not apply. In the event that actual tax revenue is above the baseline, the organic revenue growth that has occurred, plus any other revenue-raising changes, by definition must have been enough to offset the in-year costs of the covered changes.

(4) *Consideration of other sources of funding.* Next, the recipient government will identify and calculate the total value of changes that could pay for revenue reduction due to covered changes and sum these items. This amount can be used to pay for up to the total value of revenue-reducing changes in the reporting year. These changes consist of two categories:

(a) *Tax and other increases in revenue.* The recipient government must identify and consider covered changes in policy that the recipient government predicts will have the effect of increasing general revenue in a given reporting year. As when identifying and valuing covered changes that reduce tax revenue, the value of revenue-raising changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, aligned with the recipient government's existing approach for measuring the effects of fiscal policies, and measured relative to a current law baseline, or based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s). Further, and as discussed above, estimation approaches should not use dynamic scoring methodologies that incorporate the effects of macroeconomic growth because growth is accounted for separately under the interim final rule. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities.

(b) *Covered spending cuts.* A recipient government also may cut spending in certain areas to pay for covered changes that reduce tax revenue, up to the amount of the recipient government's net reduction in total spending as described below. These changes must be reductions in government outlays not in an area where the recipient government has spent Fiscal Recovery Funds. To better align with existing reporting and accounting, the interim final rule considers the department, agency, or

[167] *See, e.g.*, Megan Randall & Kim Rueben, Tax Policy Center, Sustainable Budgeting in the States: Evidence on State Budget Institutions and Practices (Nov. 2017), *available at https://www.taxpolicycenter.org/sites/default/files/publication/149186/sustainable-budgeting-in-the-states_1.pdf.*

[168] Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004–2017.

authority from which spending has been cut and whether the recipient government has spent Fiscal Recovery Funds on that same department, agency, or authority. This approach was selected to allow recipient governments to report how Fiscal Recovery Funds have been spent using reporting units already incorporated into their budgeting process. If they have not spent Fiscal Recovery Funds in a department, agency, or authority, the full amount of the reduction in spending counts as a covered spending cut, up to the recipient government's net reduction in total spending. If they have, the Fiscal Recovery Funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of Fiscal Recovery Funds spent on the department, agency, or authority would count.

To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient government must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offsetting other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding Fiscal Recovery Funds spent, relative to total spending for the recipient's fiscal year ending in 2019, adjusted for inflation. Measuring reductions in spending relative to 2019 reflects the fact that the fiscal space created by a spending cut persists so long as spending remains below its original level, even if it does not decline further, relative to the same amount of revenue. Measuring spending cuts from year to year would, by contrast, not recognize any available funds to offset revenue reductions unless spending continued to decline, failing to reflect the actual availability of funds created by a persistent change and limiting the discretion of States and territories. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Treasury chose this approach because while many recipient governments may score budget legislation using projections, spending cuts are readily observable using actual values.

This approach—allowing only spending reductions in areas where the recipient government has not spent Fiscal Recovery Funds to be used as an offset for a reduction in net tax revenue—aims to prevent recipient governments from using Fiscal Recovery Funds to supplant State or territory funding in the eligible use areas, and then use those State or territory funds to offset tax cuts. Such an approach helps ensure that Fiscal Recovery Funds are not used to "indirectly" offset revenue reductions due to covered changes.

In order to help ensure recipient governments use Fiscal Recovery Funds in a manner consistent with the prescribed eligible uses and do not use Fiscal Recovery Funds to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury will monitor changes in spending throughout the covered period. If, over the course of the covered period, a spending cut is subsequently replaced with Fiscal Recovery Funds and used to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury may consider such change to be an evasion of the restrictions of the offset provision and seek recoupment of such amounts.

(5) *Identification of amounts subject to recoupment.* If a recipient government (i) reports covered changes that reduce tax revenue (Step 1); (ii) to a degree greater than the de minimis (Step 2); (iii) has experienced a reduction in net tax revenue (Step 3); and (iv) lacks sufficient revenue from other, permissible sources to pay for the entirety of the reduction (Step 4), then the recipient government will be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of reduction in revenue due to covered changes which a recipient government must cover is capped at the difference between the baseline and actual tax revenue.[169] In the event that the baseline is above actual tax revenue and the difference between them is less than the sum of revenue reducing changes that are not paid for with other, permissible sources, organic revenue growth has implicitly offset a portion of the reduction. For example, if a recipient government reduces tax revenue by $1 billion, makes no other changes, and experiences revenue growth driven by organic economic growth worth $500 million, it need only pay for the remaining $500 million with sources other than Fiscal Recovery Funds. The revenue reduction cap implements this approach for permitting organic revenue growth to cover the cost of tax cuts.

Finally, as discussed further in Section IV of this **SUPPLEMENTARY INFORMATION**, a recipient government may request reconsideration of any amounts identified as subject to recoupment under this framework. This process ensures that all relevant facts and circumstances, including information regarding planned spending cuts and budgeting assumptions, are considered prior to a determination that an amount must be repaid. Amounts subject to recoupment are calculated on an annual basis; amounts recouped in one year cannot be returned if the State or territory subsequently reports an increase in net tax revenue.

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, in each year of the reporting period, each State and territory will report to Treasury the following items:

- Actual net tax revenue for the reporting year;
- Each revenue-reducing change made to date during the covered period and the in-year value of each change;
- Each revenue-raising change made to date during the covered period and the in-year value of each change;
- Each covered spending cut made to date during the covered period, the in-year value of each cut, and documentation demonstrating that each spending cut is covered as prescribed under the interim final rule;

Treasury will provide additional guidance and instructions the reporting requirements at a later date.

Question 28: Does the interim final rule's definition of tax revenue accord with existing State and territorial practice and, if not, are there other definitions or elements Treasury should consider? Discuss why or why not.

Question 29: The interim final rule permits certain spending cuts to cover the costs of reductions in tax revenue, including cuts in a department, agency, or authority in which the recipient government is not using Fiscal Recovery Funds. How should Treasury and recipient governments consider the scope of a department, agency, or authority for the use of funds to ensure spending cuts are not being substituted with Fiscal Recovery Funds while also avoiding an overbroad definition of that captures spending that is, in fact, distinct?

Question 30: Discuss the budget scoring methodologies currently used by States and territories. How should the interim final rule take into consideration differences in approaches? Please discuss the use of

[169] This cap is applied in § 35.8(c) of the interim final rule, calculating the amount of funds used in violation of the tax offset provision.

practices including but not limited to macrodynamic scoring, microdynamic scoring, and length of budget windows.

Question 31: If a recipient government has a balanced budget requirement, how will that requirement impact its use of Fiscal Recovery Funds and ability to implement this framework?

Question 32: To implement the framework described above, the interim final rule establishes certain reporting requirements. To what extent do recipient governments already produce this information and on what timeline? Discuss ways that Treasury and recipient governments may better rely on information already produced, while ensuring a consistent application of the framework.

Question 33: Discuss States' and territories' ability to produce the figures and numbers required for reporting under the interim final rule. What additional reporting tools, such as a standardized template, would facilitate States' and territories' ability to complete the reporting required under the interim final rule?

C. Other Restrictions on Use

Payments from the Fiscal Recovery Funds are also subject to pre-existing limitations provided in other Federal statutes and regulations and may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.[170]

As provided for in the award terms, payments from the Fiscal Recovery Funds as a general matter will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.

D. Timeline for Use of Fiscal Recovery Funds

Section 602(c)(1) and section 603(c)(1) require that payments from the Fiscal Recovery Funds be used only to cover costs incurred by the State, territory, Tribal government, or local government by December 31, 2024. Similarly, the CARES Act provided that payments from the CRF be used to cover costs incurred by December 31, 2021.[171] The definition of "incurred" does not have a clear meaning. With respect to the CARES Act, on the understanding that the CRF was intended to be used to meet relatively short-term needs, Treasury interpreted this requirement to mean that, for a cost to be considered to have been incurred, performance of the service or delivery of the goods acquired must occur by December 31, 2021. In contrast, the ARPA, passed at a different stage of the COVID–19 public health emergency, was intended to provide more general fiscal relief over a broader timeline. In addition, the ARPA expressly permits the use of Fiscal Recovery Funds for improvements to water, sewer, and broadband infrastructure, which entail a longer timeframe. In recognition of this, Treasury is interpreting the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by such date. The interim final rule adopts a definition of "obligation" that is based on the definition used for purposes of the Uniform Guidance, which will allow for uniform administration of this requirement and is a definition with which most recipients will be familiar.

Payments from the Fiscal Recovery Funds are grants provided to recipients to mitigate the fiscal effects of the COVID–19 public health emergency and to respond to the public health emergency, consistent with the eligible uses enumerated in sections 602(c)(1) and 603(c)(1).[172] As such, these funds are intended to provide economic stimulus in areas still recovering from the economic effects of the pandemic. In implementing and interpreting these provisions, including what it means to "respond to" the COVID–19 public health emergency, Treasury takes into consideration pre-pandemic facts and circumstances (*e.g.*, average revenue growth prior to the pandemic) as well as impact of the pandemic that predate the enactment of the ARPA (*e.g.*, replenishing Unemployment Trust balances drawn during the pandemic). While assessing the effects of the COVID–19 public health emergency necessarily takes into consideration the facts and circumstances that predate the ARPA, use of Fiscal Recovery Funds is forward looking.

As discussed above, recipients are permitted to use payments from the Fiscal Recovery Funds to respond to the public health emergency, to respond to workers performing essential work by providing premium pay or providing grants to eligible employers, and to make necessary investments in water, sewer, or broadband infrastructure, which all relate to prospective uses. In addition, sections 602(c)(1)(C) and 603(c)(1)(C) permit recipients to use Fiscal Recovery Funds for the provision of government services. This clause provides that the amount of funds that may be used for this purpose is measured by reference to the reduction in revenue due to the public health emergency relative to revenues collected in the most recent full fiscal year, but this reference does not relate to the period during which recipients may use the funds, which instead refers to prospective uses, consistent with the other eligible uses.

Although as discussed above the eligible uses of payments from the Fiscal Recovery Funds are all prospective in nature, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be the relevant reference point for this purpose. The interim final rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021. This aligns the period for use of Fiscal Recovery Funds with the period during which these funds may not be used to offset reductions in net tax revenue. Permitting Fiscal Recovery Funds to be used to cover costs incurred beginning on this date will also mean that recipients that began incurring costs in the anticipation of enactment of the ARPA and in advance of the issuance of this rule and receipt of payment from the Fiscal Recovery Funds would be able to cover them using these payments.[173]

As set forth in the award terms, the period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with payments from the Fiscal Recovery Funds.

IV. Recoupment Process

Under the ARPA, failure to comply with the restrictions on use contained in sections 602(c) and 603(c) of the Act may result in recoupment of funds.[174] The interim final rule implements these provisions by establishing a process for recoupment.

Identification and Notice of Violations. Failure to comply with the restrictions on use will be identified based on reporting provided by the

[170] *See* 42 CFR 433.51 and 45 CFR 75.306.

[171] Section 1001 of Division N of the Consolidated Appropriations Act, 2021 amended section 601(d)(3) of the Act by extending the end of the covered period for CRF expenditures from December 30, 2020 to December 31, 2021.

[172] Sections 602(a), 603(a), 602(c)(1) and 603(c)(1) of the Act.

[173] Given the nature of this program, recipients will not be permitted to use funds to cover pre-award costs, *i.e.*, those incurred prior to March 3, 2021.

[174] Sections 602(e) and 603(e) of the Act.

recipient. As discussed further in Sections III.B and VIII of this **SUPPLEMENTARY INFORMATION**, Treasury will collect information regarding eligible uses on a quarterly basis and on the tax offset provision on an annual basis. Treasury also may consider other information in identifying a violation, such as information provided by members of the public. If Treasury identifies a violation, it will provide written notice to the recipient along with an explanation of such amounts.

Request for Reconsideration. Under the interim final rule, a recipient may submit a request for reconsideration of any amounts identified in the notice provided by Treasury. This reconsideration process provides a recipient the opportunity to submit additional information it believes supports its request in light of the notice of recoupment, including, for example, additional information regarding the recipient's use of Fiscal Recovery Funds or its tax revenues. The process also provides the Secretary with an opportunity to consider all information relevant to whether a violation has occurred, and if so, the appropriate amount for recoupment.

The interim final rule also establishes requirements for the timing of a request for reconsideration. Specifically, if a recipient wishes to request reconsideration of any amounts identified in the notice, the recipient must submit a written request for reconsideration to the Secretary within 60 calendar days of receipt of such notice. The request must include an explanation of why the recipient believes that the finding of a violation or recoupable amount identified in the notice of recoupment should be reconsidered. To facilitate the Secretary's review of a recipient's request for reconsideration, the request should identify all supporting reasons for the request. Within 60 calendar days of receipt of the recipient's request for reconsideration, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

The process and timeline established by the interim final rule are intended to provide the recipient with an adequate opportunity to fully present any issues or arguments in response to the notice of recoupment.[175] This process will allow the Secretary to respond to the issues and considerations raised in the request for reconsideration taking into account the information and arguments presented by the recipient along with any other relevant information.

Repayment. Finally, the interim final rule provides that any amounts subject to recoupment must be repaid within 120 calendar days of receipt of any final notice of recoupment or, if the recipient has not requested reconsideration, within 120 calendar days of the initial notice provided by the Secretary.

Question 34: Discuss the timeline for requesting reconsideration under the interim final rule. What, if any, challenges does this timeline present?

V. Payments in Tranches to Local Governments and Certain States

Section 603 of the Act provides that the Secretary will make payments to local governments in two tranches, with the second tranche being paid twelve months after the first payment. In addition, section 602(b)(6)(A)(ii) provides that the Secretary may withhold payment of up to 50 percent of the amount allocated to each State and territory for a period of up to twelve months from the date on which the State or territory provides its certification to the Secretary. Any such withholding for a State or territory is required to be based on the unemployment rate in the State or territory as of the date of the certification.

The Secretary has determined to provide in this interim final rule for withholding of 50 percent of the amount of Fiscal Recovery Funds allocated to all States (and the District of Columbia) other than those with an unemployment rate that is 2.0 percentage points or more above its pre-pandemic (*i.e.*, February 2020) level. The Secretary will refer to the latest available monthly data from the Bureau of Labor Statistics as of the date the certification is provided. Based on data available at the time of public release of this interim final rule, this threshold would result in a majority of States being paid in two tranches.

Splitting payments for the majority of States is consistent with the requirement in section 603 of the Act to make payments from the Coronavirus Local Fiscal Recovery Fund to local governments in two tranches.[176] Splitting payments to States into two tranches will help encourage recipients to adapt, as necessary, to new developments that could arise over the coming twelve months, including potential changes to the nature of the public health emergency and its negative economic impacts. While the U.S. economy has been recovering and adding jobs in aggregate, there is still considerable uncertainty in the economic outlook and the interaction between the pandemic and the economy.[177] For these reasons, Treasury believes it will be appropriate for a majority of recipients to adapt their plans as the recovery evolves. For example, a faster-than-expected economic recovery in 2021 could lead a recipient to dedicate more Fiscal Recovery Funds to longer-term investments starting in 2022. In contrast, a slower-than-expected economic recovery in 2021 could lead a recipient to use additional funds for near-term stimulus in 2022.

At the same time, the statute contemplates the possibility that elevated unemployment in certain States could justify a single payment. Elevated unemployment is indicative of a greater need to assist unemployed workers and stimulate a faster economic recovery. For this reason, the interim final rule provides that States and territories with an increase in their unemployment rate over a specified threshold may receive a single payment, with the expectation that a single tranche will better enable these States and territories to take additional immediate action to aid the unemployed and strengthen their economies.

Following the initial pandemic-related spike in unemployment in 2020, States' unemployment rates have been trending back towards pre-pandemic levels. However, some States' labor markets are healing more slowly than others. Moreover, States varied widely in their pre-pandemic levels of unemployment, and some States remain substantially further from their pre-

[175] The interim final rule also provides that Treasury may extend any deadlines.

[176] With respect to Federal financial assistance more generally, States are subject to the requirements of the Cash Management Improvement Act (CMIA), under which Federal funds are drawn upon only on an as needed basis and States are required to remit interest on unused balances to Treasury. Given the statutory requirement for Treasury to make payments to States within a certain period, these requirements of the CMIA and Treasury's implementing regulations at 31 CFR part 205 will not apply to payments from the Fiscal Recovery Funds. Providing funding in two tranches to the majority of States reflects, to the maximum extent permitted by section 602 of the Act, the general principles of Federal cash management and stewardship of Federal funding, yet will be much less restrictive than the usual requirements to which States are subject.

[177] The potential course of the virus, and its impact on the economy, has contributed to a heightened degree of uncertainty relative to prior periods. *See, e.g.*, Dave Altig et al., Economic uncertainty before and during the COVID–19 pandemic, J. of Public Econ. (Nov. 2020), *available at https://www.sciencedirect.com/science/article/abs/pii/S0047272720301389.*

pandemic starting point. Consequently, Treasury is delineating States with significant remaining elevation in the unemployment rate, based on the net difference to pre-pandemic levels.

Treasury has established that significant remaining elevation in the unemployment rate is a net change in the unemployment rate of 2.0 percentage points or more relative to pre-pandemic levels. In the four previous recessions going back to the early 1980s, the national unemployment rate rose by 3.6, 2.3, 2.0, and 5.0 percentage points, as measured from the start of the recession to the eventual peak during or immediately following the recession.[178] Each of these increases can therefore represent a recession's impact on unemployment. To identify States with significant remaining elevation in unemployment, Treasury took the lowest of these four increases, 2.0 percentage points, to indicate states where, despite improvement in the unemployment rate, current labor market conditions are consistent still with a historical benchmark for a recession.

No U.S. territory will be subject to withholding of its payment from the Fiscal Recovery Funds. For Puerto Rico, the Secretary has determined that the current level of the unemployment rate (8.8 percent, as of March 2021[179]) is sufficiently high such that Treasury should not withhold any portion of its payment from the Fiscal Recovery Funds regardless of its change in unemployment rate relative to its pre-pandemic level. For U.S. territories that are not included in the Bureau of Labor Statistics' monthly unemployment rate data, the Secretary will not exercise the authority to withhold amounts from the Fiscal Recovery Funds.

VI. Transfer

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan cities, and nonentitlement units of local government are collectively referred to as "local governments") to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Specifically, under section 602(c)(3), a State, territory, or Tribal government may transfer funds to a "private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government."[180] Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The interim final rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive. The interim final rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (*e.g.,* a county is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities. This approach is intended to help provide funding to local governments with needs that may exceed the allocation provided under the statutory formula.

State, local, territorial, and Tribal governments that receive a Federal award directly from a Federal awarding agency, such as Treasury, are "recipients." A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding. The recipient remains responsible for monitoring and overseeing the subrecipient's use of Fiscal Recovery Funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the Fiscal Recovery Funds for the duration of the award.

Transfers under sections 602(c)(3) and 603(c)(3) must qualify as an eligible use of Fiscal Recovery Funds by the transferor. Once Fiscal Recovery Funds are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance. For example, if a county transferred Fiscal Recovery Funds to a town within its borders to respond to the COVID–19 public health emergency, the town would be bound by the eligible use requirements applicable to the county in carrying out the county's goal. This also means that county A may not transfer Fiscal Recovery Funds to county B for use in county B because such a transfer would not, from the perspective of the transferor (county A), be an eligible use in county A.

Section 603(c)(4) separately provides for transfers by a local government to its State or territory. A transfer under section 603(c)(4) will not make the State a subrecipient of the local government, and such Fiscal Recovery Funds may be used by the State for any purpose permitted under section 602(c). A transfer under section 603(c)(4) will result in a cancellation or termination of the award on the part of the transferor local government and a modification of the award to the transferee State or territory. The transferor must provide notice of the transfer to Treasury in a format specified by Treasury. If the local government does not provide such notice, it will remain legally obligated to Treasury under the award and remain responsible for ensuring that the awarded Fiscal Recovery Funds are being used in accordance with the statute and program guidance and for reporting on such uses to Treasury. A State that receives a transfer from a local government under section 603(c)(4) will be bound by all of the use restrictions set forth in section 602(c) with respect to the use of those Fiscal Recovery Funds, including the prohibitions on use of such Fiscal Recovery Funds to offset certain reductions in taxes or to make deposits into pension funds.

Question 35: What are the advantages and disadvantages of treating the list of transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive, allowing States and localities to transfer funds to entities outside of the list?

Question 36: Are there alternative ways of defining "special-purpose unit of State or local government" and

[178] Includes the period during and immediately following recessions, as defined by the National Bureau of Economic Research. National Bureau of Economic Research, US Business Cycle Expansions and Contractions, *https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions* (last visited Apr. 27, 2021). Based on data from U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/UNRATE* (last visited Apr. 27, 2021).

[179] U.S. Bureau of Labor Statistics, Economic News Release—Table 1. Civilian labor force and unemployment by state and selected area, seasonally adjusted, *https://www.bls.gov/news.release/laus.t01.htm* (last visited Apr. 30, 2021).

[180] Section 602(c)(3) of the Act.

''public benefit corporation'' that would better further the aims of the Funds?

VII. Nonentitlement Units of Government

The Fiscal Recovery Funds provides for $19.53 billion in payments to be made to States and territories which will distribute the funds to nonentitlement units of local government (NEUs); local governments which generally have populations below 50,000. These local governments have not yet received direct fiscal relief from the Federal Government during the COVID–19 public health emergency, making Fiscal Recovery Funds payments an important source of support for their public health and economic responses. Section 603 requires Treasury to allocate and pay Fiscal Recovery Funds to the States and territories and requires the States and territories to distribute Fiscal Recovery Funds to NEUs based on population within 30 days of receipt unless an extension is granted by the Secretary. The interim final rule clarifies certain aspects regarding the distribution of Fiscal Recovery by States and territories to NEUs, as well as requirements around timely payments from the Fiscal Recovery Funds.

The ARPA requires that States and territories allocate funding to NEUs in an amount that bears the same proportion as the population of the NEU bears to the total population of all NEUs in the State or territory, subject to a cap (described below). Because the statute requires States and territories to make distributions based on population, States and territories may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury's implementing regulations and guidance. For example, a State may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU's use of Fiscal Recovery Funds based on the NEU's proposed spending plan or other policies. States and territories are also not permitted to offset any debt owed by the NEU against the NEU's distribution. Further, States and territories may not provide funding on a reimbursement basis—*e.g.,* requiring NEUs to pay for project costs up front before being reimbursed with Fiscal Recovery Funds payments—because this funding model would not comport with the statutory requirement that States and territories make distributions to NEUs within the statutory timeframe.

Similarly, States and territories distributing Fiscal Recovery Funds payments to NEUs are responsible for complying with the Fiscal Recovery Funds statutory requirement that distributions to NEUs not exceed 75 percent of the NEU's most recent budget. The most recent budget is defined as the NEU's most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020. Amounts in excess of such cap and therefore not distributed to the NEU must be returned to Treasury by the State or territory. States and territories may rely for this determination on a certified top-line budget total from the NEU.

Under the interim final rule, the total allocation and distribution to an NEU, including the sum of both the first and second tranches of funding, cannot exceed the 75 percent cap. States and territories must permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the cap. This approach will provide an administrable means to implement the cap for small local governments that do not adopt a formal budget.

Section 603(b)(3) of the Social Security Act provides for Treasury to make payments to counties but provides that, in the case of an amount to be paid to a county that is not a unit of general local government, the amount shall instead be paid to the State in which such county is located, and such State shall distribute such amount to each unit of general local government within such county in an amount that bears the same proportion to the amount to be paid to such county as the population of such units of general local government bears to the total population of such county. As with NEUs, States may not place additional conditions or requirements on distributions to such units of general local government, beyond those required by the ARPA and Treasury's implementing regulations and guidance.

In the case of consolidated governments, section 603(b)(4) allows consolidated governments (*e.g.,* a city-county consolidated government) to receive payments under each allocation based on the respective formulas. In the case of a consolidated government, Treasury interprets the budget cap to apply to the consolidated government's NEU allocation under section 603(b)(2) but not to the consolidated government's county allocation under section 603(b)(3).

If necessary, States and territories may use the Fiscal Recovery Funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local government, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts. If a State or territory requires more time to disburse Fiscal Recovery Funds to NEUs than the allotted 30 days, Treasury will grant extensions of not more than 30 days for States and territories that submit a certification in writing in accordance with section 603(b)(2)(C)(ii)(I). Additional extensions may be granted at the discretion of the Secretary.

Question 37: What are alternative ways for States and territories to enforce the 75 percent cap while reducing the administrative burden on them?

Question 38: What criteria should Treasury consider in assessing requests for extensions for further time to distribute NEU payments?

VIII. Reporting

States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report and thereafter quarterly Project and Expenditure reports through the end of the award period on December 31, 2026. The interim report will include a recipient's expenditures by category at the summary level from the date of award to July 31, 2021 and, for States and territories, information related to distributions to nonentitlement units. Recipients must submit their interim report to Treasury by August 31, 2021. Nonentitlement units of local government are not required to submit an interim report.

The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds. The reports will include the same general data (*e.g.,* on obligations, expenditures, contracts, grants, and subawards) as those submitted by recipients of the CRF, with some modifications. Modifications will include updates to the expenditure categories and the addition of data elements related to specific eligible uses, including some of the reporting elements described in sections above. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Nonentitlement units of local government will be required to submit

annual Project and Expenditure reports until the end of the award period on December 31, 2026. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The Recovery Plan Performance report will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as programmatic data in specific eligible use categories and the specific reporting requirements described in the sections above. The initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, Recovery Plan Performance reports will cover a 12-month period, and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and nonentitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide additional guidance and instructions on the reporting requirements outlined above for the Fiscal Recovery Funds at a later date.

IX. Comments and Effective Date

This interim final rule is being issued without advance notice and public comment to allow for immediate implementation of this program. As discussed below, the requirements of advance notice and public comment do not apply "to the extent that there is involved . . . a matter relating to agency . . . grants." [181] The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. In addition and as discussed below, the Administrative Procedure Act also provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." [182] This good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this interim final rule is effective immediately, comments are solicited from interested members of the public and from recipient governments on all aspects of the interim final rule.

These comments must be submitted on or before July 16, 2021.

X. Regulatory Analyses

Executive Orders 12866 and 13563

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. Treasury, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to act expeditiously to mitigate the current economic conditions arising from the COVID–19 public health emergency. The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866. This rule is necessary to implement the ARPA in order to provide economic relief to State, local, and Tribal governments adversely impacted by the COVID–19 public health emergency.

Under Executive Order 12866, OMB must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory action as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities in a material way (also referred to as "economically significant" regulations);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This regulatory action is an economically significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency:

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available

[181] 5 U.S.C. 553(a)(2).

[182] 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule").

techniques to quantify anticipated present and future benefits and costs as accurately as possible." OMB's Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this interim final rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this interim final rule is consistent with the principles set forth in Executive Order 13563.

Treasury also has determined that this regulatory action does not unduly interfere with States, territories, Tribal governments, and localities in the exercise of their governmental functions.

This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs.

Need for Regulatory Action. This interim final rule implements the $350 billion Fiscal Recovery Funds of the ARPA, which Congress passed to help States, territories, Tribal governments, and localities respond to the ongoing COVID–19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this interim final rule is needed to ensure that recipients of Fiscal Recovery Funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress' mandate for targeted fiscal relief.

This interim final rule is primarily a transfer rule: It transfers $350 billion in aid from the Federal Government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. In making this transfer, Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing its costs. It has done so by aiming to target relief in key areas according to the congressional mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined $350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID–19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.[183] Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007–09 recession.[184]

This interim final rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: Strengthening the response to the COVID–19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the interim final rule can be expected to channel resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

These benefits are achieved in the interim final rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients' overall flexibility, the interim final rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury's approach to key provisions in the interim final rule will contribute to greater realization of benefits from the program.

- *Revenue Loss:* Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury's decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients' pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury's approach provides a more accurate representation of the effect of the pandemic on overall revenues.
- *Premium Pay:* Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the interim final rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker's annual pay above a certain threshold. To set this threshold, Treasury analyzed data

[183] Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, American Econ. J.: Econ. Policy, 4:3 118–45 (Aug. 2012), *available at https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118.*

[184] *See, e.g.,* Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), *https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html;* Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf;* Gordon, *supra* note 9.

from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the interim final rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The interim final rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of financial resources for those who have endured the heightened risk of performing essential work.

- *Withholding of Payments to Recipients:* Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment. Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.
- *Hiring Public Sector Employees:* The interim final rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the interim final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need, particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID–19 crisis. Targeting relief is in line with Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," which laid out an Administration-wide priority to support "equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality."[185] To this end, the interim final rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state and local workforces, where women and people of color are disproportionately represented;[186] and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that most recipients receive direct or indirect funding from Federal Government programs and that many have familiarity with how to administer and report on Federal funds or grant funding provided by other entities. In particular, States, territories, and large localities will have received funds from the CRF and Treasury expects them to rely heavily on established processes developed last year or through prior grant funding, mitigating burden on these governments.

Treasury expects to provide technical assistance to defray the costs of administration of Fiscal Recovery Funds to further mitigate burden. In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—States, small cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Treasury lacks data to estimate the precise extent to which this interim final rule generates administrative burden for State, local, and Tribal governments, but seeks comment to better estimate and account for these costs, as well as on ways to lessen administrative burdens.

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This interim final rule does not have federalism implications within the meaning of the Executive order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive order. The compliance costs are imposed on State, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected State, local, and Tribal government officials and associations in the process of developing the interim final rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, generally requires public notice and an opportunity for comment before a rule

[185] Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021) (86 FR 7009, January 25, 2021), *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/* (last visited May 9, 2021).

[186] David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, The Public-Sector Jobs Crisis: Women and African Americans hit hardest by job losses in state and local governments, *https://www.epi.org/publication/bp339-public-sector-jobs-crisis* (last visited May 9, 2021).

becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply "to the extent that there is involved . . . a matter relating to agency . . . grants." The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. The rule is thus "both clearly and directly related to a federal grant program." *National Wildlife Federation* v. *Snow,* 561 F.2d 227, 232 (D.C. Cir. 1976). The rule sets forth the "process necessary to maintain state . . . eligibility for federal funds," *id.,* as well as the "method[s] by which states can . . . qualify for federal aid," and other "integral part[s] of the grant program," *Center for Auto Safety* v. *Tiemann,* 414 F. Supp. 215, 222 (D.D.C. 1976). As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule"). Assuming 5 U.S.C. 553 applied, Treasury would still have good cause under sections 553(b)(3)(B) and 553(d)(3) for not undertaking section 553's requirements. The ARPA is a law responding to a historic economic and public health emergency; it is "extraordinary" legislation about which "both Congress and the President articulated a profound sense of 'urgency.'" *Petry* v. *Block,* 737 F.2d 1193, 1200 (D.C. Cir. 1984). Indeed, several provisions implemented by this interim final rule (sections 602(c)(1)(A) and 603(c)(1)(A)) explicitly provide funds to "respond to the public health emergency," and the urgency is further exemplified by Congress's command (in sections 602(b)(6)(B) and 603(b)(7)(A)) that, "[t]o the extent practicable," funds must be provided to Tribes and cities "not later than 60 days after the date of enactment." *See Philadelphia Citizens in Action* v. *Schweiker,* 669 F.2d 877, 884 (3d Cir. 1982) (finding good cause under circumstances, including statutory time limits, where APA procedures would have been "virtually impossible"). Finally, there is an urgent need for States to undertake the planning necessary for sound fiscal policymaking, which requires an understanding of how funds provided under the ARPA will augment and interact with existing budgetary resources and tax policies. Treasury understands that many states require immediate rules on which they can rely, especially in light of the fact that the ARPA "covered period" began on March 3, 2021. The statutory urgency and practical necessity are good cause to forego the ordinary requirements of notice-and-comment rulemaking.

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the Congressional Review Act or CRA) (5 U.S.C. 804(2) *et seq.*). Under the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3). Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), for the reasons discussed above, Treasury for good cause finds that a 60-day delay to provide public notice is impracticable and contrary to the public interest.

Paperwork Reduction Act

The information collections associated with State, territory, local, and Tribal government applications materials necessary to receive Fiscal Recovery Funds (*e.g.,* payment information collection and acceptance of award terms) have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) emergency processing procedures and assigned control number 1505–0271. The information collections related to ongoing reporting requirements, as discussed in this interim final rule, will be submitted to OMB for emergency processing in the near future. Under the PRA, an agency may not conduct or sponsor and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below. Burden estimates below are preliminary.

Reporting	Number of respondents (estimated)	Number of responses per respondent	Total responses	Hours per response	Total burden in hours	Cost to respondent ($48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes)	1,262.5	$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes)	1,262.5	61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes)	2,525	123,220
Quarterly Project and Expenditure Report.	5,050	4***	20,200	25	505,000	24,644,000
Annual Project and Expenditure Report from NEUs.	TBD	1 per year	†20,000–40,000	15	300,000–600,000	14,640,000–29,280,000
Annual Recovery Plan Performance report.	418	1 per year	418	100	41,800	2,039,840
Total	(**)	N/A	55,768–75,768	141	851,850–1,151,850	41,570,280–56,210,280

*Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the internet at *https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm* (visited March 28, 2020). Base wage of $33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of $48.80.
**5,050–TBD.
***Per year after first year.
† (Estimate only).

Periodic reporting is required by section 602(c) of Section VI of the Social Security Act and under the interim final rule.

As discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, recipients of Fiscal Recovery Funds will be required to submit one interim report and thereafter quarterly Project and Expenditure reports until the end of the award period. Recipients must submit interim reports to Treasury by August

31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year. States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on the all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the *www.regulations.gov* docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to *oira_submission@omb.eop.gov*.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

List of Subjects in 31 CFR Part 35

Executive compensation, Public health emergency, State and local governments, Tribal governments.

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

■ 1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Division N, Title V, Subtitle B, Pub. L. 116–260, 134 Stat. 1182; Section 104A, Pub. L. 103–325, 108 Stat. 2160, as amended (12 U.S.C. 4701 *et seq.*); Pub. L. 117–2, 135 Stat. 4 (42 U.S.C. 802 *et seq.*).

■ 2. Revise the part heading to read as set forth above.

■ 3. Add subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

Sec.

35.1 Purpose.
35.2 Applicability.
35.3 Definitions.
35.4 Reservation of authority, reporting.
35.5 Use of funds.
35.6 Eligible uses.
35.7 Pensions.
35.8 Tax.
35.9 Compliance with applicable laws.
35.10 Recoupment.
35.11 Payments to States.
35.12 Distributions to nonentitlement units of local government and units of general local government.

§ 35.1 Purpose.

This subpart implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Pub. L. 117–2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This subpart applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

As used in this subpart:

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

(1) Begins on March 3, 2021; and

(2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID–19 means the Coronavirus Disease 2019.

COVID–19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID–19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living; family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID–19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID–19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

(1) Is not performed while teleworking from a residence; and

(2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to $13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID–19 public health emergency. Such amount may not exceed $25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to $13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to $13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia.

Small business means a business concern or other organization that:

(1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published by the Bureau of Indian Affairs on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U–3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this subpart shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this subpart, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in section § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID–19 response and prevention.* Expenditures for the mitigation and prevention of COVID–19, including:

(i) Expenses related to COVID–19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

(ii) COVID–19-related expenses of public hospitals, clinics, and similar facilities;

(iii) COVID–19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;

(iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID–19-related operational needs;

(v) Expenses of establishing temporary public medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID–19-related operational needs;

(vi) Costs of providing COVID–19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;

(vii) Emergency medical response expenses, including emergency medical transportation, related to COVID–19;

(viii) Expenses for establishing and operating public telemedicine capabilities for COVID–19-related treatment;

(ix) Expenses for communication related to COVID–19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID–19;

(x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;

(xi) Expenses for disinfection of public areas and other facilities in

response to the COVID–19 public health emergency;

(xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID–19-related threats to public health and safety;

(xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID–19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID–19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public health and safety staff.* Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID–19 public health emergency.

(3) *Hiring State and local government staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to unemployed workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.

(5) *Contributions to State unemployment insurance trust funds.* Contributions to an unemployment trust fund up to the level required to restore the unemployment trust fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021.

(6) *Small businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID–19 public health emergency.

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID–19 public health emergency.

(8) *Assistance to households.* Assistance programs, including cash assistance programs, that respond to the COVID–19 public health emergency.

(9) *Aid to impacted industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID–19 public health emergency.

(10) *Expenses to improve efficacy of public health or economic relief programs.* Administrative costs associated with the recipient's COVID–19 public health emergency assistance programs, including services responding to the COVID–19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's benefits.* Benefits for the surviving family members of individuals who have died from COVID–19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID–19.

(12) *Disproportionately impacted populations and communities.* A program, service, or other assistance that is provided in a qualified census tract, that is provided to households and populations living in a qualified census tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID–19 public health emergency, such as:

(i) Programs or services that facilitate access to health and social services, including:

(A) Assistance accessing or applying for public benefits or services;

(B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID–19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students; and

(iv) Programs or services that address or mitigate the impacts of the COVID–19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID–19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID–19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing government services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (2) of this section.

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as-of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

(2) *Calculation.* A reduction in a recipient's general revenue equals:

$$Max\ \{[Base\ Year\ Revenue * (1 + Growth\ Adjustment)^{\left(\frac{n_t}{12}\right)}] - Actual\ General\ Revenue_t; 0\}$$

Where:

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVD–19 public health emergency;

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID–19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date;

Subscript *t* denotes the specific calculation date.

(e) *To make necessary investments in infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:

(A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii).

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and Executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations*—(1) *In general.* Any amount used in violation of § 35.5, § 35.6, or § 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.5, § 35.6, or § 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

(i) The amount set forth in § 35.8(c); and,

(ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

(1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(2) Any reports required to be filed by that date pursuant to this subpart that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this paragraph (b).

(c) *Units of general local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

Laurie Schaffer,

Acting General Counsel.

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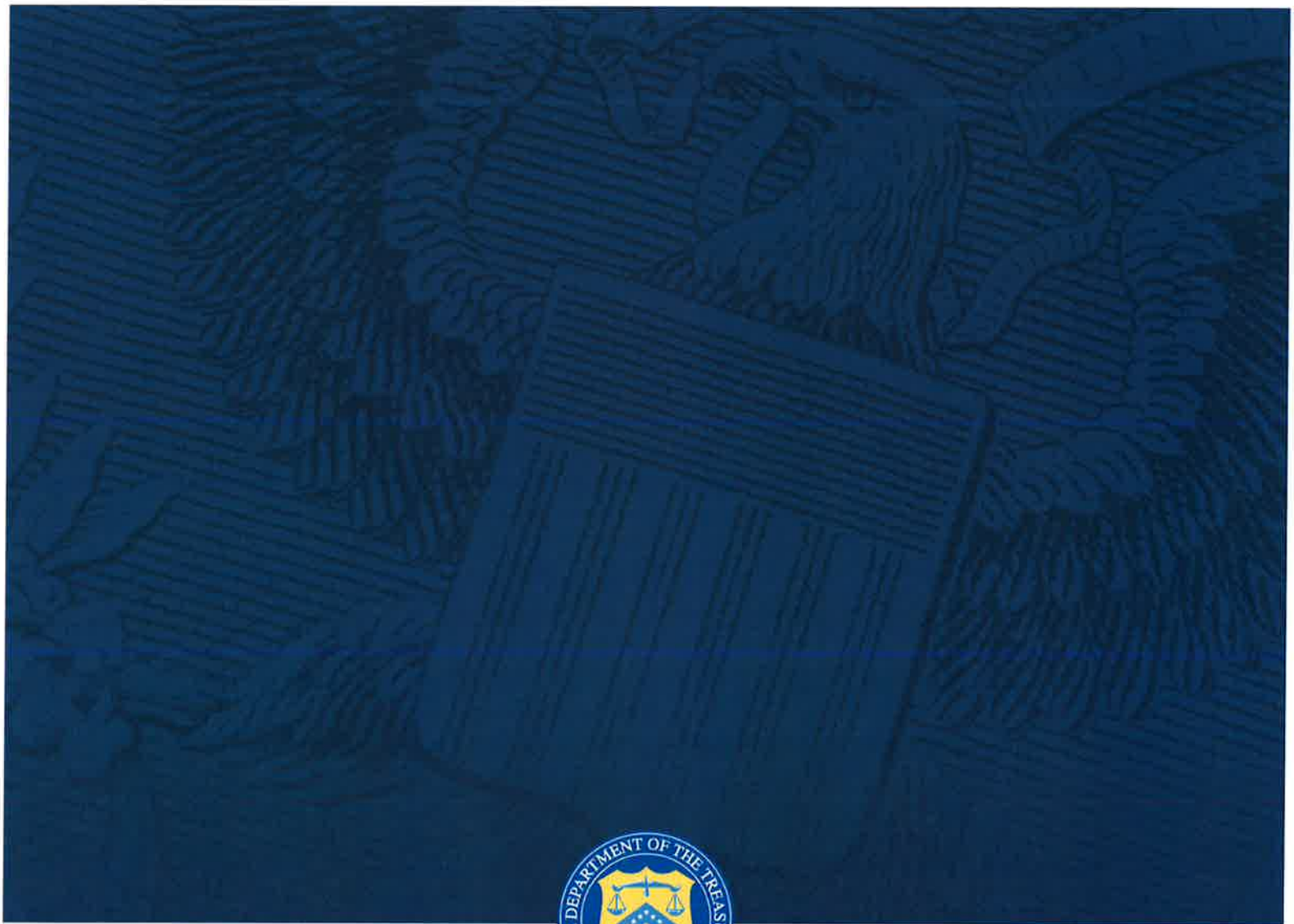
ATTACHMENT C

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

Compliance and Reporting Guidance

State and Local Fiscal Recovery Funds



June 24, 2021

Version: 1.1

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 Funds, 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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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, and 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;
- SLFRF-funded projects should 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

[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

interpretation; and, recipients may not use SLFRF funds as non-Federal match where 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, and individuals within the eligible use categories described in Treasury's Interim Final Rule for costs that those households, businesses 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 – 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 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 latitude 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 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. 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 (CSLFRF) 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 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, or not 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 procedures, and record retention, to determine and monitor implementation of criteria for

[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.

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. 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.

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 or real or personal property acquired under 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

[6] 2 CFR 200.320(c)(1)-(3) and (5)

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 defined 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.

12. **Special Tests and Provisions.** Treasury has set a deadline of July 16, 2021, for receipt of public comment on its Interim Final Rule and will adopt a final rule responding to these comments. In addition, Treasury may add clarifications to the implementing guidance.

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 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 any authorized oversight body, including but not limited to the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and the Pandemic Relief Accountability Committee ("PRAC").

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

[7] See flexibility provided in https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf.
[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, the PRAC and the Treasury's OIG.

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 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.

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 13.**
- **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 23.**

Table 2: Reporting requirements by recipient type

Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021, with expenditures by category	By October 31, 2021, and then 30 days after the end of each quarter thereafter[9]	By August 31, 2021, and annually thereafter by July 31 [10]
Metropolitan cities and counties with a population below 250,000 residents which received more than $5 million in SLFRF funding			Not required
Tribal Governments			
Metropolitan cities and counties with a population below 250,000 residents which received less than $5 million in SLFRF funding		By October 31, 2021, and then annually thereafter[11]	
NEUs	Not required		

The remainder of this document describes these reporting requirements. A users' guide will be provided with additional information on how and where to submit required reports.

[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. SLFRF quarterly reporting will be due 30 days from quarter end.
- **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.

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 from the date of award to July 31, 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
- 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)

[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.

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. Distributions to NEUs - States and territories only (EC 7.4): Information on SLFRF distributions to eligible NEUs. Each State and territory will be asked to provide an update on distributions to individual NEUs, including whether the NEU 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. 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 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 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)

For each eligible NEU that declined funding and requested a transfer to the State under Section 603(c)(4), the State 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.

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.

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, U.S. territories, and Tribal governments
- Metropolitan cities and counties that received more than $5 million in SLFRF funding

For these recipients, 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 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 and 3	Award Date – September 30	October 31, 2021
2	2021	4	October 1 – December 31	January 31, 2022
3	2022	1	January 1 – March 31	April 30, 2022
4	2022	2	April 1 – June 30	July 31, 2022
5	2022	3	July 1 – September 30	October 31, 2022
6	2022	4	October 1 – December 31	January 31, 2023
7	2023	1	January 1 – March 31	April 30, 2023
8	2023	2	April 1 – June 30	July 31, 2023
9	2023	3	July 1 – September 30	October 31, 2023
10	2023	4	October 1 – December 31	January 31, 2024
11	2024	1	January 1 – March 31	April 30, 2024
12	2024	2	April 1 – June 30	July 31, 2024
13	2024	3	July 1 – September 30	October 31, 2024
14	2024	4	October 1 – December 31	January 31, 2025
15	2025	1	January 1 – March 31	April 30, 2025
16	2025	2	April 1 – June 30	July 31, 2025
17	2025	3	July 1 – September 30	October 31, 2025
18	2025	4	October 1 – December 31	January 31, 2026
19	2026	1	January 1 – March 31	April 30, 2026
20	2026	2	April 1 – June 30	July 31, 2026

Report	Year	Quarter	Period Covered	Due Date
21	2026	3	July 1 – September 30	October 31, 2026
22	2026	4	October 1 – December 31	March 31, 2027

2. Annual Reporting

The following recipients are required to submit annual Project and Expenditure Reports:

- Metropolitan cities and counties that received less than $5 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 to the NEU as part of its request for funding.

For these recipients, the initial Project and Expenditure Report will cover from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports will cover one calendar year and must be submitted to Treasury by October 31. The table below summarizes the report timelines:

Report	Period Covered	Due Date
1	Award Date – September 30, 2021	October 31, 2021
2	October 1, 2021 – September 30, 2022	October 31, 2022
3	October 1, 2022 – September 30, 2023	October 31, 2023
4	October 1, 2023 – September 30, 2024	October 31, 2024
5	October 1, 2024 – September 30, 2025	October 31, 2025
6	October 1, 2025 – September 30, 2026	October 31, 2026
7	October 1, 2026 – December 31, 2026	March 31, 2027

3. Required Information

The following information will be required in Project and Expenditure Reports:

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. In particular, recipients should review the Required Programmatic Data described below and define their projects at a sufficient level of granularity to report these metrics for a reasonably specific activity or set of activities in each project.

   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. Project Demographic Distribution: Recognizing the disproportionate impact of the pandemic-related recession on low-income communities, recipients must report whether certain types of projects[15] are targeted to economically disadvantaged communities, as defined by HUD's Qualified Census Tract.[16] Recipients will be asked to identify whether or not the project is serving an economically disadvantaged community. To minimize the administrative burden on recipients while ensuring that this important aspect of program performance is tracked, recipients may assume that the funds for a project count as being targeted towards economically disadvantaged communities if the project funds are spent on:
   - A program or service is provided at a physical location in a Qualified Census Tract (for multi-site projects, if a majority of sites are within Qualified Census Tracts);
   - A program or service where the primary intended beneficiaries live within a Qualified Census Tract;
   - A program or service for which the eligibility criteria are such that the primary intended beneficiaries earn less than 60 percent of the median income for the relevant jurisdiction (e.g., State, county, metropolitan area, or other jurisdiction); or
   - A program or service for which the eligibility criteria are such that over 25 percent of intended beneficiaries are below the federal poverty line.

   Recipients may use reasonable estimates to determine if a project meets one of these criteria, including identifying the intended beneficiaries of a program or service in terms of income characteristics, geographic location, or otherwise estimating the beneficiaries of a program based on its eligibility criteria. Recipients do not need to track information on each individual beneficiary to make the determination of whether or not the project is serving an economically disadvantaged community. If a recipient is unable to measure economic characteristics of the primary intended beneficiaries of a program or service due to data limitations or for other reasons, that program or service may not be counted as targeted to economically disadvantaged communities. Treasury recognizes that in some circumstances, recipients may fund eligible programs or services that benefit economically disadvantaged communities but may lack adequate data to assess conclusively that such a program or service is targeted to economically disadvantaged communities based on the criteria described above.

e. 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 or equal to $50,000.

[15] Specifically recipients must report this information for projects in the Expenditure Categories that are marked with "^" in the expenditure category listing in Appendix 1 of this guidance

[16] HUD defines as a QCT as having "50 percent of households with incomes below 60 percent of the Area Median Gross Income (AMGI) or have a poverty rate of 25 percent or more." To view median income area for their jurisdiction, recipients may visit the U.S. Census website on median incomes and select the geography for their jurisdiction and relevant unit of measurement (household or individual) for the project.

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 or equal to $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 defined at 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.

f. Civil Rights Compliance: Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964 on an annual basis. This information may include a narrative describing the recipient's compliance with Title VI, along with other questions and assurances.

g. 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):
   - Number of government FTEs responding to COVID-19 supported under this authority

2. Household Assistance (EC 2.1-2.5):
   - Brief description of structure and objectives of assistance program(s) (e.g., nutrition assistance for low-income households)
   - Number of individuals 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):
   - 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):
   - 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):
   - Number of FTEs rehired by governments under this authority

6. Education Assistance (EC 3.1-3.5):
   - 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.[17]

[17] For more information on NCES identification numbers see https://nces.ed.gov/ccd/districtsearch/ (districts) and https://nces.ed.gov/ccd/schoolsearch/ (schools).

7. Premium Pay (both Public Sector EC 4.1 and Private Sector EC 4.2):
   - 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[18] 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):
   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 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.

h. 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:

[18] *County* means a county, parish, or other equivalent county division (as defined by the Census Bureau). See 31 CFR 35.3.

1. All infrastructure projects (EC 5):
   - 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:
     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.[19]

        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:
        - 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; and
        - 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.

[19] 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.

2. Water and sewer projects (EC 5.1-5.15):
   - 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):
   - Speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering
   - Technology to be deployed
   - Miles of fiber
   - Cost per mile
   - Cost per passing
   - Number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload
     - Number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download
     - Number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
   - Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization
     - Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and
     - Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload

i. Distributions to NEUs - States and territories only (EC 7.4): Information on SLFRF distributions to eligible NEUs. Each State and territory will be asked to provide an update on distributions to individual NEUs, including whether the NEU 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. 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 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 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)

For each eligible NEU that declined funding and requested a transfer to the State under Section 603(c)(4), the State 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.

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.

j. NEU Documentation (NEUs only): Each NEU will also be asked to provide the following information with their first report submitted by October 31, 2021:
   - 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

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. 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 the 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 defined 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[20] 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.[21]

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 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).[22] 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.[23]

Appendix 2 contains additional information on evidence-based interventions for the purposes of the Recovery Plan.

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[20] As noted in Appendix 2, evidence-based refers to interventions with strong or moderate levels of evidence.

[21] 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.

[22] For more information on the required standards for program evaluation, see OMB M-20-12.

[23] For more information on learning agendas, please see OMB M-19-23

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 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[24] 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

[24] 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.

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[25]

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 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 31 CFR 35.8, as detailed below. As indicated in the Interim Final Rule, Treasury is seeking comment on reporting requirements related to the Tax Offset Provision, including ways to better rely on information already produced by States and territories and to minimize burden.

The terms "reporting year," "baseline," "covered change," "net reduction in total spending," and "tax revenue" are defined in the Interim Final Rule, 31 CFR 35.3. For purposes of calculating a net reduction in total spending, total spending for the fiscal year ending 2019 should be reported on an inflation-adjusted basis, consistent with the Interim Final Rule, 31 CFR 35.3. Similarly, for purposes of calculating baseline, tax revenue for the fiscal year 2019 should be reported on an inflation-adjusted basis, consistent with the Interim Final Rule, 31 CFR 35.3.

For purposes of reporting actual tax revenue and calculating tax revenue for the fiscal year ending 2019,[26] (a) if available, recipients should report information using audited financials and (b) recipients may provide data on a cash, accrual, or modified accrual basis, but must be consistent in their approach across all reporting periods. Similarly, for purposes of calculating

[25] 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.
[26] Tax revenue for fiscal year ending 2019 is relevant for calculating the recipient's baseline.

a net reduction in total spending, recipients should report data using audited financials where available.

a. Revenue-reducing Covered Changes:
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.

b. Baseline Revenue:
Baseline has the meaning defined in the Interim Final Rule, 31 CFR 35.3.

Whether the revenue-reducing covered changes are in excess of the *de minimis*.
Recipients must determine whether the aggregate value of the revenue-reducing covered changes in the reporting year is less than one percent of baseline revenue.

c. Actual Tax Revenue:
Actual tax revenue means the actual tax revenue received by the recipient government in the reporting year. Tax revenue has the meaning defined in the Interim Final Rule, 31 CFR 35.3.

d. Reduction in Net Tax Revenue:
The reduction in net tax revenue is equal to baseline revenue minus actual tax revenue in each reporting year. If this value is zero or negative, there is no reduction in net tax revenue.

e. Any revenue-increasing covered changes:
A recipient must report the value of covered changes that have had or that the recipient predicts will have the effect of increasing tax revenue in a given reporting year (revenue-increasing 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'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, reporting should be produced by the agency of the recipient responsible for estimating the costs and effects of fiscal policy changes.

Recipients should maintain records regarding revenue-reducing covered changes and estimates of such changes.

f. Net reduction in total spending, and tables of specific spending cuts:
Recipients must report on spending cuts. To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). As in the Interim Final Rule, 35 CFR 35.3, net reduction in total spending is measured as the recipient government's total spending for a given reporting year excluding Fiscal Recovery 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. If that subtraction yields a positive value, there has been a net reduction; if it yields zero or a negative value, there has not been a net reduction. If there has been no net reduction in total spending, a recipient will have no spending cuts to offset a reduction in net tax revenue.

Next, a recipient must determine and aggregate the value of spending cuts in each "reporting unit," as defined below. For each reporting unit, the recipient must report (1) the amount of the reduction in spending in the reporting unit relative to its inflation-adjusted FY 2019 level, (2) the amount of any Fiscal Recovery Funds spent in the reporting unit, and (3) the amount by which the reduction in spending exceeds the Fiscal Recovery funds spent in the reporting unit. If a recipient has not spent amounts received from the Fiscal Recovery Funds in a reporting unit, the full amount of the reduction in spending counts as a covered spending cut and may be included in aggregate spending cuts. If the recipient has spent amounts received from the Fiscal Recovery Funds, such amounts 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 reporting unit would be eligible to offset a reduction in net tax revenue. Only such amounts above the amount of Fiscal Recovery Funds spent on the reporting unit should be included in the aggregate of spending cuts.

To align with existing reporting and accounting, the Interim Final Rule considers the department, agency, or authority from which spending has been cut and whether the recipient government has spent amounts received from the Fiscal Recovery Funds on that same department, agency, or authority. Recipients may also choose to report at a more granular sub-department level. Recipients are encouraged to define and report spending in departments, sub-departments (e.g., bureaus), agencies, or authorities (each a "reporting unit") in a manner consistent with their existing budget process and should, to the extent possible, report using the same reporting unit in each reporting year. For example, if a State health department maintains separate budgets for different units (e.g., medical and public health units), those units may be reported and considered separately. Spending cuts must be reported relative to FY 2019 spending levels, adjusted for inflation, and excluding Fiscal Recovery Funds from reporting year spending levels.

Recipients should maintain records regarding spending cuts. As discussed in the Interim Final Rule, in order to help ensure 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. Evasions of the Tax Offset Provision may be subject to recoupment.

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[27]	
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)

[27] 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 the evidence base that 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.

THE DEPARTMENT OF THE TREASURY
1789

ATTACHMENT D

SCOPE OF WORK

The Board of Commissioners is directing up to $59,903 to be disbursed to the Recipient to support completion of the Recipients Hobucket House affordable housing project for homeless, disabled Veterans in Clallam County using federal ARPA funding. As such funding is needed to address immediate cash flow constraints that are hindering the Recipient's ability to cover funding gaps in this planned affordable housing project due to increased building material costs, the County agrees to fully distribute such funds to the Recipient upon execution of this Agreement, conditioned that such funds are utilized in support of completion of the Hobucket House affordable housing project in Clallam County and that such funds are expended no later than December 31, 2024.

Expenses under this grant must meet the eligibility criteria outlined below:

1. Eligible Costs

Funds are to be used for affordable housing expenses incurred from March 1, 2020 thru December 31, 2024 incurred by the Recipient for the Hobucket House affordable housing group home being built in Forks, Washington in Clallam County for homeless, disabled Veterans with incomes of 50% of County AMI or less.

Such eligible costs incurred for the Hobucket House project may include:

- Infrastructure costs to include Foundation/Excavation/Utilities;
- Timberland Homes House Build costs;
- Furniture, Appliances & Household Contents; and
- Exterior decking, fencing, and landscaping.

2. Program Funding and Award Amount

The County shall make $59,903 of ARPA funds available that will be paid to Recipient as a direct grant upon execution of this Agreement.

3. Reporting

The Recipient will provide an A-19 equivalent report, copies of supporting invoices, and signed certification detailing eligible affordable housing costs incurred for the Hobucket House affordable housing project funded by the ARPA funds received by the Recipient until such funds are fully depleted.

2d
9/7/24

AGENDA ITEM SUMMARY

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

Department: Finance

WORK SESSION ☒ **Meeting Date:** **09/07/2021**

REGULAR AGENDA ☒ **Meeting Date:** **09/07/2021** ✓

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

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 19961.21.005
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other Monthly Review

Documents exempt from public disclosure attached: ☐

ARPA DIRECT ASSISTANCE AGREEMENT—NEW HOPE FOOD BANK-- FOR PROVISION OF FOOD INSECURITY ECONOMIC SUPPORT FOR THEIR ACQUISITION OF A NEW FACILITY:

BACKGROUND

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

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

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

Based on discussions held during this Work Session in which food security support requests from various food bank entities including Port Angeles Food Bank, Sequim Food Bank, Forks Community Food Bank, and New Hope Food Bank of Clallam Bay were discussed, the BOCC approved the initial

granting of $700,000 of ARPA-funded directed toward supporting food banks in Clallam County. As part of this discussion, New Hope Food Bank had initially requested $50,000 to purchase a pole barn structure to provide food storage capacity. After further evaluation of the viability of remaining in their existing facility, a 30 year-old single-wide mobile home that had fallen into a severe state of disrepair with numerous safety issues, New Hope subsequently amended their request to $250,000 which would enable them to purchase and renovate a new facility in Clallam Bay that had become available in a more central location to the Clallam Bay community. This increased request for ARPA funding was discussed in work sessions held on August 16, 2021 and on August 23, 2021 when both the Peninsula Food Coalition and the BOCC indicated support for providing this assistance given the consensus reached that New Hope's existing facility was no longer a safe or viable option to continue operating in.

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

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

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

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

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

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

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

b. Building stronger neighborhoods and communities, including supportive housing and other services for individuals experiencing 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").

As provided under FAQs 2.11 and 2.17 of US Treasury's Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions, ARPA funds may be used to support those segments of the

population and geographies who were disproportionately negatively impacted by the pandemic, which include populations that reside within Qualified Census Tracts, those who have experienced unemployment, increased food or housing insecurity, or are of low- or moderate income (i.e. those whose household income are below 80% of the County's average median income). As a result, we believe the provision of economic support to food banks who support the increased food insecurity needs of such low income households and vulnerable populations within Clallam County using ARPA funds represents an eligible and proper use of ARPA funds to address the negative economic impacts of the COVID-19 pandemic.

NEW HOPE FOOD BANK OF CLALLAM BAY—OVERVIEW OF THEIR MISSION, THE IMPACT OF COVID-19 ON ITS AFFORDABLE HOUSING EFFORTS, AND RESULTING NEED FOR ARPA FUNDING

New Hope Food Bank ("NHFB"), a non-profit food bank located in the Clallam Bay area that has been providing food bank services to low income residents experiencing food insecurity in the area since 1971, saw a significant increase in food assistance flowing to the Clallam Bay area since March 2020 when the COVID-19 public health emergency began. NHFB, in partnership with the local fire department, began serving approximately 150 additional people on a regular basis who were home-bound in addition to those households already served by NHFB prior to COVID. NHFB also saw its total number of clients served per month increase from approximately 59 in the 2nd half of 2019 (pre-pandemic) to 70 during March-December 2020, a 22% increase. As a result of its limited food storage space available in its current facility, a 720 square foot 30-year-old plus single wide mobile home structure, NHFB has regularly been forced to turn away food assistance, including fresh produce and other cold storage items which are in need by the households impacted by the COVID-19 emergency that are served by the NHFB, as well as limit its operating hours and days of distribution.

During the COVID-19 emergency and the increased demands placed on food assistance in Clallam Bay, NHFB's food bank services have increasingly been hindered by the inadequacies of its existing facility and created a need for NHFB to secure a replacement facility in order to continue operating as outlined below:

- NHFB's current facility (a 30+ year-old single-wide mobile home of approximately 720 square feet) has due to the building's age and construction quality fallen into a state of severe disrepair, and as a result of pest infestation, electrical wiring problems and other issues is no longer safe or viable for NHFB to continue operating as a food bank;

- In addition to the inadequacy of NHFB's current facility from a food storage capacity and operating safety perspective, NHFB's current facility is located approximately 3 miles outside of Clallam Bay, which greatly hinders its ability to service the food security needs of low income residents in the area, many of which lack a means of transportation to access NHFB's facilities;

- In order to address its facility deficiencies, NHFB has identified an approximate 1,300 square foot replacement building located at 33 Bogachiel St, Clallam Bay, WA, at the center of Clallam Bay that is within close proximity of several local organizations that support the needs of the community including the Lyons Club, health clinic, community center, and local church.

- On July 30, 2021, NHFB entered into a purchase and sale agreement to acquire this facility at a cost of $195,000, contingent upon NHFB arranging sufficient grant financing through the County;

- NHFB has identified a number of renovations that will be needed to make this new facility suitable for its needs, including installation of a 2nd exit/entry to the building, removal of an existing vault, remodel of a bathroom, purchase and installation of additional cold and dry food storage equipment and shelving, and installation of an offloading area. NHFB estimates the cost of these renovations will be approximately $80,000;

- To date, NHFB has raised approximately $27,000 in available funding to purchase and renovate a replacement facility, leaving an estimated funding deficit of approximately $250,000 in order to proceed with the acquisition and renovation of the replacement facility which NHFB does not have the financial resources to fund.

NHFB DIRECT ASSISTANCE ARPA AGREEMENT

We have structured this awarding of ARPA funds to NHFB as a direct beneficiary assistance grant agreement, given that NHFB use of ARPA funds to be provided are being limited to solely for the acquisition and renovation a replacement facility that it believes will enhance its ability to better meet the food assistance needs of Clallam Bay and the surrounding area by almost doubling its food storage capacity, providing a more convenient, central location for transportation-hindered clients to access their services, and providing a more safe facility for their volunteers and clients.

Eligible Uses of ARPA Funds under this agreement include:

- The purchase price and closing costs of the New Facility pursuant to the Commercial & Investment Real Estate Purchase & Sale Agreement dated July 30, 2021 between the Recipient and Holdings LLC Marquis.

- Costs of renovating the New Facility necessary to make it suitable to function as a food bank, including costs incurred to:
    - Add a 2nd exit/entry to the New Building as required by code;
    - Removal of a vault and refinishing of the affected space;
    - Remodel the bathroom;
    - Acquire and install additional cold storage refrigerators, walk-in freezer, and food storage shelving needed; and
    - Make necessary changes to electrical wiring, plumbing, lighting, dry wall finishing, or other such renovation costs necessary to meet the operating needs of the NHFB's food bank.

The funding for the purchase of the New Facility will provided to the closing agent designated in the New Facility purchase and sale agreement dated July 30, 2021 upon receipt by the County of a final settlement statement from the closing agent and receipt of proof of satisfaction of all other terms and conditions and inspections required for the closing of the purchase to proceed. All remaining funding

will be provided via reimbursement to NHFB upon its submission to the County of expenditure details, invoices, and other supporting materials supporting its use in eligible activities.

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

Approval of this contract will authorize the release of $250,000 of ARPA funds from the American Rescue Plan Act special revenue fund to NHFB.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
In an effort to support NHFB efforts to close on the purchase of the new building facility scheduled for September 30, 2021, we request the Commissioner's feedback and approval to proceed in submitting this agreement for approval during the next BOCC meeting scheduled on Tuesday, September 7, 2021.

County Official signature & print name: Mark Lane

Name of Employee/Stakeholder attending meeting: Mark Lane, Chelsea Lierly

Relevant Departments: Finance, BOCC

Date submitted:

August 31, 2021

19961.21.005

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 New Hope Food Bank (Federal Tax ID 91-1352736, DUNS # 008705632), a Washington state non-profit 501(c)(3) organization ("Recipient").

WHEREAS, the U.S. Department of the Treasury ("Treasury") has allocated to the County $15,020,640 of federal stimulus funding from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds under CFDA No. 21.027 ("ARPA Funds") under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act ("ARPA Act"), of which $7,510,320 was outlayed to the County on May 28, 2021 with the remainder of funds of $7,510,320 to be disbursed by Treasury to the County one year thereafter, for the limited purposes identified in the Interagency Agreement between the Treasury and Clallam County designated under FAIN #SLFRP2169 ("IGA"), identified as Attachment A, the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule ("Interim Final Rule"), identified as Attachment B, and the Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds ("Compliance & Reporting Guidelines"), identified as Attachment C. Attachments A, B & C are attached hereto and incorporated herein by this reference.

WHEREAS, the ARPA Act authorizes the County to expend ARPA Funds awarded to the County for the following eligible purposes as outlined in the Interim Final Rule as follows:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
(4) To make necessary investments in water, sewer, or broadband infrastructure;
(5) To address the disparate impact of COVID-19 on certain populations and geographics, additional eligible services may include:

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

b. Building stronger neighborhoods and communities, including supportive housing and other services for individuals experiencing 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 ARPA Act, Eligible Uses under this non-R&D federal program must be obligated no earlier than March 3, 2021 and no later than December 31, 2024, with final disbursement of all funds no later than December 31, 2026.

WHEREAS, the County desires to allocate portions of the ARPA Funds awarded to Clallam County in support of non-profit organizations and other agencies engaged in supporting the food security needs of those low income households, residents residing in Qualified Census Tracts, and other vulnerable populations or geographic areas disproportionately-impacted by the COVID public health emergency in the County who are experiencing food insecurity, which is consistent with Items 1 and 5 (b) of the Eligible Uses of ARPA Funds outlined above.

WHEREAS, the Recipient, a Clallam County non-profit organization that operates a food bank serving residents of the Clallam Bay and surrounding areas within Clallam County who are experiencing food insecurity during the COVID-19 public health emergency, has witnessed a significant increase in Clallam County households seeking food assistance in its service area during the COVID-19 public health emergency. Notable impacts of the COVID-19 emergency on the Recipient's food bank services include:

- Since March 2020 when the COVID-19 emergency began, the number of households seeking food assistance in the area served by the Recipient during the COVID-19 emergency increased substantially;
- This increased need for assistance resulted in the local volunteer fire department within the Recipient's service area to volunteer in assisting with food distribution and delivery of food assistance to home-bound impacted residents, resulting in serving approximately 150 people on a regular basis during the COVID-19 emergency in addition to those households served by the Recipient.
- As a result of the increased demand for food assistance during the COVID-19 emergency, the Recipient experienced a significant expansion and availability of food aid coming into Clallam County from other food assistance agencies, including USDA and Northwest Harvest. This increased supply of food overwhelmed the existing storage space of the Recipient within its existing facility;
- As a result of these food storage space constraints within its current facility, the Recipient has regularly been forced to turn food assistance away, including fresh produce and other cold storage items which are in need by the households served by the Recipient, and has limited how often the Recipient's facility is open to distribute food assistance;
- The Recipient's current facility (a 30+ year-old single-wide mobile home of approximately 720 square feet) has due to the building's age and construction quality fallen into a state of severe disrepair, and as a result of pest infestation, electrical wiring problems and other issues is no longer safe or viable for the Recipient to continue operating as a food bank;

- In addition to the inadequacy of the Recipient's current facility from a food storage capacity and operating safety perspective, the Recipient's current facility is located approximately 3 miles outside of Clallam Bay, which greatly hinders its ability to service the food security needs of low income residents in the area, many of which lack a means of transportation to access the Recipient's facilities;
- In order to address its facility deficiencies, the Recipient has identified an approximate 1,300 square foot replacement building located at 33 Bogachiel St, Clallam Bay, WA, at the center of Clallam Bay that is within close proximity of several local organizations that support the needs of the community including the Lyons Club, health clinic, community center, and local church.
- On July 30, 2021, the Recipient entered into a purchase and sale agreement to acquire this facility at a cost of $195,000, contingent upon the Recipient arranging sufficient grant financing through the County;
- The Recipient has identified a number of renovations that will be needed to make this new facility suitable for its needs, including installation of a 2nd exit/entry to the building, removal of an existing vault, remodel of a bathroom, purchase and installation of additional cold and dry food storage equipment and shelving, and installation of an offloading area. The recipient estimates the cost of these renovations will be approximately $80,000;
- To date, the Recipient has raised approximately $27,000 in available funding to purchase and renovate a replacement facility, leaving an estimated funding deficit of approximately $250,000 in order to proceed with the acquisition and renovation of the replacement facility which the Recipient does not have the financial resources to fund.

WHEREAS, the County believes the provision of economic support to the Recipient is necessary and appropriate given the Recipient's critical role in providing food security assistance to impacted, vulnerable residents of the Clallam Bay area within Clallam County, the severe adverse condition of the Recipient's current facility which render it no longer viable or safe to operate as a food bank for its volunteers and residents needing food assistance, and the Recipient's lack of sufficient financial resources to fully fund its purchase of a suitable replacement facility needed in order to better meet the increased food storage, distribution and location needs of the residents of the Clallam Bay Area experiencing food insecurity, and represents an eligible use of ARPA Funds as outlined previously;

WHEREAS, the County and Recipient desire to enter into this Agreement so that the County may advance ARPA Funds to the Recipient via a direct economic support grant to the Recipient to provide the Recipient with sufficient proceeds to enable the Recipient to proceed with completing its acquisition and renovation of the property located at 33 Bogachiel St, Clallam Bay, WA (the "New Facility"), with such assistance allowed under the IGA and Interim Final Rule.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

1. Effective Date and Term. This Agreement shall commence when last executed by all parties and remain in effect until December 31, 2024, unless terminated by the County in writing.

2. ARPA Funds. The County agrees to provide the Recipient a total sum not to exceed $250,000 which may be used by the Recipient to complete the purchase and renovation of the New Facility. Funds necessary to fund the purchase of the New Facility will be provided to the closing agent designated in the New Facility purchase and sale agreement dated July 30, 2021 upon receipt by the County of a final settlement statement from the closing agent and receipt of proof of satisfaction of all other terms and conditions and inspections required for the closing of the purchase to proceed. Following closing of the purchase of the New Facility, the County shall be provided a copy of final closing documents. Remaining ARPA Funds will be provided to the Recipient on a reimbursement basis to be used for eligible costs incurred relating to renovation and equipment costs incurred by the Recipient for the New Facility based on eligibility criteria outlined in Attachment D. All funds must be expended no later than December 31, 2024.

3. Ineligible Uses. Non-allowable uses of ARPA Funds include, without limitation, the following: a) usage of funds to either directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation or administrative interpretation during the covered period that reduces any tax or delays the imposition of any tax or tax increase; b) damages covered by insurance; c) usage of funds as a deposit into any pension fund; d) expenses that have been or will be reimbursed under any federal program; e) debt service costs; f) contributions to a "rainy day" fund; and d) legal settlements.

4. Reimbursement Request Support. To facilitate release of ARPA funding to the Recipient and meet the County's reporting requirements 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 of this Agreement, detailing the eligible expenses incurred by the Recipient for which Reimbursement is being requested as outlined in Attachment D. Such schedule may be modified with the prior approval of the County, until such time as such funds are fully depleted. Such invoice will be accompanied by copies of all invoices and related support for each expenditure listed in the reimbursement request submitted by the Recipient. 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.

5. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the Recipient.

6. 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.

7. 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.

8. 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.

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 five (5) years following termination of this Agreement. If it is determined during the course of the audit that the Recipient was reimbursed for unallowable costs under this Agreement, the Recipient agrees to promptly reimburse the County for such payments upon request.

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
New Hope Food Bank
Attn: Tom Hull, President
PO Box 336
16693 Highway 112
Clallam Bay, WA 98326

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 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 __30___ day of __August__, 2021.

RECIPIENT

By: **X** Tom Hull

Print Name: __Tom Hull_____

Its: ___President_____

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 U.S. DEPARTMENT OF TREASURY AND
CLALLAM COUNTY

DocuSign Envelope ID: EF22FEC0-DB4C-45DA-B2F0-43D84D64229D

OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address: CLALLAM COUNTY 223 EAST FOURTH STREET, SUITE 4 PORT ANGELES, Washington, 98362-3015	DUNS Number: 075739235 Taxpayer Identification Number: 916001298 Assistance Listing Number: 21.019

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient: DocuSigned by: MARK OZIAS 9C5FE664B8F24C1...

Authorized Representative: MARK OZIAS

Title: CHAIRMAN, BOARD OF CLALLAM COUNTY COMMISSIONERS

Date signed: 5/19/2021

U.S. Department of the Treasury:

_____

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE
The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

DocuSign Envelope ID: EF22FEC0-DB4C-45DA-B2F0-43D84D64229D

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
   a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.

4. Maintenance of and Access to Records
   a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.

   c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

14. Debts Owed the Federal Government.
    a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

    b. Any debts determined to be owed the federal government must be paid promptly by

Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.
    a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.

    b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.
    a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

    b. The list of persons and entities referenced in the paragraph above includes the following:
        i. A member of Congress or a representative of a committee of Congress;
        ii. An Inspector General;
        iii. The Government Accountability Office;
        iv. A Treasury employee responsible for contract or grant oversight or management;
        v. An authorized official of the Department of Justice or other law enforcement agency;
        vi. A court or grand jury; or
        vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

    c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit http://www.lep.gov.

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4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.

5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

   The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.

7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.

8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.

9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

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agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

CLALLAM COUNTY

Recipient

5/19/2021

Date

DocuSigned by:
MARK OZIAS
9C5FE664B8F24C1...

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

ATTACHMENT B

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

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505–AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Interim final rule.

SUMMARY: The Secretary of the Treasury (Treasury) is issuing this interim final rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: *Effective date:* The provisions in this interim final rule are effective May 17, 2021.

Comment date: Comments must be received on or before July 16, 2021.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: *http://www.regulations.gov*. Comments can be mailed to the Office of the Undersecretary for Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically. All comments should be captions with "Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments." Please include your name, organization affiliation, address, email address and telephone number in your comment. Where appropriate, a comment should include a short executive summary.

In general, comments received will be posted on *http://www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Katharine Richards, Senior Advisor, Office of Recovery Programs, Department of the Treasury, (844) 529–9527.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Overview

Since the first case of coronavirus disease 2019 (COVID–19) was discovered in the United States in January 2020, the disease has infected over 32 million and killed over 575,000 Americans.[1] The disease has impacted every part of life: As social distancing became a necessity, businesses closed, schools transitioned to remote education, travel was sharply reduced, and millions of Americans lost their jobs. In April 2020, the national unemployment rate reached its highest level in over seventy years following the most severe month-over-month decline in employment on record.[2] As of April 2021, there were still 8.2 million fewer jobs than before the pandemic.[3] During this time, a significant share of households have faced food and housing insecurity.[4] Economic disruptions impaired the flow of credit to households, State and local governments, and businesses of all sizes.[5] As businesses weathered closures and sharp declines in revenue, many were forced to shut down, especially small businesses.[6]

Amid this once-in-a-century crisis, State, territorial, Tribal, and local governments (State, local, and Tribal governments) have been called on to respond at an immense scale. Governments have faced myriad needs to prevent and address the spread of COVID–19, including testing, contact tracing, isolation and quarantine, public communications, issuance and enforcement of health orders, expansions to health system capacity like alternative care facilities, and in recent months, a massive nationwide mobilization around vaccinations. Governments also have supported major efforts to prevent COVID–19 spread through safety measures in settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and public facilities. The pandemic's impacts on behavioral health, including the toll of pandemic-related stress, have increased the need for behavioral health resources.

At the same time, State, local and Tribal governments launched major efforts to address the economic impacts of the pandemic. These efforts have been tailored to the needs of their communities and have included expanded assistance to unemployed workers; food assistance; rent, mortgage, and utility support; cash assistance; internet access programs; expanded services to support individuals experiencing homelessness; support for individuals with disabilities and older adults; and assistance to small businesses facing closures or revenue loss or implementing new safety measures.

In responding to the public health emergency and its negative economic impacts, State, local, and Tribal governments have seen substantial increases in costs to provide these services, often amid substantial declines in revenue due to the economic downturn and changing economic patterns during the pandemic.[7] Facing these budget challenges, many State, local, and Tribal governments have been forced to make cuts to services or their workforces, or delay critical investments. From February to May of 2020, State, local, and Tribal governments reduced their workforces by more than 1.5 million jobs and, in April of 2021, State, local, and Tribal government employment remained nearly 1.3 million jobs below pre-pandemic levels.[8] These cuts to State, local, and Tribal government workforces

[1] Centers for Disease Control and Prevention, COVID Data Tracker, *http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home* (last visited May 8, 2021).

[2] U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/UNRATE*, May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNU02000000*, May 3, 2021.

[3] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/PAYEMS*, May 7, 2021.

[4] Nirmita Panchal et al., The Implications of COVID–19 for Mental Health and Substance Abuse (Feb. 10, 2021), https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis; U.S. Census Bureau, Household Pulse Survey: Measuring Social and Economic Impacts during the Coronavirus Pandemic, https://www.census.gov/programs-surveys/household-pulse-survey.html (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 1—October 17, 2020, Morb. Mortal. Wkly. Rep. 69(45):1675–80 (Nov. 13, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm*.

[5] Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), *https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm*.

[6] Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), *https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/*.

[7] Michael Leachman, House Budget Bill Provides Needed Fiscal Aid for States, Localities, Tribal Nations, and Territories (Feb. 10, 2021), *https://www.cbpp.org/research/state-budget-and-tax/house-budget-bill-provides-needed-fiscal-aid-for-states-localities*.

[8] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited May 8, 2021).

come at a time when demand for government services is high, with State, local, and Tribal governments on the frontlines of fighting the pandemic. Furthermore, State, local, and Tribal government austerity measures can hamper overall economic growth, as occurred in the recovery from the Great Recession.[9]

Finally, although the pandemic's impacts have been widespread, both the public health and economic impacts of the pandemic have fallen most severely on communities and populations disadvantaged before it began. Low-income communities, people of color, and Tribal communities have faced higher rates of infection, hospitalization, and death,[10] as well as higher rates of unemployment and lack of basic necessities like food and housing.[11] Pre-existing social vulnerabilities magnified the pandemic in these communities, where a reduced ability to work from home and, frequently, denser housing amplified the risk of infection. Higher rates of pre-existing health conditions also may have contributed to more severe COVID–19 health outcomes.[12] Similarly, communities or households facing economic insecurity before the pandemic were less able to weather business closures, job losses, or declines in earnings and were less able to participate in remote work or education due to the inequities in access to reliable and affordable broadband infrastructure.[13] Finally, though schools in all areas faced challenges, those in high poverty areas had fewer resources to adapt to remote and hybrid learning models.[14] Unfortunately, the pandemic also has reversed many gains made by communities of color in the prior economic expansion.[15]

B. The Statute and Interim Final Rule

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President.[16] Section 9901 of ARPA amended Title VI of the Social Security Act[17] (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds).[18] The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments (together, recipients) in responding to the impact of COVID–19 and in their efforts to contain COVID–19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).[19]

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID–19 public health emergency and its economic impacts through four categories of eligible uses. Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities, nonentitlement units of local government, and counties. Sections 602(c)(1) and 603(c)(1) provide that funds may be used:

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

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

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

(d) To make necessary investments in water, sewer, or broadband infrastructure.

In addition, Congress clarified two types of uses which do not fall within these four categories. Sections 602(c)(2)(B) and 603(c)(2) provide that these eligible uses do not include, and thus funds may not be used for, depositing funds into any pension fund. Section 602(c)(2)(A) also provides, for States and territories, that the eligible uses do not include "directly or indirectly offset[ting] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation."

The ARPA provides a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. First, payments from the Fiscal Recovery Funds help to ensure that State, local, and Tribal governments have the resources needed to continue to take actions to decrease the spread of COVID–19 and bring the pandemic under control. Payments from the Fiscal Recovery Funds may also be used by recipients to provide support for costs incurred in addressing public health and economic challenges resulting from the pandemic, including resources to offer premium pay to essential workers, in recognition of their sacrifices over the

[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.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

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[51] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm (PAYEMS), retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/PAYEMS* (last visited May 8, 2021).

[52] *Id.*

[53] U.S. Bureau of Labor Statistics, Civilian Labor Force Level [CLF16OV], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CLF16OV* (last visited May 8, 2021).

[54] U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (May 8 2021), *https://www.bls.gov/news.release/empsit.t01.htm* (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age (May 8, 2021), *https://www.bls.gov/web/empsit/cpseea04.htm* (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population 25 years and over by educational attainment (May 8, 2021), *https://www.bls.gov/web/empsit/cpseea05.htm* (last visited May 8, 2021).

[55] Elise Gould & Jori Kandra, Wages grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), *https://files.epi.org/pdf/219418.pdf. See also,* Michael Dalton et al., The K-Shaped Recovery: Examining the Diverging Fortunes of Workers in the Recovery from the COVID–19 Pandemic using Business and Household Survey Microdata, U.S. Bureau of Labor Statistics Working Paper Series (Feb. 2021), *https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf.*

[56] Center on Budget and Policy Priorities, Tracking the COVID–19 Recession's Effects on Food, Housing, and Employment Hardships, *https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and* (last visited May 8, 2021).

[57] Women have carried a larger share of childcare responsibilities than men during the COVID–19 crisis. *See, e.g.,* Gema Zamarro & María J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID–19, Rev. Econ. Household 19:11–40 (2021), *available at https://link.springer.com/article/10.1007/s11150-020-09534-7;* Titan Alon et al., The Impact of COVID–19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), *available at https://www.nber.org/papers/w26947.*

[58] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Women [LNS11300032], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300032* (last visited May 8, 2021).

[59] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Men [LNS11300031], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300031* (last visited May 8, 2021).

[60] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, White Women [LNS11300029], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300029* (last visited May 8, 2021).

[61] *See, e.g.,* Michael Greenstone & Adam Looney, Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers, Brookings Institution (Nov. 4, 2021), *https://www.brookings.edu/blog/jobs/2011/11/04/unemployment-and-earnings-losses-a-look-at-long-term-impacts-of-the-great-recession-on-american-workers/.*

[62] Chi Chi Wu, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession (Dec. 2013), *https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.*

[63] Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., Children of the Great Recession, Russell Sage Foundation (Aug. 2016), *available at https://www.russellsage.org/publications/children-great-recession.*

[64] Board of Governors of the Federal Reserve System, *supra* note 5.

[65] U.S. Small Business Administration, Office of Advocacy, Small Businesses Generate 44 Percent of U.S. Economic Activity (Jan. 30, 2019), *https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/.*

[66] Biden, *supra* note 6.

[67] Daniel Wilmoth, U.S. Small Business Administration Office of Advocacy, The Effects of the COVID–19 Pandemic on Small Businesses, Issue Brief No. 16 (Mar. 2021), *available at https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf.*

[68] U.S. Census Bureau, Small Business Pulse Survey, *https://portal.census.gov/pulse/data/* (last visited May 8, 2021).

[69] Olivia S. Kim et al., Revenue Collapses and the Consumption of Small Business Owners in the Early Stages of the COVID–19 Pandemic (Nov. 2020), *https://www.nber.org/papers/w28151.*

[70] *See e.g.,* Board of Governors of the Federal Reserve System, Report to Congress on the Availability of Credit to Small Businesses (Sept. 2017), *available at https://www.federalreserve.gov/publications/2017-september-availability-of-credit-to-small-businesses.htm.*

[71] Alexander W. Bartik et al., The Impact of COVID–19 on small business outcomes and expectations, PNAS 117(30): 17656–66 (July 28, 2020), *available at https://www.pnas.org/content/117/30/17656.*

economic and financial challenges due to the pandemic.[72]

Impacts to State, Local, and Tribal Governments. State, local, and Tribal governments have felt substantial fiscal pressures. As noted above, State, local, and Tribal governments have faced significant revenue shortfalls and remain over 1 million jobs below their pre-pandemic staffing levels.[73] These reductions in staffing may undermine the ability to deliver services effectively, as well as add to the number of unemployed individuals in their jurisdictions.

Exacerbation of Pre-existing Disparities. The COVID–19 public health emergency may have lasting negative effects on economic outcomes, particularly in exacerbating disparities that existed prior to the pandemic.

The negative economic impacts of the COVID–19 pandemic are particularly pronounced in certain communities and families. Low- and moderate-income jobs make up a substantial portion of both total pandemic job losses,[74] and jobs that require in-person frontline work, which are exposed to greater risk of contracting COVID–19.[75] Both factors compound pre-existing vulnerabilities and the likelihood of food, housing, or other financial insecurity in low- and moderate-income families and, given the concentration of low- and moderate-income families within certain communities,[76] raise a substantial risk that the effects of the COVID–19 public health emergency will be amplified within these communities.

These compounding effect of recessions on concentrated poverty and the long-lasting nature of this effect were observed after the 2007–2009 recession, including a large increase in concentrated poverty with the number of people living in extremely poor neighborhoods more than doubling by 2010–2014 relative to 2000.[77] Concentrated poverty has a range of deleterious impacts, including additional burdens on families and reduced economic potential and social cohesion.[78] Given the disproportionate impact of COVID–19 on low-income households discussed above, there is a risk that the current pandemic-induced recession could further increase concentrated poverty and cause long-term damage to economic prospects in neighborhoods of concentrated poverty.

The negative economic impacts of COVID–19 also include significant impacts to children in disproportionately affected families and include impacts to education, health, and welfare, all of which contribute to long-term economic outcomes.[79] Many low-income and minority students, who were disproportionately served by remote or hybrid education during the pandemic, lacked the resources to participate fully in remote schooling or live in households without adults available throughout the day to assist with online coursework.[80] Given these trends, the pandemic may widen educational disparities and worsen outcomes for low-income students,[81] an effect that would substantially impact their long-term economic outcomes. Increased economic strain or material hardship due to the pandemic could also have a long-term impact on health, educational, and economic outcomes of young children.[82] Evidence suggests that adverse conditions in early childhood, including exposure to poverty, food insecurity, housing insecurity, or other economic hardships, are particularly impactful.[83]

The pandemic's disproportionate economic impacts are also seen in Tribal communities across the country—for Tribal governments as well as families and businesses on and off Tribal lands. In the early months of the pandemic, Native American unemployment spiked to 26 percent and, while partially recovered, remains at nearly 11 percent.[84] Tribal enterprises are a significant source of revenue for Tribal governments to support the provision of government services. These enterprises, notably concentrated in gaming, tourism, and hospitality, frequently closed, significantly reducing both revenues to Tribal governments and employment. As a result, Tribal governments have reduced essential services to their citizens and communities.[85]

Eligible Uses. Sections 602(c)(1)(A) and 603(c)(1)(A) permit use of payments from the Fiscal Recovery Funds to respond to the negative economic impacts of the COVID–19 public health emergency. Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be

[72] Federal Reserve Bank of San Francisco, Impacts of COVID–19 on Nonprofits in the Western United States (May 2020), *https://www.frbsf.org/community-development/files/impact-of-covid-nonprofits-serving-western-united-states.pdf.*

[73] Bureau of Labor Statistics, *supra* note 8; Elijah Moreno & Heather Sobrepena, Tribal entities remain resilient as COVID–19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2021), *https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances.*

[74] Kim Parker et al., Economic Fallout from COVID–19 Continues to Hit Lower-Income Americans the Hardest, Pew Research Center (Sept. 24, 2020), *https://www.pewresearch.org/social-trends/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/;* Gould, *supra* note 55.

[75] *See infra* Section II.B of this Supplementary Information.

[76] Elizabeth Kneebone, The Changing geography of US poverty, Brookings Institution (Feb. 15, 2017), *https://www.brookings.edu/testimonies/the-changing-geography-of-us-poverty/.*

[77] Elizabeth Kneebone & Natalie Holmes, U.S. concentrated poverty in the wake of the Great Recession, Brookings Institution (Mar. 31, 2016), *https://www.brookings.edu/research/u-s-concentrated-poverty-in-the-wake-of-the-great-recession/.*

[78] David Erickson et al., The Enduring Challenge of Concentrated Poverty in America: Case Studies from Communities Across the U.S. (2008), *available at https://www.frbsf.org/community-development/files/cp_fullreport.pdf.*

[79] Educational quality, as early as Kindergarten, has a long-term impact on children's public health and economic outcomes. *See, e.g.,* Tyler W. Watts et al., The Chicago School Readiness Project: Examining the long-term impacts of an early childhood intervention, PLoS ONE 13(7) (2018), *available at https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0200144;* Opportunity Insights, How Can We Amplify Education as an Engine of Mobility? Using big data to help children get the most from school, *https://opportunityinsights.org/education/* (last visited Apr. 26, 2021); U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Early Childhood Development and Education, *https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/early-childhood-development-and-education* (last visited Apr. 26, 2021).

[80] *See, e.g.,* Bacher-Hicks, *supra* note 14.

[81] A Department of Education survey found that, as of February 2021, 42 percent of fourth grade students nationwide were offered only remote education, compared to 48 percent of economically disadvantaged students, 54 percent of Black students and 57 percent of Hispanic students. Large districts often disproportionately serve low-income students. *See* Institute of Education Sciences, Monthly School Survey Dashboard, *https://ies.ed.gov/schoolsurvey/* (last visited Apr. 26, 2021). In summer 2020, a review found that 74 percent of the largest 100 districts chose remote learning only. *See* Education Week, School Districts' Reopening Plans: A Snapshot (Jul. 15, 2020), *https://www.edweek.org/leadership/school-districts-reopening-plans-a-snapshot/2020/07* (last visited May 4, 2021).

[82] HHS, *supra* note 79.

[83] Hirokazu Yoshikawa, Effects of the Global Coronavirus Disease—2019 Pandemic on Early Childhood Development: Short- and Long-Term Risks and Mitigating Program and Policy Actions, J. of Pediatrics Vol. 223:188–93 (Aug. 1, 2020), *available at https://www.jpeds.com/article/S0022-3476(20)30606-5/abstract.*

[84] Based on calculations conducted by the Minneapolis Fed's Center for Indian Country Development using Flood et al. (2020)'s Current Population Survey." Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 8.0 [dataset]. Minneapolis, MN: IPUMS, 2020. *https://doi.org/10.18128/D030.V8.0; see also* Donna Feir & Charles Golding, Native Employment During COVID–19: Hard hit in April but Starting to Rebound? (Aug. 5, 2020), *https://www.minneapolisfed.org/article/2020/native-employment-during-covid-19-hit-hard-in-april-but-starting-to-rebound.*

[85] Moreno & Sobrepena, *supra* note 73.

eligible under this category, the recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID–19 public health emergency and whether, and the extent to which, the use would respond or address this harm.[86] A recipient should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID–19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.

In addition, the eligible use must "respond to" the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Where there has been a negative economic impact resulting from the public health emergency, States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact. Sections 602(c)(1)(A) and 603(c)(1)(A) describe several types of uses that would be eligible under this category, including assistance to households, small businesses, and nonprofits and aid to impacted industries such as tourism, travel, and hospitality.

To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding that respond to the negative economic impacts of the public health emergency. Consistent with the discussion above, the eligible uses listed below would respond directly to the economic or financial harms resulting from and or exacerbated by the public health emergency.

- *Assistance to Unemployed Workers.* This includes assistance to unemployed workers, including services like job training to accelerate rehiring of unemployed workers; these services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began and remain so due to the negative economic impacts of the pandemic.
- *State Unemployment Insurance Trust Funds.* Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021, given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic. States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic's negative economic impacts on unemployed workers.
- *Assistance to Households.* Assistance to households or populations facing negative economic impacts due to COVID–19 is also an eligible use. This includes: Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance (discussed below); emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic. For example, a cash transfer program may focus on unemployed workers or low- and moderate-income families, which have faced disproportionate economic harms due to the pandemic. Cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID–19 public health emergency or its negative impacts. In particular, when considering the appropriate size of permissible cash transfers made in response to the COVID–19 public health emergency, State, local and Tribal governments may consider and take guidance from the per person amounts previously provided by the Federal Government in response to the COVID–19 crisis. Cash transfers that are grossly in excess of such amounts would be outside the scope of eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) and could be subject to recoupment. In addition, a recipient could provide survivor's benefits to surviving family members of COVID–19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID–19 victims.
- *Expenses to Improve Efficacy of Economic Relief Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.
- *Small Businesses and Non-profits.* As discussed above, small businesses and non-profits faced significant challenges in covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID–19 public health emergency, including:
  - Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
  - Loans, grants, or in-kind assistance to implement COVID–19 prevention or mitigation tactics, such as physical

[86] In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section (c)(1)(A) of the Act.

plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID–19 vaccination, testing, or contact tracing programs; and

○ Technical assistance, counseling, or other services to assist with business planning needs.

As discussed above, these services should respond to the negative economic impacts of COVID–19. Recipients may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (*e.g.*, comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. Recipients should consider local economic conditions and business data when establishing such criteria.[87]

• *Rehiring State, Local, and Tribal Government Staff.* State, local, and Tribal governments continue to see pandemic impacts in overall staffing levels: State, local, and Tribal government employment remains more than 1 million jobs lower in April 2021 than prior to the pandemic.[88] Employment losses decrease a state or local government's ability to effectively administer services. Thus, the interim final rule includes as an eligible use payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government.

• *Aid to Impacted Industries.* Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that certain industries, such as tourism, travel, and hospitality, were disproportionately and negatively impacted by the COVID–19 public health emergency. Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic on those and similarly impacted industries. For example, aid may include assistance to implement COVID–19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services, for example, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.

Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, business districts, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID–19 public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic.

When considering providing aid to industries other than tourism, travel, and hospitality, recipients should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, on net, the leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide due to the COVID–19 public health emergency.[89] Recipients should also consider whether impacts were due to the COVID–19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

To facilitate transparency and accountability, the interim final rule requires that State, local, and Tribal governments publicly report assistance provided to private-sector businesses under this eligible use, including tourism, travel, hospitality, and other impacted industries, and its connection to negative economic impacts of the pandemic. Recipients also should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

As discussed above, economic disparities that existed prior to the COVID–19 public health emergency amplified the impact of the pandemic among low-income and minority groups. These families were more likely to face housing, food, and financial insecurity; are over-represented among low-wage workers; and many have seen their livelihoods deteriorate further during the pandemic and economic contraction. In recognition of the disproportionate negative economic impacts on certain communities and populations, the interim final rule identifies services and programs that will be presumed to be responding to the negative economic impacts of the COVID–19 public health emergency when provided in these communities.

Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments.[90] Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. The interim final rule identifies a non-exclusive list of uses that address the disproportionate negative economic effects of the COVID–19 public health emergency, including:

○ *Building Stronger Communities through Investments in Housing and Neighborhoods.* The economic impacts of COVID–19 have likely been most acute in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity.[91]

[87] *See* Federal Reserve Bank of Cleveland, An Uphill Battle: COVID–19's Outsized Toll on Minority-Owned Firms (Oct. 8, 2020), *https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-20201008-misera-report.aspx* (discussing the impact of COVID–19 on minority owned businesses).

[88] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited May 8, 2021).

[89] From February 2020 to April 2021, employment in "Leisure and hospitality" has fallen by approximately 17 percent. *See* U.S. Bureau of Labor Statistics, All Employees, Leisure and Hospitality, retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/USLAH* (last visited May 8, 2021). From 2019Q4 to 2020Q4, gross output (*e.g.* revenue) in arts, entertainment, recreation, accommodation, and food services has fallen by approximately 24 percent. *See* Bureau of Economic Analysis, News Release: Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, Fourth Quarter and Year 2020 (Mar. 25, 2021), Table 17, *https://www.bea.gov/sites/default/files/2021-03/gdp4q20_3rd.pdf.*

[90] HUD, *supra* note 48.

[91] Stuart M. Butler & Jonathan Grabinsky, Tackling the legacy of persistent urban inequality and concentrated poverty, Brookings Institution (Nov. 16, 2020), *https://www.brookings.edu/blog/up-front/2020/11/16/tackling-the-legacy-of-*

Continued

Services in this category alleviate the immediate economic impacts of the COVID–19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing.[92] Eligible services include:

- Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
- Affordable housing development to increase supply of affordable and high-quality living units; and
- Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents, to help residents increase their economic opportunity and reduce concentrated areas of low economic opportunity.[93]

○ *Addressing Educational Disparities.* As outlined above, school closures and the transition to remote education raised particular challenges for lower-income students, potentially exacerbating educational disparities, while increases in economic hardship among families could have long-lasting impacts on children's educational and economic prospects. Services under this prong would enhance educational supports to help mitigate impacts of the pandemic. Eligible services include:

- New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services;
- Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;
- Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other extended learning and enrichment programs; and
- Evidence-based practices to address the social, emotional, and mental health needs of students;

○ *Promoting Healthy Childhood Environments.* Children's economic and family circumstances have a long-term impact on their future economic outcomes.[94] Increases in economic hardship, material insecurity, and parental stress and behavioral health challenges all raise the risk of long-term harms to today's children due to the pandemic. Eligible services to address this challenge include:

- New or expanded high-quality childcare to provide safe and supportive care for children;
- Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development; and
- Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

State, local, and Tribal governments are encouraged to use payments from the Fiscal Recovery Funds to respond to the direct and immediate needs of the pandemic and its negative economic impacts and, in particular, the needs of households and businesses that were disproportionately and negatively impacted by the public health emergency. As highlighted above, low-income communities and workers and people of color have faced more severe health and economic outcomes during the pandemic, with pre-existing social vulnerabilities like low-wage or insecure employment, concentrated neighborhoods with less economic opportunity, and pre-existing health disparities likely contributing to the magnified impact of the pandemic. The Fiscal Recovery Funds provide resources to not only respond to the immediate harms of the pandemic but also to mitigate its longer-term impact in compounding the systemic public health and economic challenges of disproportionately impacted populations. Treasury encourages recipients to consider funding uses that foster a strong, inclusive, and equitable recovery, especially uses with long-term benefits for health and economic outcomes.

Uses Outside the Scope of this Category. Certain uses would not be within the scope of this eligible use category, although may be eligible under other eligible use categories. A general infrastructure project, for example, typically would not be included unless the project responded to a specific pandemic public health need (*e.g.*, investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (*e.g.*, affordable housing in a QCT). The ARPA explicitly includes infrastructure if it is "necessary" and in water, sewer, or broadband. *See* Section II.D of this **SUPPLEMENTARY INFORMATION.** State, local, and Tribal governments also may use the Fiscal Recovery Funds under sections 602(c)(1)(C) or 603(c)(1)(C) to provide "government services" broadly to the extent of their reduction in revenue. *See* Section II.C of this **SUPPLEMENTARY INFORMATION.**

This category of eligible uses also would not include contributions to rainy day funds, financial reserves, or similar funds. Resources made available under this eligible use category are intended to help meet pandemic response needs and provide relief for households and businesses facing near- and long-term negative economic impacts. Contributions to rainy day funds and similar financial reserves would not address these needs or respond to the COVID–19 public health emergency but would rather constitute savings for future spending needs. Similarly, this eligible use category would not include payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs. As discussed below, payments from the Fiscal Recovery Funds are intended to be used prospectively and the interim final rule precludes use of these funds to cover the costs of debt incurred prior to March 3, 2021. Fees or issuance costs associated with the issuance of new debt would also not be covered using payments from the Fiscal Recovery Funds because such costs would not themselves have been incurred to address the needs of pandemic response or its negative economic impacts. The purpose of the Fiscal Recovery Funds is to provide fiscal relief that will permit State, local, and Tribal governments to continue to respond to the COVID–19 public health emergency.

For the same reasons, this category of eligible uses would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring

persistent-urban-inequality-and-concentrated-poverty/.

[92] U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Quality of Housing, *https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing#11* (last visited Apr. 26, 2021).

[93] The Opportunity Atlas, *https://www.opportunityatlas.org/* (last visited Apr. 26, 2021); Raj Chetty & Nathaniel Hendren, The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects, Quarterly J. of Econ. 133(3):1107–162 (2018), *available at https://opportunityinsights.org/paper/neighborhoodsi/.*

[94] *See* supra notes 52 and 84.

plan in a judicial, administrative, or regulatory proceeding, except to the extent the judgment or settlement requires the provision of services that would respond to the COVID–19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID–19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to these needs, as described above.

In addition, as described in Section V.III of this **SUPPLEMENTARY INFORMATION**, Treasury will establish reporting and record keeping requirements for uses within this category, including enhanced reporting requirements for certain types of uses.

Question 1: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the public health impacts of COVID–19? Describe how these respond to the COVID–19 public health emergency.

Question 2: The interim final rule permits coverage of payroll and benefits costs of public health and safety staff primarily dedicated to COVID–19 response, as well as rehiring of public sector staff up to pre-pandemic levels. For how long should these measures remain in place? What other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID–19 response, and therefore reimbursable, in an easily-administrable manner?

Question 3: The interim final rule permits rehiring of public sector staff up to the government's pre-pandemic staffing level, which is measured based on employment as of January 27, 2020. Does this approach adequately measure the pre-pandemic staffing level in a manner that is both accurate and easily administrable? Why or why not?

Question 4: The interim final rule permits deposits to Unemployment Insurance Trust Funds, or using funds to pay back advances, up to the pre-pandemic balance. What, if any, conditions should be considered to ensure that funds repair economic impacts of the pandemic and strengthen unemployment insurance systems?

Question 5: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the negative economic impacts of COVID–19? Describe how these respond to the COVID–19 public health emergency.

Question 6: What other measures, presumptions, or considerations could be used to assess "impacted industries" affected by the COVID–19 public health emergency?

Question 7: What are the advantages and disadvantages of using Qualified Census Tracts and services provided by Tribal governments to delineate where a broader range of eligible uses are presumed to be responsive to the public health and economic impacts of COVID–19? What other measures might Treasury consider? Are there other populations or geographic areas that were disproportionately impacted by the pandemic that should be explicitly included?

Question 8: Are there other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID–19 on low-income populations and communities? Describe how these respond to the COVID–19 public health emergency or its negative economic impacts, including its exacerbation of pre-existing challenges in these areas.

Question 9: The interim final rule includes eligible uses to support affordable housing and stronger neighborhoods in disproportionately-impacted communities. Discuss the advantages and disadvantages of explicitly including other uses to support affordable housing and stronger neighborhoods, including rehabilitation of blighted properties or demolition of abandoned or vacant properties. In what ways does, or does not, this potential use address public health or economic impacts of the pandemic? What considerations, if any, could support use of Fiscal Recovery Funds in ways that do not result in resident displacement or loss of affordable housing units?

B. Premium Pay

Fiscal Recovery Funds payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID–19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work.[95] These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.

Since the start of the COVID–19 public health emergency in January 2020, essential workers have put their physical wellbeing at risk to meet the daily needs of their communities and to provide care for others. In the course of this work, many essential workers have contracted or died of COVID–19.[96] Several examples reflect the severity of the health impacts for essential workers. Meat processing plants became "hotspots" for transmission, with 700 new cases reported at a single plant on a single day in May 2020.[97] In New York City, 120 employees of the Metropolitan Transit Authority were estimated to have died due to COVID–19 by mid-May 2020, with nearly 4,000 testing positive for the virus.[98] Furthermore, many essential workers are people of color or low-wage workers.[99] These workers, in particular, have borne a disproportionate share of the health and economic impacts of the pandemic. Such workers include:

- Staff at nursing homes, hospitals, and home care settings;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitation workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;
- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

During the public health emergency, employers' policies on COVID–19-related hazard pay have varied widely, with many essential workers not yet compensated for the heightened risks they have faced and continue to face.[100]

[95] Sections 602(c)(1)(B), 603(c)(1)(B) of the Act.

[96] *See, e.g.,* Centers for Disease Control and Prevention, COVID Data Tracker: Cases & Death among Healthcare Personnel, *https://covid.cdc.gov/covid-data-tracker/#health-care-personnel* (last visited May 4, 2021); Centers for Disease Control and Prevention, COVID Data Tracker: Confirmed COVID–19 Cases and Deaths among Staff and Rate per 1,000 Resident-Weeks in Nursing Homes, by Week—United States, *https://covid.cdc.gov/covid-data-tracker/#nursing-home-staff* (last visited May 4, 2021).

[97] *See, e.g.,* The Lancet, The plight of essential workers during the COVID–19 pandemic, Vol. 395, Issue 10237:1587 (May 23, 2020), *available at https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2820%2931200-9/fulltext.*

[98] *Id.*

[99] Joanna Gaitens et al., Covid–19 and essential workers: A narrative review of health outcomes and moral injury, Int'l J. of Envtl. Research and Pub. Health 18(4):1446 (Feb. 4, 2021), *available at https://pubmed.ncbi.nlm.nih.gov/33557075/;* Tiana N. Rogers et al., Racial Disparities in COVID–19 Mortality Among Essential Workers in the United States, World Med. & Health policy 12(3):311–27 (Aug. 5, 2020), *available at https://onlinelibrary.wiley.com/doi/full/10.1002/wmh3.358* (finding that vulnerability to coronavirus exposure was increased among non-Hispanic blacks, who disproportionately occupied the top nine essential occupations).

[100] Economic Policy Institute, Only 30% of those working outside their home are receiving hazard pay (June 16, 2020), *https://www.epi.org/press/only-30-of-those-working-outside-their-home-are-receiving-hazard-pay-black-and-hispanic-workers-are-most-concerned-about-bringing-the-coronavirus-home/.*

Many of these workers earn lower wages on average and live in socioeconomically vulnerable communities as compared to the general population.[101] A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.[102] The low pay of many essential workers makes them less able to cope with the financial consequences of the pandemic or their work-related health risks, including working hours lost due to sickness or disruptions to childcare and other daily routines, or the likelihood of COVID–19 spread in their households or communities. Thus, the threats and costs involved with maintaining the ongoing operation of vital facilities and services have been, and continue to be, borne by those that are often the most vulnerable to the pandemic. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities.

The Fiscal Recovery Funds will help respond to the needs of essential workers by allowing recipients to remunerate essential workers for the elevated health risks they have faced and continue to face during the public health emergency. To ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work, the interim final rule defines essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence.

Sections 602(g)(2) and 603(g)(2) define eligible worker to mean "those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State or territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government." [103] The rule incorporates this definition and provides a list of industries recognized as essential critical infrastructure sectors.[104] These sectors include healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services, among others as noted above. As provided under sections 602(g)(2) and 603(g)(2), the chief executive of each recipient has discretion to add additional sectors to this list, so long as additional sectors are deemed critical to protect the health and well-being of residents.

In providing premium pay to essential workers or grants to eligible employers, a recipient must consider whether the pay or grant would "respond to" to the worker or workers performing essential work. Premium pay or grants provided under this section respond to workers performing essential work if it addresses the heightened risk to workers who must be physically present at a jobsite and, for many of whom, the costs associated with illness were hardest to bear financially. Many of the workers performing critical essential services are low- or moderate-income workers, such as those described above. The ARPA recognizes this by defining premium pay to mean an amount up to $13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed $25,000 per eligible worker. To ensure the provision is implemented in a manner that compensates these workers, the interim final rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work.

As such, providing premium pay to eligible workers responds to such workers by helping address the disparity between the critical services and risks taken by essential workers and the relatively low compensation they tend to receive in exchange. If premium pay would increase a worker's total pay above 150 percent of their residing state's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, or their residing county's average annual wage, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the State, local, or Tribal government must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a written justification of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency.[105]

The threshold of 150 percent for requiring additional written justification is based on an analysis of the distribution of labor income for a sample of 20 occupations that generally correspond to the essential workers as defined in the interim final rule.[106] For these occupations, labor income for the vast majority of workers was under 150 percent of average annual labor income across all occupations. Treasury anticipates that the threshold of 150 percent of the annual average wage will be greater than the annual average wage of the vast majority of eligible workers performing essential work. These enhanced reporting requirements help to ensure grants are directed to essential workers in critical infrastructure sectors and responsive to the impacts of the pandemic observed among essential workers, namely the mis-alignment between health risks and compensation. Enhanced reporting also provides transparency to the public. Finally, using a localized measure reflects differences in wages and cost of living across the country, making this standard administrable and reflective of essential worker incomes across a diverse range of geographic areas.

Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID–19, it must be entirely additive to a worker's regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker's normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID–19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.[107] Treasury encourages recipients to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many

[101] McCormack, *supra* note 37.

[102] *Id.*

[103] Sections 602(g)(2), 603(g)(2) of the Act.

[104] The list of critical infrastructure sectors provided in the interim final rule is based on the list of essential workers under The Heroes Act, H.R. 6800, 116th Cong. (2020).

[105] County median annual wage is taken to be that of the metropolitan or nonmetropolitan area that includes the county. *See* U.S. Bureau of Labor Statistics, State Occupational Employment and Wage Estimates, *https://www.bls.gov/oes/current/oessrcst.htm* (last visited May 1, 2021); U.S. Bureau of Labor Statistics, May 2020 Metropolitan and Nonmetropolitan Area Estimates listed by county or town, *https://www.bls.gov/oes/current/county_links.htm* (last visited May 1, 2021).

[106] Treasury performed this analysis with data from the U.S. Census Bureau's 2019 Annual Social and Economic Supplement. In determining which occupations to include in this analysis, Treasury excluded management and supervisory positions, as such positions may not necessarily involve regular in-person interactions or physical handling of items to the same extent as non-managerial positions.

[107] However, such compensation must be "in addition to" remuneration or wages already received. That is, employers may not reduce such workers' current pay and use Fiscal Recovery Funds to compensate themselves for premium pay previously provided to the worker.

months. Essential workers who have already earned premium pay for essential work performed during the COVID–19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. *See* Section VIII of this **SUPPLEMENTARY INFORMATION**, discussing reporting requirements. In responding to the needs of essential workers, a grant to an employer may provide premium pay to eligible workers performing essential work, as these terms are defined in the interim final rule and discussed above. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.

Question 10: Are there additional sectors beyond those listed in the interim final rule that should be considered essential critical infrastructure sectors?

Question 11: What, if any, additional criteria should Treasury consider to ensure that premium pay responds to essential workers?

Question 12: What consideration, if any, should be given to the criteria on salary threshold, including measure and level, for requiring written justification?

C. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID–19 public health emergency.[108] Pursuant to sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.

Many State, local, and Tribal governments are experiencing significant budget shortfalls, which can have a devastating impact on communities. State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same period 2019.[109] At the local level, nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in general fund revenues in their fiscal year 2021.[110] Similarly, surveys of Tribal governments and Tribal enterprises found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in healthcare, housing, social services, and economic development activities as a result of reduced revenues.[111] These budget shortfalls are particularly problematic in the current environment, as State, local, and Tribal governments work to mitigate and contain the COVID–19 pandemic and help citizens weather the economic downturn.

Further, State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007–2009 recession, State and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.[112] Inflation-adjusted State and local government revenue did not return to the previous peak until 2013,[113] while State, local, and Tribal government employment did not recover to its prior peak for over a decade, until August 2019—just a few months before the COVID–19 public health emergency began.[114]

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act allow recipients facing budget shortfalls to use payments from the Fiscal Recovery Funds to avoid cuts to government services and, thus, enable State, local, and Tribal governments to continue to provide valuable services and ensure that fiscal austerity measures do not hamper the broader economic recovery. The interim final rule implements these provisions by establishing a definition of "general revenue" for purposes of calculating a loss in revenue and by providing a methodology for calculating revenue lost due to the COVID–19 public health emergency.

General Revenue. The interim final rule adopts a definition of "general revenue" based largely on the components reported under "General Revenue from Own Sources" in the Census Bureau's Annual Survey of State and Local Government Finances, and for purposes of this interim final rule, helps to ensure that the components of general revenue would be calculated in a consistent manner.[115] By relying on a methodology that is both familiar and comprehensive, this approach minimizes burden to recipients and provides consistency in the measurement of general revenue across a diverse set of recipients.

The interim final rule defines the term "general revenue" to include revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.[116] In calculating revenue, recipients should sum across all revenue streams covered as general revenue. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the overall impact of

[108] ARPA, *supra* note 16.

[109] Major sources include personal income tax, corporate income tax, sales tax, and property tax. *See* Lucy Dadayan., States Reported Revenue Growth in July–September Quarter, Reflecting Revenue Shifts from the Prior Quarter, State Tax and Econ. Rev. (Q. 3, 2020), *available at https://www.urban.org/sites/default/files/publication/103938/state-tax-and-economic-review-2020-q3_0.pdf.*

[110] National League of Cities, City Fiscal Conditions (2020), *available at https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal_Conditions_2020_FINAL.pdf.*

[111] Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. *See* Moreno & Sobrepena, *supra* note 73.

[112] *See, e.g.*, Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), *https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html;* Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf;* Gordon, *supra* note 9.

[113] State and local government general revenue from own sources, adjusted for inflation using the GDP price index. U.S. Census Bureau, Annual Survey of State Government Finances and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

[114] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited Apr. 27, 2021).

[115] U.S. Census Bureau, Annual Survey of State and Local Government Finances, *https://www.census.gov/programs-surveys/gov-finances.html* (last visited Apr. 30, 2021).

[116] The interim final rule would define tax revenue in a manner consistent with the Census Bureau's definition of tax revenue, with certain changes (*i.e.*, inclusion of revenue from liquor stores and certain intergovernmental transfers). Current charges are defined as "charges imposed for providing current services or for the sale of products in connection with general government activities." It includes revenues such as public education institution, public hospital, and toll revenues. Miscellaneous general revenue comprises of all other general revenue of governments from their own sources (*i.e.*, other than liquor store, utility, and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

the COVID–19 public health emergency on a recipient's revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.[117]

Consistent with the Census Bureau's definition of "general revenue from own sources," the definition of general revenue in the interim final rule would exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions. The definition of general revenue also would exclude revenue generated by utilities and insurance trusts. In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity.[118] For example, public utilities typically require financial support from the State, local, or Tribal government, rather than providing revenue to such government, and any revenue that is generated by public utilities typically is used to support the public utility's continued operation, rather than being used as a source of revenue to support government services generally.

The definition of general revenue would include all revenue from Tribal enterprises, as this revenue is generated from economic activity and is available to fund government services. Tribes are not able to generate revenue through taxes in the same manner as State and local governments and, as a result, Tribal enterprises are critical sources of revenue for Tribal governments that enable Tribal governments to provide a range of services, including elder care, health clinics, wastewater management, and forestry.

Finally, the term "general revenue" includes intergovernmental transfers between State and local governments, but excludes intergovernmental transfers from the Federal Government, including Federal transfers made via a State to a local government pursuant to the CRF or as part of the Fiscal Recovery Funds. States and local governments often share or collect revenue on behalf of one another, which results in intergovernmental transfers. When attributing revenue to a unit of government, the Census Bureau's methodology considers which unit of government imposes, collects, and retains the revenue and assigns the revenue to the unit of government that meets at least two of those three factors.[119] For purposes of measuring loss in general revenue due to the COVID–19 public health emergency and to better allow continued provision of government services, the retention and ability to use the revenue is a more critical factor. Accordingly, and to better measure the funds available for the provision of government services, the definition of general revenue would include intergovernmental transfers from States or local governments other than funds transferred pursuant to ARPA, CRF, or another Federal program. This formulation recognizes the importance of State transfers for local government revenue.[120]

Calculation of Loss. In general, recipients will compute the extent of the reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic. This approach measures losses in revenue relative to the most recent fiscal year prior to the COVID–19 public health emergency by using the most recent pre-pandemic fiscal year as the starting point for estimates of revenue growth absent the pandemic. In other words, the counterfactual trend starts with the last full fiscal year prior to the COVID–19 public health emergency and then assumes growth at a constant rate in the subsequent years. Because recipients can estimate the revenue shortfall at multiple points in time throughout the covered period as revenue is collected, this approach accounts for variation across recipients in the timing of pandemic impacts.[121] Although revenue may decline for reasons unrelated to the COVID–19 public health emergency, to minimize the administrative burden on recipients and taking into consideration the devastating effects of the COVID–19 public health emergency, any diminution in actual revenues relative to the counterfactual pre-pandemic trend would be presumed to have been due to the COVID–19 public health emergency.

For purposes of measuring revenue growth in the counterfactual trend, recipients may use a *growth adjustment* of either 4.1 percent per year or the recipient's average annual revenue growth over the three full fiscal years prior to the COVID–19 public health emergency, whichever is higher. The option of 4.1 percent represents the average annual growth across all State and local government "General Revenue from Own Sources" in the most recent three years of available data.[122] This approach provides recipients with a standardized growth adjustment when calculating the counterfactual revenue trend and thus minimizes administrative burden, while not disadvantaging recipients with revenue growth that exceeded the national average prior to the COVID–19 public health emergency by permitting these recipients to use their own revenue growth rate over the preceding three years.

Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:

- *Step 1:* Identify revenues collected in the most recent full fiscal year prior to the public health emergency (*i.e.,* last full fiscal year before January 27, 2020), called the *base year revenue.*
- *Step 2:* Estimate *counterfactual revenue,* which is equal to *base year revenue* * [(1 + *growth adjustment*) ^ (*n*/12)], where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of 4.1 percent and the recipient's average annual revenue growth in the three full fiscal

[117] Fund-oriented reporting, such as what is used under the Governmental Accounting Standards Board (GASB), focuses on the types of uses and activities funded by the revenue, as opposed to the economic activity from which the revenue is sourced. *See* Governmental Accounting Standards Series, Statement No. 54 of the Governmental Accounting Standards Board: Fund Balance Reporting and Governmental Fund Type Definitions, No. 287–B (Feb. 2009).

[118] *Supra* note 116.

[119] U.S. Census Bureau, Government Finance and Employment Classification Manual (Dec. 2000), *https://www2.census.gov/govs/class/classfull.pdf.*

[120] For example, in 2018, state transfers to localities accounted for approximately 27 percent of local revenues. U.S. Census Bureau, Annual Survey of State and Local Government Finances, Table 1 (2018), *https://www.census.gov/data/datasets/2018/econ/local/public-use-datasets.html.*

[121] For example, following the 2007–09 recession, local government property tax collections did not begin to decline until 2011, suggesting that property tax collection declines can lag downturns. *See* U.S. Bureau of Economic Analysis, Personal current taxes: State and local: Property taxes [S210401A027NBEA], retrieved from Federal Reserve Economic Data, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/graph/?g=r3YI* (last visited Apr. 22, 2021). Estimating the reduction in revenue at points throughout the covered period will allow for this type of lagged effect to be taken into account during the covered period.

[122] Together with revenue from liquor stores from 2015 to 2018. This estimate does not include any intergovernmental transfers. A recipient using the three-year average to calculate their growth adjustment must be based on the definition of general revenue, including treatment of intergovernmental transfers. 2015–2018 represents the most recent available data. *See* U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables (2018), *https://www.census.gov/programs-surveys/gov-finances/data/datasets.html.*

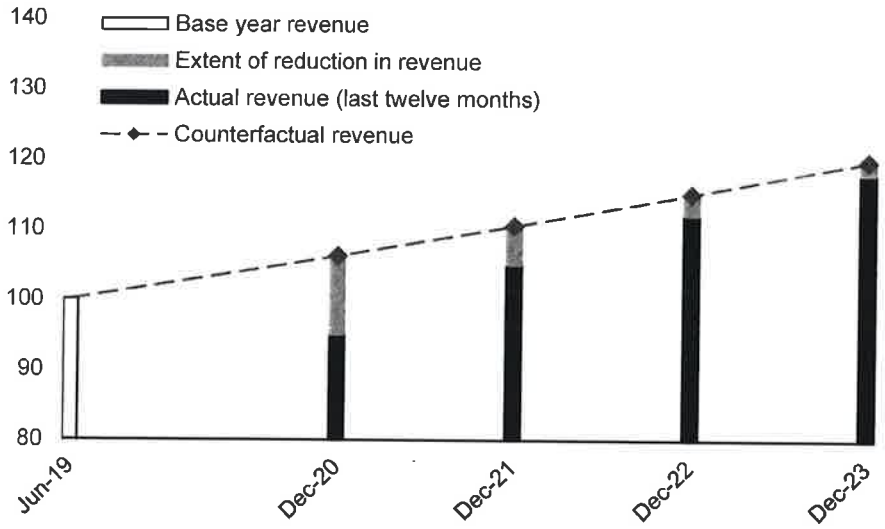
years prior to the COVID–19 public health emergency.

- *Step 3:* Identify *actual revenue,* which equals revenues collected over the past twelve months as of the calculation date.
- *Step 4:* The extent of the reduction in revenue is equal to *counterfactual revenue* less *actual revenue.* If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100. In Step 2, the hypothetical recipient finds that 4.1 percent is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. Furthermore, this recipient's base year ends June 30. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
n (months elapsed)	18	30	42	54
Counterfactual revenue:	106.2	110.6	115.1	119.8

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building[123] of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. However, expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services. That is, satisfaction of a settlement or judgment itself is not a government service, unless the settlement required the provision of government services. In addition, replenishing financial reserves (*e.g.,* rainy day or other reserve funds) would not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.

Question 13: Are there sources of revenue that either should or should not be included in the interim final rule's measure of "general revenue" for recipients? If so, discuss why these sources either should or should not be included.

Question 14: In the interim final rule, recipients are expected to calculate the reduction in revenue on an aggregate basis. Discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or appropriate to calculate the reduction in revenue by source.

Question 15: Treasury is considering whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID–19 public health emergency, in determining whether to presume that revenue losses are "due to" the COVID–

[123] Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

19 public health emergency. Discuss the advantages and disadvantages of this presumption, including when, if ever, during the covered period it would be appropriate to reevaluate the presumption that all losses are attributable to the COVID–19 public health emergency.

Question 16: Do recipients anticipate lagged revenue effects of the public health emergency? If so, when would these lagged effects be expected to occur, and what can Treasury to do support these recipients through its implementation of the program?

Question 17: In the interim final rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.

D. Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors. The interim final rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds. Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.[124]

It is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

1. Water and Sewer Infrastructure

The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure.[125] By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the interim final rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure. The interim final rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).[126]

Established by the 1987 amendments[127] to the Clean Water Act (CWA),[128] the CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution in a way that enables each State to address and prioritize the needs of their populations. The types of projects eligible for CWSRF assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.[129] Each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.[130]

The DWSRF was modeled on the CWSRF and created as part of the 1996 amendments to the Safe Drinking Water Act (SDWA),[131] with the principal objective of helping public water systems obtain financing for improvements necessary to protect public health and comply with drinking water regulations.[132] Like the CWSRF,

[124] Treasury notes that using funds to support or oppose collective bargaining would not be included as part of "necessary investments in water, sewer, or broadband infrastructure."

[125] Sections 602(c)(1)(D), 603(c)(1)(D) of the Act.

[126] Environmental Protection Agency, Drinking Water State Revolving fund, *https://www.epa.gov/dwsrf* (last visited Apr. 30, 2021); Environmental Protection Agency, Clean Water State Revolving Fund, *https://www.epa.gov/cwsrf* (last visited Apr. 30, 2021).

[127] Water Quality Act of 1987, Public Law 100–4.

[128] Federal Water Pollution Control Act as amended, codified at 33 U.S.C. 1251 *et seq.*, common name (Clean Water Act). In 2009, the American Recovery and Reinvestment Act created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficient, and environmentally innovative projects. Public Law 111–5. The CWA was amended by the Water Resources Reform and Development Act of 2014 to further expand the CWSRF's eligibilities. Public Law 113–121. *The CWSRF's eligibilities were further expanded in 2018 by the America's Water Infrastructure Act of 2018, Public Law 115–270.*

[129] *See* Environmental Protection Agency, The Drinking Water State Revolving Funds: Financing America's Drinking Water, EPA–816–R–00–023 (Nov. 2000), *https://nepis.epa.gov/Exe/ZyPDF.cgi/200024WB.PDF?Dockey=200024WB.PDF; See also* Environmental Protection Agency, *Learn About the Clean Water State Revolving Fund, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Apr. 30, 2021).*

[130] 33 U.S.C. 1383(c). *See also Environmental Protection Agency, Overview of Clean Water State Revolving Fund Eligibilities (May 2016), https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf; Claudia Copeland, Clean Water Act: A Summary of the Law, Congressional Research Service (Oct. 18, 2016), https://fas.org/sgp/crs/misc/RL30030.pdf; Jonathan L Ramseur, Wastewater Infrastructure: Overview, Funding, and Legislative Developments, Congressional Research Service (May 22, 2018), https://fas.org/sgp/crs/misc/R44963.pdf.*

[131] 42 U.S.C. 300j–12.

[132] Environmental Protection Agency, Drinking Water State Revolving Fund Eligibility Handbook, (June 2017), *https://www.epa.gov/sites/production/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf;* Environmental Protection Agency, Drinking Water

the DWSRF provides States with the flexibility to meet the needs of their populations.[133] The primary use of DWSRF funds is to assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.[134] In administering these programs, States must give priority to projects that ensure compliance with applicable health and environmental safety requirements; address the most serious risks to human health; and assist systems most in need on a per household basis according to State affordability criteria.[135]

By aligning use of Fiscal Recovery Funds with the categories or types of eligible projects under the existing EPA state revolving fund programs, the interim final rule provides recipients with the flexibility to respond to the needs of their communities while ensuring that investments in water and sewer infrastructure made using Fiscal Recovery Funds are necessary. As discussed above, the CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health standards.[136] The need to provide funding through the state revolving funds suggests that these projects are less likely to be addressed with private sources of funding; for example, by remediating failing or inadequate infrastructure, much of which is publicly owned, and by addressing non-point sources of pollution. This approach of aligning with the EPA state revolving fund programs also supports expedited project identification and investment so that needed relief for the people and communities most affected by the pandemic can deployed expeditiously and have a positive impact on their health and wellbeing as soon as possible. Further, the interim final rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria.

In addition, responding to the immediate needs of the COVID–19 public health emergency may have diverted both personnel and financial resources from other State, local, and Tribal priorities, including projects to ensure compliance with applicable water health and quality standards and provide safe drinking and usable water.[137] Through sections 602(c)(1)(D) and 603(c)(1)(D), the ARPA provides resources to address these needs. Moreover, using Fiscal Recovery Funds in accordance with the priorities of the CWA and SWDA to "assist systems most in need on a per household basis according to state affordability criteria" would also have the benefit of providing vulnerable populations with safe drinking water that is critical to their health and, thus, their ability to work and learn.[138]

Recipients may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, recipients may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Finally, consistent with the CWSRF and DWSRF, Fiscal Recovery Funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Many of the types of projects eligible under either the CWSRF or DWSRF also support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly, projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Question 18: What are the advantages and disadvantages of aligning eligible uses with the eligible project type requirements of the DWSRF and CWSRF? What other water or sewer project categories, if any, should Treasury consider in addition to DWSRF and CWSRF eligible projects? Should Treasury consider a broader general category of water and sewer projects?

Question 19: What additional water and sewer infrastructure categories, if any, should Treasury consider to address and respond to the needs of unserved, undeserved, or rural communities? How do these projects differ from DWSFR and CWSRF eligible projects?

Question 20: What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.

Question 21: Infrastructure projects related to dams and reservoirs are generally not eligible under the CWSRF and DWSRF categories. Should Treasury consider expanding eligible

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Infrastructure Needs Survey and Assessment: Sixth Report to Congress (March 2018), *https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf.*

[133] *Id.*

[134] *Id.*

[135] 42 U.S.C. 300j–12(b)(3)(A).

[136] Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, *https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf* (last visited Apr. 30, 2021); 42 U.S.C. 300j–12.

[137] House Committee on the Budget, State and Local Governments are in Dire Need of Federal Relief (Aug. 19, 2020), *https://budget.house.gov/publications/report/state-and-local-governments-are-dire-need-federal-relief.*

[138] Environmental Protection Agency, Drinking Water State Revolving Fund (Nov. 2019), *https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf;* Environmental Protection Agency, National Benefits Analysis for Drinking Water Regulations, *https://www.epa.gov/sdwa/national-benefits-analysis-drinking-water-regulations* (last visited Apr. 30, 2020).

infrastructure under the interim final rule to include dam and reservoir projects? Discuss public health, environmental, climate, or equity benefits and costs in expanding the eligibility to include these types of projects.

2. Broadband Infrastructure

The COVID–19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA Internet Use Survey data, noting that Americans turn to broadband internet access service for every facet of daily life including work, study, and healthcare.[139] With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

By at least one measure, however, tens of millions of Americans live in areas where there is no broadband infrastructure that provides download speeds greater than 25 Mbps and upload speeds of 3 Mbps.[140] By contrast, as noted below, many households use upload and download speeds of 100 Mbps to meet their daily needs. Even in areas where broadband infrastructure exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).[141] There are disparities in availability as well; historically, Americans living in territories and Tribal lands as well as rural areas have disproportionately lacked sufficient broadband infrastructure.[142] Moreover, rapidly growing demand has, and will likely continue to, quickly outpace infrastructure capacity, a phenomenon acknowledged by various states around the country that have set scalability requirements to account for this anticipated growth in demand.[143]

The interim final rule provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the interim final rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

Under the interim final rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.[144] In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth. Treasury also recognizes that different communities and their members may have a broad range of internet needs and that those needs may change over time.

In considering the appropriate speed requirements for eligible projects, Treasury considered estimates of typical households demands during the pandemic. Using the Federal Communication Commission's (FCC) Broadband Speed Guide, for example, a household with two telecommuters and two to three remote learners today are estimated to need 100 Mbps download to work simultaneously.[145] In households with more members, the demands may be greater, and in households with fewer members, the demands may be less.

In considering the appropriate speed requirements for eligible projects, Treasury also considered data usage patterns and how bandwidth needs have changed over time for U.S. households and businesses as people's use of technology in their daily lives has evolved. In the few years preceding the pandemic, market research data showed that average upload speeds in the United States surpassed over 10 Mbps in 2017[146] and continued to increase significantly, with the average upload speed as of November, 2019 increasing to 48.41 Mbps,[147] attributable, in part to a shift to using broadband and the internet by individuals and businesses

[139] *See, e.g., https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show; https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show;* and generally, *https://www.ntia.gov/data/digital-nation-data-explorer.*

[140] As an example, data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Availability was significantly less for rural versus urban populations, with 35.57 percent of the rural population lacking such access, compared with 2.57 percent of the urban population. Availability was also significantly less for tribal versus non-tribal populations, with 35.93 percent of the tribal population lacking such access, compared with 8.74 of the non-tribal population. Federal Communications Commission, Fixed Broadband Deployment, *https://broadbandmap.fcc.gov/#/* (last visited May 9, 2021).

[141] How Do U.S. Internet Costs Compare To The Rest Of The World?, BroadbandSearch Blog Post, *available at https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide.*

[142] *See, e.g.,* Federal Communications Commission, Fourteenth Broadband Deployment Report, *available at https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf.*

[143] *See, e.g.,* Illinois Department of Commerce & Economic Opportunity, Broadband Grants, h (last visited May 9, 2021), *https://www2.illinois.gov/dceo/ConnectIllinois/Pages/BroadbandGrants.aspx;* Kansas Office of Broadband Development, Broadband Acceleration Grant, *https://www.kansascommerce.gov/wp-content/uploads/2020/11/Broadband-Acceleration-Grant.pdf* (last visited May 9, 2021); New York State Association of Counties, Universal Broadband: Deploying High Speed Internet Access in NYS (Jul. 2017), *https://www.nysac.org/files/BroadbandUpdate Report2017(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/101030085118517/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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ATTACHMENT C

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

Compliance and Reporting Guidance

State and Local Fiscal Recovery Funds

June 24, 2021

Version: 1.1

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 Funds, 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
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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
C. Recovery Plan Performance Report..... P. 23

Appendix 1: Expenditure Categories..... P. 31
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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, and 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;
- SLFRF-funded projects should 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

[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

interpretation; and, recipients may not use SLFRF funds as non-Federal match where 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, and individuals within the eligible use categories described in Treasury's Interim Final Rule for costs that those households, businesses 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 – 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 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 latitude 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 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. 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 (CSLFRF) 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 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, or not 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 procedures, and record retention, to determine and monitor implementation of criteria for

[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.

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. 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.

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 or real or personal property acquired under 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

[6] 2 CFR 200.320(c)(1)-(3) and (5)

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 defined 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.

12. **Special Tests and Provisions.** Treasury has set a deadline of July 16, 2021, for receipt of public comment on its Interim Final Rule and will adopt a final rule responding to these comments. In addition, Treasury may add clarifications to the implementing guidance.

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 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 any authorized oversight body, including but not limited to the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and the Pandemic Relief Accountability Committee ("PRAC").

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

[7] See flexibility provided in https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf.
[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, the PRAC and the Treasury's OIG.

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 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.

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 13.**
- **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 23.**

Table 2: Reporting requirements by recipient type

Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021, with expenditures by category	By October 31, 2021, and then 30 days after the end of each quarter thereafter[9]	By August 31, 2021, and annually thereafter by July 31 [10]
Metropolitan cities and counties with a population below 250,000 residents which received more than $5 million in SLFRF funding			Not required
Tribal Governments			
Metropolitan cities and counties with a population below 250,000 residents which received less than $5 million in SLFRF funding		By October 31, 2021, and then annually thereafter[11]	
NEUs	Not required		

The remainder of this document describes these reporting requirements. A users' guide will be provided with additional information on how and where to submit required reports.

[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. SLFRF quarterly reporting will be due 30 days from quarter end.
- **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.

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 from the date of award to July 31, 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
- 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)

[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.

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. Distributions to NEUs - States and territories only (EC 7.4): Information on SLFRF distributions to eligible NEUs. Each State and territory will be asked to provide an update on distributions to individual NEUs, including whether the NEU 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. 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 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 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)

For each eligible NEU that declined funding and requested a transfer to the State under Section 603(c)(4), the State 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.

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.

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, U.S. territories, and Tribal governments
- Metropolitan cities and counties that received more than $5 million in SLFRF funding

For these recipients, 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 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 and 3	Award Date – September 30	October 31, 2021
2	2021	4	October 1 – December 31	January 31, 2022
3	2022	1	January 1 – March 31	April 30, 2022
4	2022	2	April 1 – June 30	July 31, 2022
5	2022	3	July 1 – September 30	October 31, 2022
6	2022	4	October 1 – December 31	January 31, 2023
7	2023	1	January 1 – March 31	April 30, 2023
8	2023	2	April 1 – June 30	July 31, 2023
9	2023	3	July 1 – September 30	October 31, 2023
10	2023	4	October 1 – December 31	January 31, 2024
11	2024	1	January 1 – March 31	April 30, 2024
12	2024	2	April 1 – June 30	July 31, 2024
13	2024	3	July 1 – September 30	October 31, 2024
14	2024	4	October 1 – December 31	January 31, 2025
15	2025	1	January 1 – March 31	April 30, 2025
16	2025	2	April 1 – June 30	July 31, 2025
17	2025	3	July 1 – September 30	October 31, 2025
18	2025	4	October 1 – December 31	January 31, 2026
19	2026	1	January 1 – March 31	April 30, 2026
20	2026	2	April 1 – June 30	July 31, 2026

Report	Year	Quarter	Period Covered	Due Date
21	2026	3	July 1 – September 30	October 31, 2026
22	2026	4	October 1 – December 31	March 31, 2027

2. Annual Reporting

The following recipients are required to submit annual Project and Expenditure Reports:

- Metropolitan cities and counties that received less than $5 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 to the NEU as part of its request for funding.

For these recipients, the initial Project and Expenditure Report will cover from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports will cover one calendar year and must be submitted to Treasury by October 31. The table below summarizes the report timelines:

Report	Period Covered	Due Date
1	Award Date – September 30, 2021	October 31, 2021
2	October 1, 2021 – September 30, 2022	October 31, 2022
3	October 1, 2022 – September 30, 2023	October 31, 2023
4	October 1, 2023 – September 30, 2024	October 31, 2024
5	October 1, 2024 – September 30, 2025	October 31, 2025
6	October 1, 2025 – September 30, 2026	October 31, 2026
7	October 1, 2026 – December 31, 2026	March 31, 2027

3. Required Information

The following information will be required in Project and Expenditure Reports:

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. In particular, recipients should review the Required Programmatic Data described below and define their projects at a sufficient level of granularity to report these metrics for a reasonably specific activity or set of activities in each project.

   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. Project Demographic Distribution: Recognizing the disproportionate impact of the pandemic-related recession on low-income communities, recipients must report whether certain types of projects[15] are targeted to economically disadvantaged communities, as defined by HUD's Qualified Census Tract.[16] Recipients will be asked to identify whether or not the project is serving an economically disadvantaged community. To minimize the administrative burden on recipients while ensuring that this important aspect of program performance is tracked, recipients may assume that the funds for a project count as being targeted towards economically disadvantaged communities if the project funds are spent on:
   - A program or service is provided at a physical location in a Qualified Census Tract (for multi-site projects, if a majority of sites are within Qualified Census Tracts);
   - A program or service where the primary intended beneficiaries live within a Qualified Census Tract;
   - A program or service for which the eligibility criteria are such that the primary intended beneficiaries earn less than 60 percent of the median income for the relevant jurisdiction (e.g., State, county, metropolitan area, or other jurisdiction); or
   - A program or service for which the eligibility criteria are such that over 25 percent of intended beneficiaries are below the federal poverty line.

   Recipients may use reasonable estimates to determine if a project meets one of these criteria, including identifying the intended beneficiaries of a program or service in terms of income characteristics, geographic location, or otherwise estimating the beneficiaries of a program based on its eligibility criteria. Recipients do not need to track information on each individual beneficiary to make the determination of whether or not the project is serving an economically disadvantaged community. If a recipient is unable to measure economic characteristics of the primary intended beneficiaries of a program or service due to data limitations or for other reasons, that program or service may not be counted as targeted to economically disadvantaged communities. Treasury recognizes that in some circumstances, recipients may fund eligible programs or services that benefit economically disadvantaged communities but may lack adequate data to assess conclusively that such a program or service is targeted to economically disadvantaged communities based on the criteria described above.

e. 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 or equal to $50,000.

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[15] Specifically recipients must report this information for projects in the Expenditure Categories that are marked with "^" in the expenditure category listing in Appendix 1 of this guidance

[16] HUD defines as a QCT as having "50 percent of households with incomes below 60 percent of the Area Median Gross Income (AMGI) or have a poverty rate of 25 percent or more." To view median income area for their jurisdiction, recipients may visit the U.S. Census website on median incomes and select the geography for their jurisdiction and relevant unit of measurement (household or individual) for the project.

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 or equal to $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 defined at 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.

f. Civil Rights Compliance: Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964 on an annual basis. This information may include a narrative describing the recipient's compliance with Title VI, along with other questions and assurances.

g. 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):
   - Number of government FTEs responding to COVID-19 supported under this authority

2. Household Assistance (EC 2.1-2.5):
   - Brief description of structure and objectives of assistance program(s) (e.g., nutrition assistance for low-income households)
   - Number of individuals 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):
   - 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):
   - 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):
   - Number of FTEs rehired by governments under this authority

6. Education Assistance (EC 3.1-3.5):
   - 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.[17]

[17] For more information on NCES identification numbers see https://nces.ed.gov/ccd/districtsearch/ (districts) and https://nces.ed.gov/ccd/schoolsearch/ (schools).

7. Premium Pay (both Public Sector EC 4.1 and Private Sector EC 4.2):
   - 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[18] 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):
   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 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.

h. 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:

[18] *County* means a county, parish, or other equivalent county division (as defined by the Census Bureau). See 31 CFR 35.3.

1. All infrastructure projects (EC 5):
   - 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:
     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.[19]

        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:
        - 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; and
        - 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.

[19] 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.

2. Water and sewer projects (EC 5.1-5.15):
   - 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):
   - Speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering
   - Technology to be deployed
   - Miles of fiber
   - Cost per mile
   - Cost per passing
   - Number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload
     - Number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download
     - Number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
   - Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization
     - Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and
     - Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload

i. Distributions to NEUs - States and territories only (EC 7.4): Information on SLFRF distributions to eligible NEUs. Each State and territory will be asked to provide an update on distributions to individual NEUs, including whether the NEU 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. 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 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 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)

For each eligible NEU that declined funding and requested a transfer to the State under Section 603(c)(4), the State 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.

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.

j. NEU Documentation (NEUs only): Each NEU will also be asked to provide the following information with their first report submitted by October 31, 2021:
   - 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

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. 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 the 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 defined 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[20] 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.[21]

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 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).[22] 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.[23]

Appendix 2 contains additional information on evidence-based interventions for the purposes of the Recovery Plan.

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[20] As noted in Appendix 2, evidence-based refers to interventions with strong or moderate levels of evidence.

[21] 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.

[22] For more information on the required standards for program evaluation, see OMB M-20-12.

[23] For more information on learning agendas, please see OMB M-19-23

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 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[24] 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

[24] 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.

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[25]

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 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 31 CFR 35.8, as detailed below. As indicated in the Interim Final Rule, Treasury is seeking comment on reporting requirements related to the Tax Offset Provision, including ways to better rely on information already produced by States and territories and to minimize burden.

The terms "reporting year," "baseline," "covered change," "net reduction in total spending," and "tax revenue" are defined in the Interim Final Rule, 31 CFR 35.3. For purposes of calculating a net reduction in total spending, total spending for the fiscal year ending 2019 should be reported on an inflation-adjusted basis, consistent with the Interim Final Rule, 31 CFR 35.3. Similarly, for purposes of calculating baseline, tax revenue for the fiscal year 2019 should be reported on an inflation-adjusted basis, consistent with the Interim Final Rule, 31 CFR 35.3.

For purposes of reporting actual tax revenue and calculating tax revenue for the fiscal year ending 2019,[26] (a) if available, recipients should report information using audited financials and (b) recipients may provide data on a cash, accrual, or modified accrual basis, but must be consistent in their approach across all reporting periods. Similarly, for purposes of calculating

[25] 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.
[26] Tax revenue for fiscal year ending 2019 is relevant for calculating the recipient's baseline.

a net reduction in total spending, recipients should report data using audited financials where available.

a. Revenue-reducing Covered Changes:
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.

b. Baseline Revenue:
Baseline has the meaning defined in the Interim Final Rule, 31 CFR 35.3.

Whether the revenue-reducing covered changes are in excess of the *de minimis*.
Recipients must determine whether the aggregate value of the revenue-reducing covered changes in the reporting year is less than one percent of baseline revenue.

c. Actual Tax Revenue:
Actual tax revenue means the actual tax revenue received by the recipient government in the reporting year. Tax revenue has the meaning defined in the Interim Final Rule, 31 CFR 35.3.

d. Reduction in Net Tax Revenue:
The reduction in net tax revenue is equal to baseline revenue minus actual tax revenue in each reporting year. If this value is zero or negative, there is no reduction in net tax revenue.

e. Any revenue-increasing covered changes:
A recipient must report the value of covered changes that have had or that the recipient predicts will have the effect of increasing tax revenue in a given reporting year (revenue-increasing 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'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, reporting should be produced by the agency of the recipient responsible for estimating the costs and effects of fiscal policy changes.

Recipients should maintain records regarding revenue-reducing covered changes and estimates of such changes.

f. Net reduction in total spending, and tables of specific spending cuts:
Recipients must report on spending cuts. To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). As in the Interim Final Rule, 35 CFR 35.3, net reduction in total spending is measured as the recipient government's total spending for a given reporting year excluding Fiscal Recovery 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. If that subtraction yields a positive value, there has been a net reduction; if it yields zero or a negative value, there has not been a net reduction. If there has been no net reduction in total spending, a recipient will have no spending cuts to offset a reduction in net tax revenue.

Next, a recipient must determine and aggregate the value of spending cuts in each "reporting unit," as defined below. For each reporting unit, the recipient must report (1) the amount of the reduction in spending in the reporting unit relative to its inflation-adjusted FY 2019 level, (2) the amount of any Fiscal Recovery Funds spent in the reporting unit, and (3) the amount by which the reduction in spending exceeds the Fiscal Recovery funds spent in the reporting unit. If a recipient has not spent amounts received from the Fiscal Recovery Funds in a reporting unit, the full amount of the reduction in spending counts as a covered spending cut and may be included in aggregate spending cuts. If the recipient has spent amounts received from the Fiscal Recovery Funds, such amounts 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 reporting unit would be eligible to offset a reduction in net tax revenue. Only such amounts above the amount of Fiscal Recovery Funds spent on the reporting unit should be included in the aggregate of spending cuts.

To align with existing reporting and accounting, the Interim Final Rule considers the department, agency, or authority from which spending has been cut and whether the recipient government has spent amounts received from the Fiscal Recovery Funds on that same department, agency, or authority. Recipients may also choose to report at a more granular sub-department level. Recipients are encouraged to define and report spending in departments, sub-departments (e.g., bureaus), agencies, or authorities (each a "reporting unit") in a manner consistent with their existing budget process and should, to the extent possible, report using the same reporting unit in each reporting year. For example, if a State health department maintains separate budgets for different units (e.g., medical and public health units), those units may be reported and considered separately. Spending cuts must be reported relative to FY 2019 spending levels, adjusted for inflation, and excluding Fiscal Recovery Funds from reporting year spending levels.

Recipients should maintain records regarding spending cuts. As discussed in the Interim Final Rule, in order to help ensure 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. Evasions of the Tax Offset Provision may be subject to recoupment.

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[27]	
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)

[27] 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 the evidence base that 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.

THE DEPARTMENT OF THE TREASURY
1789

ATTACHMENT D

SCOPE OF WORK

The Board of Commissioners is directing to provide the Recipient a total sum not to exceed $250,000 which may be used by the Recipient to complete the purchase and renovation of the New Facility.

Expenses under this grant must meet the eligibility criteria outlined below:

1. Eligible Costs

Funds are to be used for the purchase and renovation costs of the New Facility to be incurred from March 3, 2021 thru December 31, 2024.

These costs may include:

- The purchase price and closing costs of the New Facility pursuant to the Commercial & Investment Real Estate Purchase & Sale Agreement dated July 30, 2021 between the Recipient and Holdings LLC Marquis.

- Costs of renovating the New Facility necessary to make it suitable to function as a food bank, including costs incurred to:
    - Add a 2nd exit/entry to the New Building as required by code;
    - Removal of a vault and refinishing of the affected space;
    - Remodel the bathroom;
    - Acquire and install additional cold storage refrigerators, walk-in freezer, and food storage shelving needed; and
    - Make necessary changes to electrical wiring, plumbing, lighting, dry wall finishing, or other such renovation costs necessary to meet the operating needs of the Recipient's food bank.

2. Program Funding and Award Amount

Funds necessary to fund the purchase of the New Facility will be provided to the closing agent designated in the New Facility purchase and sale agreement dated July 30, 2021 upon receipt by the County of a final settlement statement from the closing agent and receipt of proof of satisfaction of all other terms and conditions and inspections required for the closing of the purchase to proceed. Following closing of the purchase of the New Facility, the County shall be provided a copy of final closing documents.

Any remaining ARPA Funds will be provided to the Recipient on a reimbursement basis to be used for eligible costs incurred relating to renovation and equipment costs incurred by the

Recipient for the New Facility as outlined above. All funds are to be expended no later than December 31, 2024.

3. Reimbursement Process:

As outlined above, the funding for the purchase of the New Facility will provided to the closing agent designated in the New Facility purchase and sale agreement dated July 30, 2021 upon receipt by the County of a final settlement statement from the closing agent and receipt of proof of satisfaction of all other terms and conditions and inspections required for the closing of the purchase to proceed.

All remaining funding will be provided via reimbursement to the Recipient upon its submission to the County of expenditure details, invoices, and other supporting materials supporting its use in eligible activities. The Recipient may only submit one request for Reimbursement per month, with such request to be received no later than the 10th day of each month.

This shall ensure the eligibility of the expenditures consistent with the application requirements prior to payment.

2e
9/7/21

AGENDA ITEM SUMMARY

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

Department: Parks, Fair & Facilities

WORK SESSION ☐ **Meeting Date:**

REGULAR AGENDA ☒ **Meeting Date:** **09.07.2021**

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

Item summary:

☐ Call for Hearing

☒ Contract/Agreement/MOU - Contract # 301-21-004

☐ Resolution

☐ Proclamation

☐ Budget Item

☐ Draft Ordinance

☐ Final Ordinance

☐ Bid Opening

Documents exempt from public disclosure attached: ☐

Executive summary:

Contract approval for the Courthouse VAV Replacement Project.

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, there is a budgetary impact. This project was approved by the BOCC in the 2021 REET Project Fund and the funding is available.

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

I recommend the Board approve the attached Agreement with Aldergrove Construction, Inc. and authorize the Chair to sign.

County Official signature & print name: _____ Joel G. Winborn

Name of Employee/Stakeholder attending meeting: Joel G. Winborn (via Zoom)

Relevant Departments: HR/Parks, Fair & Facilities

Date submitted: 09.01.2021

BID, RFP, OR QUOTE CONFIRMATION

****FORMAL BID OR RFP** ☒ **INFORMAL QUOTE** ☐

Opening or Solicitation Date: 08.31.2021

Department: Parks, Fair & Facilities

Description of Purchase, Project, or Proposal: (Contract #301-21-003)

Contract approval for the Courthouse VAV Replacement Project.

Bidder 1: Aldergrove Construction, Inc.
Total Price*: **$335,065.00** **Meets All Bid Requirements?** Yes
Comments: Low Bidder

Bidder 2:
Total Price*: **Meets All Bid Requirements?**
Comments:

Bidder 3:
Total Price*: **Meets All Bid Requirements?**
Comments:

Bidder 4:
Total Price*: **Meets All Bid Requirements?**
Comments:

Bidder 5:
Total Price*: **Meets All Bid Requirements?**
Comments:

Recommended Action and Reason: I recommend the Board approve the attached Agreement with Aldergrove Construction, Inc. and authorize the Chair to sign.

County Official Signature: _____

Date Submitted: 09.01.2021

* Including Tax, Shipping, etc. If county is including alternatives or options, price for each bidder should include the same alternatives or options.

** See Purchasing and Contracting Policy 560 for detailed requirements

FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

Project Name: Clallam County Courthouse VAV Replacement Project
Project Number(s): #2009FAC

This agreement is entered into between Clallam County, a political subdivision of the State of Washington, hereafter called "County" and **Aldergrove Construction, Inc. 336 Benson Road Port Angeles, WA 98363**, hereinafter called "Contractor". The Owner and Contractor agree as set forth below:

1. This Agreement is comprised of the Bidding Documents, Contract Documents, the Agreement, Plans and Specifications as described in the Contract Documents, Addenda issued prior to execution of this Agreement and modifications issued after execution of this Agreement.

2. The Contractor shall execute the entire work described in the Bidding and Contract Documents.

3. The date of commencement is the date the Contractor receives a signed copy of this Agreement by the Board of Commissioners which shall be considered the notice to proceed.

4. **The Contractor shall achieve Substantial Completion of the entire work no later than 110 Calendar Days from Contract Approval subject to adjustments provided for in the Contract Documents. All work shall meet Final Completion no later than 120 Calendar Days from Contract Approval.**

5. The Owner shall pay the Contractor in current funds for Contractor's performance of the Contract the Contract Sum of **Three Hundred Thirty Five Thousand Sixty Five Dollars and No Cents ($335,065.00),** subject to additions and deductions as provided in the Contract Documents.

6. The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:
   Alternates/Unit Pricing:

   Alternate #1: NA

   Unit Price #1: NA

7. Progress Payments

   a. The Owner shall make progress payments to the Contractor on account of the Contract Sum as provided for below and elsewhere in the Contract Documents.
   b. The Contractor shall submit Application for Payment on AIA Document G702 forms not more than once per month or Contractor's own form with same information found on G702 Forms.
   c. The Contractor shall submit Application for Payment prior to the last day of each calendar month to the Owner or Owner's Representative Engineer.
   d. The Owner shall make progress payments within 15 calendar days of receipt of Application for Payment and certification that work has progressed satisfactorily.
   e. Each Application for Payment shall be based upon the schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Owner or Owner's Engineer may require. This schedule, unless objected to by the Owner or Owner's Engineer, shall be used as a basis for reviewing the Contractor's Applications for payment.
   f. Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
   g. Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- ❑ Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less Retainage of five percent. Pending final determination of cost to the Owner of changes in the Work, amounts not in the dispute may be included as provided in the General Conditions even though the Contract Sum has not yet been adjusted by Change Order.
- ❑ Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction less Retainage of five percent.
- ❑ Subtract the aggregate of previous payments made by the Owner; and
- ❑ Subtract amounts, if any, for which the Owner or Engineer has withheld or nullified a Certificate of Payment as provided in the General Conditions.

8. Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct non-conforming Work as provided in the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a Final Certificate for Payment has been issued by the Owner or Owner's Representative Engineer; such final payment shall be made by the Owner not more than 30 days after the issuance of the Owner or Owner's Representative Engineer's final Certificate for Payment, punch list is completed and all close-out paperwork and documents have been submitted to the Owner including Department of Revenue clearance.

9. Other documents, if any, forming part of the Contract Documents are as follows:

   A. UBI Certification # 601-666-935 (copy to be attached to Agreement)

IN WITNESS WHEREOF, the Parties have executed this Agreement on this ____ day of _____, 2021.

CONTRACTOR: Name Alderbrook Construction, Inc
Walter L. Dalrymple
(By)

President
(Its)

Date: 9/1/21, 2021

OWNER:
Clallam County Commissioners

Mark Ozias, Chair

Attest:

Loni Gores, Clerk of the Board

This Contract has been Approved As To Form by the Clallam County Prosecuting Attorney

END OF SECTION 00500

39

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda) 9/7/21

Department: Parks, Fair & Facilities

WORK SESSION ☐ **Meeting Date:**

REGULAR AGENDA ☒ **Meeting Date: 09.07.2021**

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

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract # **301 21003**
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Bid Opening

Documents exempt from public disclosure attached: ☐

Executive summary:
Public Bid Opening for Carpet Replacement in Superior Court II Courtroom and Hallway.

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. Funding for this project is approved in the 2021 REET I Projects fund.

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

I recommend the Board refer the Bid(s) to the Parks, Fair & Facilities Department Director for evaluation and recommendation.

County Official signature & print name: _____ Joel G. Winborn

Name of Employee/Stakeholder attending meeting: Joel G. Winborn (via ZOOM)

Relevant Departments: Superior Court II/Parks, Fair & Facilities

Date submitted: 07.23.2021

CLALLAM COUNTY PARKS, FAIR & FACILITIES DEPARTMENT

NOTICE OF CALL FOR BIDS

SEALED BIDS will be received by the Board of Clallam County Commissioners 223 East Fourth Street, Room 150, Port Angeles, Washington until **10:00 a.m. on Tuesday, September 7, 2021** for:

CARPET REPLACMENT
-SUPERIOR COURT II COURTROOM & HALLWAY-

Complete drawings and specifications may be obtained from Pen Print, Inc., Phone 360.457.3404. All bidding and related questions should be directed to **Joel G. Winborn at (360) 417.2429 or Email at jwinborn@co.clallam.wa.us (preferred).**

The sealed bids must be clearly marked on the outside of the envelope, "**BID PROPOSAL – CARPET REPLACEMENT – SUPERIOR COURT II COURTROOM & HALLWAY".** Address bid proposal to: Board of Clallam County Commissioners, 223 East 4th Street, Suite 4, Port Angeles, Washington 98362 or hand-deliver to 223 East 4th Street, Room 150, Port Angeles, Washington. Bid documents received late by the Commissioners' Office, delivered to other offices, received by fax or email or by any other means will not be considered. **Late bids will be returned unopened.** Note: All Bids shall include a 5% Bid Bond on a form approved by Clallam County.

Clallam County hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined in Title VI of the Civil Rights Act of 1964 at 49 CFR Part 23 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

Clallam County will determine the lowest responsible bidder in accordance with the terms of Clallam County Code Section 3.12.070 and reserves the right to reject any or all bids and to waive minor informalities in the process or to accept the bid, which in its estimation best serves the interests of Clallam County.

Bidders on Washington State Dept. of Labor & Industries or federal debarment list are prohibited from bidding on this project.

Construction Timeframe: November 9th-30th, 2021

There will be an on-site walk-through conducted Tuesday, August 31, 2021 at 2:00 PM. All interested bidders are to meet at the site, located at 223 East 4th Street, Port Angeles, WA, on the second floor of the courthouse in the Lobby near the elevator. This will be the only opportunity for bidders to review the as-built conditions. The facility will be occupied and operational during the site Pre-Bid meeting. Bring any tools, equipment, etc., needed for personal documentation. Owner's Representative will be on site to answer questions and provide access for bidders.

APPROVED this _____ day of _____2021.

BOARD OF CLALLAM COUNTY COMMISSIONERS:

_____
Mark Ozias, Chair

ATTEST:

_____
Loni Gores, Clerk of the Board

Publish: **August 22 & 29, 2021** (PDN)
END OF SECTION 00100

Bill: Parks, Fair + Facilities

49

9/7/21

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 08-30-21**

REGULAR AGENDA ☒ **Meeting Date: 09-07-21**

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:
Vacancies exist on the Fair Advisory Board due to the expiration of terms. A notice of the vacancies was issued to the press in May 2020 to solicit applications. Two applications were received.

The Director of Parks, Fair and Facilities and Fair Manager endorses the appointments of Julie Mowbray and Tara West.

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

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve and sign resolution appointing Julie Mowbray and Tara West to the Fair Advisory Board.

County Official signature & print name: Morgann Halencak, Deputy Clerk

Name of Employee/Stakeholder attending meeting: Joel Winborn/Shari Ioffrida

Relevant Departments: Parks, Fair & Facilities/BOCC

Date submitted: 08-23-21

RESOLUTION _____, 2021

APPOINTING MEMBERS TO THE FAIR ADVISORY BOARD

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. Vacancies exist on the Clallam County Fair Advisory Board due to the expiration of terms.

2. A press release was issued during the month of May 2021 soliciting applications from interested citizens. Two applications were received.

3. The Director of Parks, Fair and Facilities supports the appointments of Julie Mowbray and Tara West to the Fair Advisory Board.

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

1. **Julie Mowbray** is appointed as the Livestock representative for a term ending January 1, 2025.

2. **Tara West** is appointed as the Small Animals representative for a term ending January 1, 2026.

PASSED AND ADOPTED this seventh day of September 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

ATTEST:

_____
Loni Gores, Clerk of the Board

_____
Bill Peach

c: A22.159
Parks, Fair, and Facilities
Appointee(s)

DRAFT

46

9/7/21

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 08-30-21**

REGULAR AGENDA ☒ **Meeting Date: 09-07-21**

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:
A vacancy exists on the Conservation Futures Program Advisory Board due to a resignation.

Clallam Conservation District notified staff that their representative will be Kimberly Williams.

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

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve and sign resolution appointing Kimberly Williams to the Conservation futures Program Advisory Board.

County Official signature & print name: Morgann Halencak, Deputy Clerk

Name of Employee/Stakeholder attending meeting: BOCC

Relevant Departments: BOCC

Date submitted: 08-23-21

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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

RESOLUTION _____, 2021

APPOINTING A MEMBER TO THE
CONSERVATION FUTURES PROGRAM ADVISORY BOARD

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. A vacancy exists on the Conservation Futures Program Advisory Board due to a resignation.

2. Clallam Conservation District notified staff that their representative will be Kimberly Williams.

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

1. **Kimberly Williams** is appointed to serve as the Clallam Conservation District (ex-officio) representative for a standing term.

PASSED AND ADOPTED this seventh day of September 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

_____
Bill Peach

ATTEST:

_____
Loni Gores, Clerk of the Board

cc: A22.33
Appointee (s)
BOCC

DRAFT

4C
9/7/21

AGENDA ITEM SUMMARY

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

Department: BOCC

Document was submitted after the agenda and packet were posted on 9/6/21 Item 4C LG

WORK SESSION ☐ **Meeting Date:**

REGULAR AGENDA ☒ **Meeting Date: 9-7-21**

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:

On September 2, 2021, Clallam County Health Officer Dr. Allison Berry issued an order that effective September 4, 2021 and continuing until Governor has declared the public emergency related to COVID-19 has ended or until this order is revoked earlier, all persons entering bars and restaurants in Clallam County must provide proof that they are fully vaccinated against COVID-19, with the exception of the scenarios listed in Dr. Allison Berry's order issued on September 2, 2021.

On September 3, 2021, an estimate of 200-300 individuals who were not wearing masks entered the Courthouse and stated that they wished to make public comment at the 10:00 am EOC briefing. This briefing does not have a public comment period and individuals were notified that a public comment period would be available on September 7, 2021 at the Regular Meeting of the Clallam County Board of Commissioners.

Due to concerns for public health and safety within the Courthouse the Board of Commissioners issued press release on September 3, 2021 to modify their Regular Meeting public comment guidelines for their September 7, 2021 meeting held at 10:00 a.m. in the Board of Commissioners board room.

Due to the expected number of attendees at the meeting on September 7, 2021, the County Administrator made the following modifications to operations at the Clallam County Courthouse:

a. There will be no entry or exit through the main Courthouse entrance from 8:00 a.m. to 1:00 pm.
b. Clallam County Superior Court and District Court I will continue operations as usual. Individuals wishing to attend Court proceedings should enter the Courthouse through the east entrance, known as the Sheriff's Entrance.

c. Individuals wishing to attend the Board of Commissioners Work Session or Regular Meeting should enter through the Board of Commissioners board room doors on the south side of the building. Plans will be in place for those wishing to speak to be allowed into the meeting room through the exterior doors on the south side. There will also be audio speakers outside so all can hear the proceedings of the meeting. Masking and capacity requirements will be enforced for all meetings held in the board room.
d. No other County Departments or Divisions located in the Courthouse shall be open for in-person business between 8:00 a.m. and 1:00 p.m. on September 7, 2021.

The Board of Commissioners concurs with the County Administrator that the modified Courthouse operations will help ensure the safety of Clallam County Citizens and County Staff due to the rising numbers of COVID-19 cases Clallam County.

Approval of a Resolution – Declaration of emergency for COVID-19 virus event in Clallam County – Modified Courthouse Operations.

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

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approval of a Resolution – Declaration of emergency for COVID-19 virus event in Clallam County – Modified Courthouse Operations.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners, County Administrator Sill, Deputy County Administrator Reyes, Chief Civil Prosecuting Attorney Stanley

Relevant Departments: Board of Commissioners, County, Administrator Sill, Deputy County Administrator Reyes, Chief Civil Prosecuting Attorney Stanley

Date submitted: September 6, 2021

RESOLUTION _____, 2021

DECLARATION OF EMERGENCY
FOR COVID 19 VIRUS EVENT IN CLALLAM COUNTY
MODIFIED COURTHOUSE OPERATIONS

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. On February 29, 2020, Governor Jay Inslee issued Proclamation 20.05, which declared a State of Emergency in all Counties of Washington State due to the public health emergency caused by the COVID-19 virus.

2. On March 22, 2020, the Word Health Organization declared the outbreak of COVID-19 to be a pandemic.

3. On March 17, 2020 under Resolution 37 the Clallam County Board of Commissioners approved a Declaration of Emergency due to the COVID-19 pandemic. Resolution 37 was revised on June 23, 2020 under Resolution 52.

4. On March 23, 2020, Governor Jay Inslee signed Proclamation 20.25, declaring that a State of emergency continues to exist in all Counties in Washington State due to COVID-19. Proclamation 20.25 has been amended several times, most recently on August 20, 2021. Proclamation 20.25, et seq. limits Washingtonians' ability to participate in certain activities unless certain conditions are met.

5. As a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, Governor Jay Inslee subsequently issued amendatory proclamations exercising his emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations.

6. The Clallam County Public Health Department has confirmed localized person-to-person spread of COVID-19 in Clallam County. Given the current understanding about how COVID-19 spreads, including by asymptomatic and pre-symptomatic persons, masks are an essential defense to the spread of COVID-19.

7. Viruses constantly change through mutation, and new variants of a virus are expected to occur over time. Multiple variants of the virus that causes COVID-19 have been documented on the Olympic Peninsula, in the United States, and globally during this pandemic.

8. COVID-19 vaccines are effective in reducing infection and serious disease. Widespread vaccination is the primary means we have as a state to protect everyone, including persons who cannot be vaccinated for medical reasons, youth who are not eligible to receive a vaccine, immunocompromised individuals, and vulnerable persons including persons in health care facilities, long-term care facilities and other congregate care facilities from COVID-19 infections.

9. After months of improving COVID-19 epidemiological conditions in Washington State, the emergence of highly contagious COVID-19 variants, including the "delta variant" that is at least twice as transmissible as the virus that emerged in late 2019, coupled with the continued significant numbers of unvaccinated people, have caused COVID-19 cases and hospitalizations to rise sharply among unvaccinated populations and have resulted in breakthrough infections in some fully vaccinated individuals.

10. On August 12, 2021, Health Officers from all 35 local health jurisdictions in the State of Washington released the following recommendation: "The health officers from all 35 local health jurisdictions in Washington State have joined together to pass on their best public health advice to protect you, your family, and our communities. We recommend all residents wear facial coverings when in indoor public settings where the vaccination status of those around you is unknown. This step will help reduce the risk of COVID-19 to the public, including customers and works, help stem the increase in COVID-19 cases and hospitalizations in many parts of the state and decrease the spread of the highly contagious Delta variant."

11. On August 13, 2021, Clallam County Health Officer Dr. Allison Berry issued an emergency order requiring masking when in indoor public spaces, offices, and businesses in Clallam County.

12. On August 20, 2021 Governor Inslee issued a mask mandate for the State of Washington requiring masking in indoor public spaces, allowing an exemption to remove one's mask when eating and drinking or when actively participating in athletics.

13. As of August 21, 2021, 495 outbreaks of COVID-19 have been traced to restaurants and bars in Washington State. Localized transmission of COVID-19 and outbreaks related to restaurants and bars have been documented in Clallam County. Indoor bars and restaurants are known to pose a high risk for COVID-19 transmission as they encourage unmasking of large groups of people indoors.

14. Despite the declaration of emergency and best public health efforts, Clallam County has continued to experience rising rates of COVID-19 transmission and numerous outbreaks (Defined as multiple positive tests for COVID-19 from a single location or event).

15. On September 2, 2021, Clallam County Health Officer Dr. Allison Berry issued an order that effective September 4, 2021 and continuing until Governor has declared the public emergency related to COVID-19 has ended or until this order is revoked earlier, all persons entering bars and restaurants in Clallam County must provide proof that they are fully vaccinated against COVID-19, with the exception of the scenarios listed in Dr. Allison Berry's order issued on September 2, 2021.

16. On September 3, 2021, an estimate of 200-300 individuals who were not wearing masks entered the Courthouse and stated that they wished to make public comment at the 10:00 am EOC briefing. This briefing does not have a public comment period and individuals were notified that a public comment period would be available on September 7, 2021 at the Regular Meeting of the Clallam County Board of Commissioners.

17. Due to concerns for public health and safety within the Courthouse the Board of Commissioners issued press release on September 3, 2021 to modify their Regular Meeting public comment guidelines for their September 7, 2021 meeting held at 10:00 a.m. in the Board of Commissioners board room.

18. Due to the expected number of attendees at the meeting on September 7, 2021, the County Administrator made the following modifications to operations at the Clallam County Courthouse:

    a. There will be no entry or exit through the main Courthouse entrance from 8:00 a.m. to 1:00 pm.
    b. Clallam County Superior Court and District Court I will continue operations as usual. Individuals wishing to attend Court proceedings should enter the Courthouse through the east entrance, known as the Sheriff's Entrance.
    c. Individuals wishing to attend the Board of Commissioners Work Session or Regular Meeting should enter through the Board of Commissioners board room doors on the south side of the building. Plans will be in place for those wishing to speak to be allowed into the meeting room through the exterior doors on the south side. There will also be

audio speakers outside so all can hear the proceedings of the meeting. Masking and capacity requirements will be enforced for all meetings held in the board room.

d. No other County Departments or Divisions located in the Courthouse shall be open for in-person business between 8:00 a.m. and 1:00 p.m. on September 7, 2021.

19. The Board of Commissioners concurs with the County Administrator that the modified Courthouse operations will help ensure the safety of Clallam County Citizens and County Staff due to the rising numbers of COVID-19 cases Clallam County.

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

1. Per County policy inclement weather conditions or other unusual situations may from time to time necessitate the closure of the courthouse or other County Facilities to the public. Closure of facilities shall be at the discretion of the Administrator after consultation with available Board Members. The County Administrator determined that the health and safety risks could be managed by modified operations in the Courthouse and full closure of the Courthouse was not required. The Board supports the modifications made to operations put in place by the Administrator.

2. Courthouse operations will be modified on September 7, 2021 from 8:00 a.m. to 1:00 p.m., but shall return to full operation promptly at 1:00 p.m. Limited Courthouse business to citizens will be available during this time.

3. The Board of Commissioners concurs with the County Administrator that the modified Courthouse operations will help ensure the safety of Clallam County Citizens and County Staff due to the rising numbers of COVID-19 cases Clallam County.

PASSED AND ADOPTED this sixth day of September 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, District 1

_____
Randy Johnson, District 2

_____
Bill Peach, District 3

ATTEST:

_____
Loni Gores, CMC, Clerk of the Board

DRAFT

6a

9/7/21

AGENDA ITEM SUMMARY

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

Department: DCD

WORK SESSION ☒ **Meeting Date:** **8-30-2021**

REGULAR AGENDA ☒ **Meeting Date:** **9-07-2021**

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: Clallam County is under a settlement agreement with the WA State Department of Ecology to adopt a Stormwater Ordinance by October 9, 2021. The Planning Commission completed their review on August 18, 2021 with a recommended approval of 7-0 to forward the Clallam County Stormwater Ordinance to the Board of County Commissioners, which is reflected by the PC Transmittal.

DCD has also attached the Small Project Drainage Manual dated August 13, 2021, the Residential Driveway BMP packet, the Construction BMP packet, draft Drainage Application, and the residential development flow chart for development outside of the Port Angeles UGA, which are reference documents that help implement the ordinance, but will not be adopted.

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

Recommended action: The BOCC should schedule a Hearing for September 21, 2021 for the adoption of the Clallam County Stormwater Ordinance.

County Official signature & print name: MaryEllen Winborn

Name of Employee/Stakeholder attending meeting: Greg Ballard, Senior Planner

Relevant Departments: Clallam County DCD

Date submitted: August 25, 2021

PUBLIC HEARING

Proposed Clallam County Stormwater Management Ordinance

NOTICE IS HEREBY GIVEN that the Clallam County Board of Commissioners (BOCC) will conduct a public hearing on Tuesday, September 21, 2021 at 10:30 a.m., or as soon thereafter as possible in the Commissioners' Meeting Room of the Clallam County Courthouse, 223 East 4th Street, Room 160, Port Angeles, Washington. The hearing may also be attended by Zoom by going to https://zoom.us/join or by calling 253-215-8782 and then enter Meeting ID: 875 561 7844 Passcode: 12345.

SUMMARY OF PROPOSAL: The purpose of the public hearing is to consider adopting Chapter 27.14 - Stormwater Management Ordinance for unincorporated portion of Clallam County. Within the Port Angeles Urban Growth Areas (PAUGA), the county will adopt the 2019 Stormwater Management Manual for Western Washington (2019 SMMWW) without modifications. Outside of the PAUGA the county was authorized to modify the 2019 SMMWW thresholds. This process also included developing a Small Project Drainage Manual for simple projects located outside of the PAUGA, along with forms, and BMP packets for the implementation of this ordinance.

HOW TO COMMENT: All persons wishing to comment are welcome to either submit their written comments before the hearing is commenced or present written and/oral comments in person during the hearing. Written comments should be sent to the BOCC, 223 East 4th Street, Suite 4, Port Angeles, WA 98362-3015.

DOCUMENTS AND INFORMATION: Copy of the Stormwater Management Ordinance is available for review at the Clallam County Department of Community Development located in the Clallam County Courthouse at 223 E. 4th Street, Port Angeles, WA 98362, http://www.Clallam.net/bocc/public_meetings.html, or www.clallam.net/Permits at DCD On-Line Permit System under ECL2021-00008.

In compliance with the Americans with Disabilities Act (ADA), appropriate aids and/or reasonable accommodations will be made available upon request. Requests must be received at least seven (7) days prior to the hearing – see "Proponent" below. The facility is considered "barrier free" and accessible to those with physical disabilities.

Publish: September 12 and 19

Bill: Dept. of Community Development

Loni Gores, Clerk of the Board

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LETTER OF TRANSMITTAL

To: Clallam County Board of Commissioners

From: Clallam County Planning Commission

Subject: Transmittal to BOCC: Findings and Conclusions regarding an the adoption of the Clallam County Stormwater Ordinance dated August 18, 2021

Dear Commissioners:

The Clallam County Planning Commission has completed its review and public hearing process regarding the adoption of the Clallam County Stormwater Ordinance. The Planning Commission completed its review and approved its final recommendations to forward to the BOCC at its meeting on August 18, 2021. As Vice Chairman of the Clallam County Planning Commission, having first received the authorization of the Commission, I am transmitting the following findings and recommendations of the Commission on this proposed Stormwater Ordinance:

FINDINGS OF FACT:

1. On July 1, 2019 the Washington State Department of Ecology (Ecology) re-issued an order that the City of Port Angeles Urban Growth Area (PAUGA) would be subject to Western Washington Phase II Municipal Stormwater General Permit. Clallam County appealed this order. A Settlement Agreement was signed by both parties.

2. The Settlement Agreement between Ecology and Clallam County went into effect on April 9, 2020. This settlement agreement provided Clallam County 18 months to adopt a Stormwater Ordinance for the unincorporated portions of Clallam County or it would be subject to a Western Washington Phase II Municipal Stormwater General Permit. The settlement agreement also required that the 2019 Stormwater Management Manual of Western Washington be utilized except from modified threshold for residential development outside of the PAUGA that could utilize a Small Project Drainage Manual (SPDM) once developed. The Settlement Agreement also included re-establishment of a Stormwater Workgroup and other requirements.

3. Ecology provided a grant to Clallam County for the development of the Stormwater Ordinance and to meet the other requirements of the Settlement Agreement. Clallam County Department of Community Development (DCD) took the lead in preparing the Stormwater Ordinance and other requirements. DCD selected AHBL Consulting to assist the county in these endeavors.

4. In early 2010, the County created by invitation a Stormwater Workgroup of 25-30 people to provide recommendations to the Board of County Commissioners (BOCC). The 2010 Stormwater Workgroup began a series of meetings in April 2010, meeting eleven times over the course of 2010-2011.

   The 2010 Stormwater Workgroup considered technical and policy options for each of the topics discussed in this plan, as put forth by the consultant team based on County priorities, background resources, and expert knowledge.

   The 2010 Stormwater Workgroup then made recommendations for each topic (public education and involvement, development and redevelopment requirements, illicit discharges and source

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control, pollution prevention measures within County operations, long-term compliance, sub-basin assessments, stormwater monitoring and analysis, and funding the stormwater program). These recommendations from the 2010 Workgroup were presented to the BOCC in 2014, but were never adopted because of staffing and other issues.

The County has used the recommendations from the 2010 Stormwater Workgroup as the basis for its current stormwater strategy, which included the preparation of the Clallam County Stormwater Ordinance, the development of the Small Project Drainage Manual (SPDM) for simple residential projects outside of the Port Angeles Urban Growth Area, and the preparation of BMP packets for drainage permits, residential driveways, and Construction Stormwater Pollution Prevention Plans (SWPPP).

5. The previous members of the 2010 Stormwater Workgroup were asked to join a new 2020 Stormwater Workgroup. The new 2020 Stormwater Workgroup was formed that included the following participants: DCD, AHBL, Ecology, City of Port Angeles, City of Sequim, Jamestown Tribe, Elwha Tribe, and a local stormwater installer. DCD provided the Stormwater Workgroup a copy of the proposed Stormwater Ordinances and the SPDM. This group met March 25, 2021 and May 21, 2021, and was provided a copy of the June 21, 2021 and the August 11, 2021 Stormwater Ordinances for comment. Most of the proposed modifications from the Stormwater Workgroup to the Stormwater Ordinances and SPDM were incorporated into these documents.

6. The following is a summary of the stormwater activities that were presented to the Planning Commission in 2020 and 2021. These public workshops were open to the public and the information presented was available on the Clallam County and DCD websites.

06-17-20 Settlement Agreement and background on the 2019 SMMWW
08-15-20 Exemptions and Minimum Thresholds
09-02-20 Presentation, and other jurisdiction stormwater Ordinances
11-18-20 AHBL Presentation on Stormwater & Small Project Drainage Manual
12-16-20 DCD provided the 1st draft of the Stormwater Ordinance (SO) dated 11-10-20
02-17-21 Stormwater Schedule
05-19-21 DCD provided 2nd draft of Stormwater Ordinance dated 4/23/21
07/07/21 3rd Draft of SO dated 6/21/21, SPDM, Construction & Residential Driveway BMP's
08/04/21 DCD provided 4th draft of Stormwater Ordinance dated 7/23/21

7. A Stormwater presentation was provided to the Dungeness River Management Group on May 12, 2021.

8. There was a Stormwater Workshop held before the Clallam County Board of County Commissioners on May 28, 2021.

9. DCD issued a SEPA Threshold Determination of a Determination of Non-Significance on July 21, 2021. The comment period on the DNS ended on August 4, 2021. This DNS was routed to: WA State Department of Commerce, DNR, Ecology, Fish & Wildlife, DAHP, & Transportation; City of Port Angeles, Sequim & Forks; and the Jamestown, Elwha, Makah, & Quillayute Tribes. The only comment received on the Threshold Determination was from the Ecology representative on the 2020 Stormwater Workgroup.

10. The DNS and description of the Stormwater Ordinance was published on the following days: Port Angeles Peninsula Dailey News Paper on Sunday July 25. 2021 and Sunday August 1, 2021; Sequim Gazette weekly publication on Wednesday July 28, 2021 and Wednesday August 4, 2021; Forks Forum weekly publication on Thursday July 29, 2021 and Thursday August 5, 2021. No comments were received from the public as of August 18, 2021.

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11. The Planning Commission held a Public Hearing on August 18, 2021 regarding the adoption of a Stormwater Ordinance dated August 11, 2021.

12. The final draft of the Clallam County Stormwater Ordinance dated August 11, 2021 was presented at the August 18, 2021 Planning Commission Public Hearing. Minor modifications of the Stormwater Ordinance were made at the hearing.

    A vote was held; and in a 7 in favor,0 opposed, and 1 absent the proposed adoption of the Clallam County Stormwater Ordinance dated August 18, 2021 was passed to forward to the BOCC.

Based on the above facts and findings, and following attachments that include: Clallam County Stormwater Ordinance dated August 18, 2021. The following reference material is also being forwarded with the Stormwater Ordinance: Small Project Drainage Manual dated August 13, 2021; Residential Driveway BMP; Construction BMP; Stormwater Flowchart for residential development outside of PAUGA. The Planning Commission adopts and transmits the following conclusion to the Clallam County Board of Commissioners.

CONCLUSION: The Clallam County Planning Commission concludes that the adoption of the Stormwater Ordinance would meet the following objections:

- To promote the public health, safety, and general welfare of the citizens and protect public and private resources of Clallam County without preventing the reasonable use, development, and maintenance of land.
- To protect critical areas from deterioration or destruction as required under the state's Growth Management Act and Shoreline Management Act.
- To implement the provisions of the April 9, 2020 Settlement Agreement between the WA State Department of Ecology and Clallam County. This included not requiring Clallam County to obtain a National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit, modified stormwater thresholds outside of the Port Angeles Urban Growth Area (PAUGA), and other requirements.
- To provide landowners (outside of the PAUGA) a cost effective, simple, non-custom engineered option for small residential projects through the use of the Small Project Drainage Manual.
- To have the quality and quantity of stormwater, after land development activity occurs, be the same or better than the pre-development conditions.
- To provide more stormwater non custom engineered drainage plan options (rain gardens, infiltration trenches, full dispersion, etc.) that are more cost effective and provide better performance based on conditions than the current drainage requirements of either drywells or engineered drainage plans.

The Planning Commission recommends approval by the BOCC and as Vice Chair of the Commission, has directed me as its duly authorized agent to transmit this recommendation to the BOCC.

Authentisign
Scott A Clausen 08/24/2021
8/24/2021 9:16:15 PM PDT

Scott Clausen, Vice Chair — Date

Ordinance _____

An ordinance adding a new section within Title 27 Environment, of the Clallam County Code, adopting Stormwater Management

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section 27.14.010, Purpose, is created to read as follows:

This Chapter is intended to address comprehensive stormwater management in unincorporated Clallam County for new development and redevelopment through the use of construction and post-construction best management practices. As part of implementing comprehensive stormwater management in Clallam County, this Chapter adopts a stormwater manual with minimum requirements for stormwater management. This chapter shall also address illicit non-stormwater discharges and illegal connections to public stormwater drainage systems in an effort to control and reduce the presence of stormwater pollutants. Specifically, this Chapter has been created for the following purposes:

(1) General Purposes

(a) To promote the public health, safety, and general welfare of the citizens and protect public and private resources of Clallam County without preventing the reasonable use, development, and maintenance of land.

(b) To protect critical areas from deterioration or destruction as required under the state's Growth Management Act and Shoreline Management Act.

(c) To implement the provisions of the April 9, 2020 Settlement Agreement between the WA State Department of Ecology and Clallam County.
This included not requiring Clallam County to obtain a National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit, modified stormwater thresholds outside of the Unincorporated Port Angeles Urban Growth Area (UPAUGA), and other requirements.

(d) To provide landowners (outside of the Unincorporated Port Angeles Urban Growth Area (UPAUGA)) a cost effective, simple, non-custom engineered option for small residential projects through the use of the Small Project Drainage Manual.

(e) To have the quality and quantity of stormwater, after land development activity occurs, be the same or better than the pre-development conditions.

(2) Development Purposes

(a) To ensure prompt development, restoration, and replanting and effective erosion control of property during and after land clearing, filling and grading.

(b) To promote land development practices that minimize disturbance to existing vegetation and soils.

(c) To manage and mitigate the effects of urbanization on stormwater drainage throughout the urban areas within unincorporated Clallam County through planning, appropriate engineering practices and proper maintenance.

(d) To manage all surface water runoff and diversions that may contribute to flooding and the pollution of surface waters.

(e) To prevent siltation in Clallam County's streams, lakes, storm sewer systems, and public roadside improvements.

(f) To protect adjacent and downstream public or private properties from damage.

(g) To reduce the risk of slides and the creation of unstable building sites.

(h) To promote low impact development site planning and building practices that provide for managing surface water runoff on-site and are consistent with Clallam County's natural topography, vegetation cover, and hydrology.

(i) To allow the use of simple technologies whenever appropriate and realistic, but require the use of more sophisticated techniques when necessary to ensure the adequacy of stormwater controls.

(3) Environmental Purposes

(a) To preserve, protect, replace, or enhance the natural qualities of lands, watercourses, and aquatic resources.

(b) To preserve and protect priority fish and wildlife habitats.

(c) To prevent water quality degradation and the sedimentation of creeks, streams, ponds, lakes, wetlands, marine waters, and other water bodies; and preserve and enhance beneficial uses.

Section 2. Section 27.14.020, Applicability, is created to read as follows

All Land Development Activity occurring within unincorporated Clallam County shall be subject to the provisions of this Chapter unless specifically exempted under this Chapter. No approval of any required Drainage Permit shall be made by Clallam County prior to the Applicant's satisfying the submittal requirements as set forth in this Chapter and the Land Development Activity being in compliance with all applicable federal, state and Clallam County regulations, including the provisions of this Chapter.

Section 3. Section 27.14.030, Exemptions, is created to read as follows:

(1) The following Land Development Activities are exempt from the requirements of this Chapter (for all of the unincorporated areas within Clallam County):

(a) Forest practices regulated under Title 222 WAC, except for Class IV-General forest practices that are conversions from timberland to other uses.

(b) Commercial agriculture practices involving working the land for production, except the conversion from timberland to agriculture and the construction of impervious surfaces are not exempt.

(c) Construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations.

(d) Pavement maintenance practices consisting of any of the following: pothole and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, pavement preservation activities that do not expand the road prism, and vegetation maintenance. The following pavement maintenance practices are not categorically exempt, and are subject to the Minimum Requirements that are triggered when the thresholds identified for new or redevelopment projects are met per I-3.3 Applicability of the Minimum Requirements of the Department of Ecology's 2019 Stormwater Management Manual for Western Washington ("Ecology's 2019 Stormwater Manual").

(i) Removing and replacing an asphalt or concrete pavement to base course or lower, or repairing the pavement base: These are considered replaced hard surfaces.

(ii) Extending the pavement edge without increasing the size of the road prism, or paving graveled shoulders: These are considered new hard surfaces.

(iii) Resurfacing by upgrading from dirt to gravel, a bituminous surface treatment ("chip seal"), asphalt, or concrete; upgrading from gravel to chip seal, asphalt, or concrete; or upgrading from chip seal to asphalt or concrete: These are considered new impervious surfaces.

(e) Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are only subject to Volume I-3.4.2 MR2 Construction Stormwater Pollution Prevention Plan of the Department of Ecology's 2019 Stormwater Manual.

(2) With the exception of the UPAUGA, land development activity within the unincorporated Clallam County shall be subject to the following additional exemptions:

(a) Land clearing, grading, filling, sandbagging, diking, ditching, or similar work during or after periods of extreme weather or other emergency conditions which have created situations such as toxic releases, flooding, or high fire danger that present an immediate danger to life or property.

(b) Digging of individual graves in a permitted graveyard.

(c) Routine landscape maintenance of existing landscaped areas on developed lots, including pruning, weeding, planting annuals, and other activities associated with maintaining an already established landscape or thinning of limbs of individual trees to provide for a view corridor consistent with Chapter 27.12.

(d) Routine drainage maintenance of existing, constructed stormwater drainage facilities located outside of a protected area, including, but not limited to, detention/retention ponds, wet ponds, sediment ponds, constructed drainage swales, water quality treatment facilities, such as filtration systems, and regional storm facilities that are necessary to preserve the water quality treatment and flow control functions of the facility. This exemption does not apply to any expansion and/or modification to already excavated and constructed stormwater drainage facilities.

(e) Construction, expansion or repair of detached accessory buildings four hundred (400) square feet or less in size not located within two hundred (200) feet of a wetland, aquatic habitat, conservation area, landslide hazard area an erosion hazard area or within frequently flooded area pursuant to Chapter 27.12.

(f) The construction or installation of minor street improvements exempt from SEPA per WAC 197-11-800(2)(d) that are conducted in compliance with the Regional Road Maintenance ESA Program and designed in accordance with the Highway Runoff Manual.

Section 4. Section 27.14.040, Definitions, is created to read as follows:

Clallam County adopts the definitions contained within the Glossary of Ecology's 2019 Stormwater Management Manual for Western Washington, unless otherwise altered below.

(1) The terms "single residential," "duplex," "townhome," "accessory building," and "multi-family residential" mean the definition of such terms contained in the County's current Building Code, CCC Title 21.

(2) "Best Management Practice(s)" or "BMPs" means the schedule of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Washington State Department of Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

(3) "Clallam County Small Project Drainage Manual" means the manual adopted by Clallam County to be used for small-scale residential projects that meet the requirements for a small project drainage plan review.

(4) "Clearing" means the destruction and removal of vegetation by manual, mechanical, or chemical methods resulting in exposed soils. This does not include mowing, landscape maintenance or pruning consistent with accepted horticultural and arboricultural practices, which does not impair the health or survival of trees and associated vegetation.

(5) "Critical Areas" means any of those areas of Clallam County which meet the definition of geologically hazardous areas; wetlands; streams; flood hazard areas; fish and wildlife conservation areas; and areas with a critical recharging effect on aquifers used for potable water and are regulated under Title 27 of the Clallam County Code.

(6) "Drainage Permit" means the written permission by the County Engineer, or their designee to the permittee/applicant to proceed with the act of land development activities, whether new development or redevelopment, within the requirements and procedures contained in this Chapter. The Drainage Permit shall include the associated approved site plan, any required stormwater site plans consistent with Minimum Technical Requirements set forth herein, any required construction stormwater pollution prevention plan consistent with the Minimum Technical Requirements set forth herein, and any conditions of approval as well as the permit form itself.

(7) "Hard Surface" means an impervious surface, a permeable pavement, or a vegetated roof. An impervious surface is a surface that blocks the natural infiltration of surface water. Common hard surfaces include structures, asphalt pavement, cement concrete, and compacted gravel. Permeable pavements and green roofs shall be considered hard surfaces for minimum requirement thresholds but modelled depending on the characteristics of the design.

(8) "Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development and causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, other surfaces which similarly prevent the natural infiltration of stormwater.

(9) "Land Development Activity" means New Development and Redevelopment and land disturbing activity as those terms are defined herein.

(10) "Land Disturbing Activity" means any activity that results in a movement of earth or any change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, grubbing, filling, excavation, demolition, controlled burning, and site preparation. Compaction that is associated with stabilization of structures and/or road construction shall also be considered land disturbing activity. Vegetative maintenance practices (as defined herein) are not considered land disturbing activity.

(11) "Low impact development (LID)" means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design

(12) "New Development" means any land disturbing activities, including but not limited to clearing, grading, grubbing, filling, excavation and demolition; Class IV General Forest Practices that are conversions from timber land to other uses; reclamation of mineral extraction; reclamation of sand and gravel extraction; structural development, including construction, installation or expansion of a building or other structure; creation of hard surfaces; and any subdivision, short subdivision and binding site plans, as defined and applied in RCW 58.17 and any Land Division as defined herein. Projects meeting the definition herein of Redevelopment shall not be considered New Development.

(13) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations; floatables, pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(14) "Project" means any proposed action to alter or develop a site.

(15) "Project Site" means that portion of a property, properties, or right of way subject to land disturbing activities, new hard surfaces, or replaced hard surfaces.

(16) "Redevelopment" means development of a site that is already substantially developed (i.e., has 35% or more existing hard surface coverage) through the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW; replacement of hard surface that is not part of a routine maintenance activity; and other land disturbing activities including but not limited to clearing, grading, grubbing, filling, excavation and demolition.

(17) "Replaced hard surface" means, for structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

(18)"Site" means the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

(19)"Stormwater Drainage System" means facilities by which stormwater is collected and/or conveyed, including but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and man-made or altered drainage channels, reservoirs, and other drainage structures.

(20) "Stormwater facility" means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds,

retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

(21)"Vegetative Maintenance" means lawn maintenance, brush and tree pruning, and other normal land maintenance activities involving cutting, removal, or planting of vegetation by manual, mechanical, or chemical methods, such as gardening.

(22) "Watercourse" means any, natural or artificial (i.e. manmade) waterway area, whether perennial or intermittent, which flows in a definite direction and course or is used for the holding, delay or storage of waters, which functions at any time to convey or store storm water runoff. Watercourses include, but are not limited to, a creek, stream, river, or any constructed waterway, channel, canal, ditch, irrigation ditch or road ditch.

Section 5. Section 27.14.050, Stormwater Management Manual and Review Thresholds, is created to read as follows:

(1) Based on parcel size, nature of development, amount of land disturbing activity, plat requirements, or potential to significantly impact receiving waters, infrastructure, county roads, or adjoining properties, the County Engineer, or their designee may require an engineered drainage, erosion and sediment control plan regardless of the thresholds found below. The purpose of the engineered drainage, erosion, and sediment control plan is to ensure that the plan will work and also to receive an installed as designed letter from the Engineer.

(2) The Department of Community Development (DCD) Administrator or her designee will require land disturbing activity within the jurisdiction of Critical Areas to submit a drainage permit, unless both of the following conditions apply: (1) the DCD Administrator or her designee determines the project will not affect the Critical Area, and (2) the project falls below the thresholds found in Chapter 27.14.060. These Critical Area requirements are currently in effect, and the only modifications to these requirements are that land development activity will be subject to the 2019 SWMMWW instead of the 1992 SWMMWW.

(3) Stormwater Management Manual within the unincorporated County urban growth area (UGA) around the City of Port Angeles, also known as the unincorporated Port Angeles UGA or UPAUGA. Within the UPAUGA, Clallam County adopts Ecology's 2019 Stormwater Management Manual for Western Washington ("Ecology's 2019 Stormwater Manual") in its entirety (with no modifications).

(4) Stormwater Management Manual within unincorporated Clallam County outside the UPAUGA. Outside of the UPAUGA, Ecology's 2019 Stormwater Manual's minimum requirements contained in Volume I, Section 3.4, are modified as provided in the table below. For certain proposed Land Development Activities, Clallam County adopts and applies the Clallam County Small Project Drainage Manual as provided in the table below. The County may require the use of Ecology's 2019 Stormwater Manual if conditions are not met under the Small Project Drainage Manual or the project requires an engineer under state law

(5) Stormwater Management Requirements for New Development and Redevelopment Within Unincorporated Clallam County Outside of the UPAUGA

Table 27.14.050(5)(A)

Residential driveways that meet BMPs below would not be counted in hard surface calculations for residential development[1]

Thresholds (Hard surface/Land disturbance)	Drainage Permit required –Y/N?	Applicable Stormwater Manual	Minimum Requirements (MR)
N/A	N	Subject to BMPs 5.11 and 5.12 of the 2019 Ecology Manual or Section 3.4 of the Clallam County Small Project Drainage Manual	N/A

Table 27.14.050(5)(B)

Residential Development[1] **on less than 1 acre**

Thresholds (Hard surface/Land disturbance)	Drainage Permit required –Y/N?	Applicable Stormwater Manual	Minimum Requirements (MR)
< 400 sq. ft. of new plus replaced hard surface OR <7,000 sq. ft. land disturbing activity	No, but Construction Stormwater Best Management Practices are always required	N/A	MR 2
Between 400 and 5,000 sq. ft. of new plus replaced hard surface OR between 7,000 and 10,000 sq. ft. land disturbing activity	Yes	Clallam County Small Project Drainage Manual[2]	MRs 1-5
≥5,000 sq. ft. of new plus replaced Hard Surface OR ≥10,000 sq. ft. land disturbing activity	Yes	Ecology's 2019 Stormwater Manual	MRs 1-9[4]; Engineered Plan required.

Table 27.14.050(5)(C)

Residential Development[1] **on 1 acre or more**

Thresholds (Hard surface/Land disturbance)	**Drainage Permit required –Y/N?**	**Applicable Stormwater Manual**	**Minimum Requirements**
<400 sq. ft. of new plus replaced hard surface OR <7,000 sq. ft. land disturbing activity OR <1.5 acres of veg to lawn conversion, OR <5 acres of veg to pasture	No, but Construction Stormwater Best Management Practices are always required	N/A	MR 2
Between 400 to 3,000 sq. ft. of new plus replaced hard surface (requiring a building permit)	Yes	Clallam County Small Project Drainage Manual[2]	MRs 1-5, Optional Flow Control determined by County Engineer[3]
Between 3,000 and 7,000 sq. ft. of new plus replaced hard surface OR between 7,000 and 12,000 sq. ft. land disturbing activity OR between 1.5 and 2 acres of veg to lawn conversion, OR between 5 and 7.5 acres of veg to pasture	Yes	Clallam County Small Project Drainage Manual[2]	MRs 1-5
≥7,000 sq. feet new plus replaced Hard Surface OR ≥12,000 sq. ft. land disturbing activity, OR ≥2 acres of veg to lawn conversion, OR ≥7.5 acres of veg to pasture conversion	Yes	Ecology's 2019 Stormwater Manual	MRs 1-9[4] Engineered Plan required.

Table 27.14.050(5)(D)

All non-residential development[1], including commercial, industrial, and multifamily.

Thresholds (Hard surface/Land disturbance)	Drainage Permit required –Y/N?	Applicable Stormwater Manual	Minimum Requirements
≤ 2,000 sq. ft. of new plus replaced hard surface OR ≤ 7,000 sq. ft. land disturbing activity	No, but Construction Stormwater Best Management Practices are always required	N/A	MR 2
≥ 2,000 sq. ft. of new plus replaced hard surface OR ≥ 7,000 sq. ft. land disturbing activity	Yes	Ecology's 2019 Stormwater Manual	Per Manual. Engineered Plan required

Footnotes

1 Residential Development is the construction of a single family dwelling, duplex, townhome, accessory structures to such dwelling. Residential driveways meeting BMPs in Table 27.14.050(1) above are would not counted in hard surface calculations for residential development.

2 Applicants may elect to use the 2019 Ecology Stormwater Manual instead of the Clallam County Small Project Drainage Manual if they choose. If utilizing the 2019 Ecology Stormwater Manual, a civil or geotechnical engineer may be required to sign stormwater plans.

3 For land development activity that would not require flow controls or meet full dispersion (BMP T5.30) requirements per the 2019 SMMWW, the County Engineer will determine optional flow control requirements through the Small Project Drainage Manual.

4 MR3 and MR8 are usually N/A; MR9 only applies if a stormwater facility is installed.

Section 6. Section 27.14.060, Drainage Permit, is created to read as follows:

(1) Drainage Permit is required inside the UPAUGA before any of the following land disturbing activity occurs:

(a) The DCD Administrator or her designee may require submission of a Drainage Permit for any land disturbing activity within the jurisdictions of Critical Areas Ordinance.

(b) Land disturbance of 7,000 sq. feet or more.

(c) Projects that result in 2,000 sq. feet or more of new plus replaced hard surfaces.

(2) A Drainage Permit is required outside the UPAUGA before any of the following land disturbing activity occurs:

(a) The DCD Administrator or her designee may require submission of a Drainage Permit for any land disturbing activity within the jurisdictions of the Critical Areas Ordinance.

(b) Land disturbance of 7,000 sq. feet or more for construction of multi-family, commercial or industrial.

(c) Land disturbance of 10,000 sq. feet or more for single residential, duplex, townhome, or accessory building to such dwelling, on <1 acre. This does not include hard surfaces created for residential driveways that meet BMPs.

(d) Land disturbance of 12,000 sq. feet or more for single residential, duplex, townhome, or accessory building to such dwelling, on 1 acre or more. This does not include hard surfaces created for residential driveways that meet BMPs.

(e) Single residential, duplex, townhome, or accessory building to such dwelling projects requiring a building permit that result in 400 sq. feet or more new plus replaced hard surfaces. This not including hard surfaces created for residential driveways that meet BMPs.

(f) All other projects (e.g., commercial, industrial, multifamily) that result in 2,000 sq. feet or more of new plus replaced hard surfaces.

(3) An application for a Drainage Permit shall be submitted to the County Engineer, or their designee on a form provided by the County. All Drainage Permits shall include Construction BMP's and Construction Stormwater Pollution Prevention Plans (SWPPP).

(4) Unless otherwise specified by the Clallam County Small Project Drainage Manual, all applicants for a Drainage Permit shall provide the following basic plan exhibits. The basic plan exhibits shall contain all information as set forth in the official submittal checklist provided by the County Engineer, or their designee.

(a) Site Topographical Map

(b) General Stormwater Site Plan

(c) Construction Stormwater Pollution Prevention Plan (SWPPP)

(d) Vicinity Topographical Map

(5) All plans prepared in connection with this Chapter shall be submitted for review and approval by the County Engineer, or their designee. Prior to the issuance of the Drainage Permit, the Applicant must submit final stormwater site plans.

(6) A Drainage Permit shall be issued by the County Engineer, or their designee only after the applicant demonstrates compliance with the requirements of this Chapter and the payment of the applicable permit fees for plan review, inspection, and related expenses as specified in Section 27.14.130, Fees.

(7) The approved Drainage Permit under this ordinance will be available on the Clallam County On-Line Permit System. Any modifications of the approved Drainage Permit will require prior approval by the County Engineer, or their designee.

(8) Any permit granted under this Chapter shall expire one (1) year from the date of issuance. With approval of the County Engineer, or their designee, a permit issued under this Chapter may be extended for one 12-month period.

(9) The decision by the County Engineer or their designee to deny a Drainage Permit is appealable to the Clallam County Hearing Examiner using the procedures for denial of a Type I permit as defined under CCC Title 26.

Section 7. Section 27.14.070, Construction Stormwater Best Management Practices Requirements for Land Development Activities not requiring a Drainage Permit, is created to read as follows:

All Persons or entities engaging in Land Development Activities which do not require a Drainage Permit pursuant to Section 27.14.060 shall prevent (1) erosion and discharge of sediment and other pollutants into receiving waters and (2) harmful impacts to infrastructure or neighboring properties. Land Development Activities which do not require a Drainage Permit, but that cause significant erosion, discharge of sediment, or other pollutants into receiving waters, or harmful impacts to infrastructure or neighboring properties will be required to rectify impacts and shall be subject to Enforcement Actions found in Section 27.14.120 below. This may include requiring a Drainage Permit, Construction BMP's, and Construction Stormwater Pollution Prevention Plan (SWPPP).

Section 8. Section 27.14.080, Adjustment and Exceptions/Variances, is created to read as follows:

(1) The County Engineer, or their designee may grant an adjustment to the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction consistent with the criteria in Ecology's 2019 Stormwater Manual, Volume I, Section 3.6.1 (Adjustments to the MRs).

(2) The County Engineer, or their designee may grant an exception/variance from this Chapter or the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction when consistent with the criteria in Ecology's 2019 Stormwater Manual, Volume I, Section 3.6.2 (Exceptions/Variances). The applicant bears the burden to demonstrate the required criteria for an exception/variance. The County Engineer, or their designee shall retain records, including the written findings of fact, of all exceptions from the minimum requirements.

(3) A request for an adjustment or exception shall adequately describe the justification for relief and is processed as a Type III decision under Clallam County Code (CCC) Chapter 26.10.

Section 9. Section 27.14.090, Manufactured Treatment Devices (MTDs), is created to read as follows:

Clallam County accepts stormwater treatment BMPs identified in Ecology's 2019 Stormwater Manual for use. Additionally, designers may use manufactured treatment devices approved through the Technology Assessment Protocol – Ecology (TAPE) with a General Use Level Designation (GULD).

Section 10. Section 27.14.100, Easements, Deeds and Covenants, is created to read as follows:

(1) Drainage easements shall be required where stormwater conveyance, storage, or treatment facilities identified in development plans are not located in public rights-of-way, and where access to stormwater facilities is required. Drainage easements shall be granted to the persons responsible for providing ongoing maintenance of the drainage systems. Drainage easements through structures are not allowed. Easements shall be of a width and location sufficient to allow access for equipment that would normally perform maintenance activities.

(2) Stormwater and conveyance facilities that are to be maintained by Clallam County, together with maintenance access roads to the facilities, shall be located in public right-of-way, in separate tracts dedicated to Clallam County, or corresponding to drainage easements granted to Clallam County.

(3) The approved Drainage Permit under this ordinance will be available on the Clallam County On-Line Permit System. This shall include the identification of flow controls (i.e. drywells, dispersion trenches, rain gardens, etc.) and Low Impact Development BMPs (full dispersion through natural vegetation) on the approved drainage permit site plan, along with the landowner's responsibility for operation and maintenance of these permanent stormwater BMPs. Any modifications of the approved Drainage Permit will require prior approval by the County Engineer, or their designee.

(4) Any flow control and runoff treatment BMPs for which the applicant identifies the operation and maintenance to be the responsibility of a private party must have a declaration of covenant and grant of easement which shall be recorded on the title of the parcel.

Section 11. Section 27.14.110, Illicit Discharges and Connections, is created to read as follows:

(1) Illicit Discharges Prohibited. No person may throw, drain, or otherwise discharge, cause or allow others under their control to throw, drain, or otherwise discharge into the storm drain system, or into a watercourse within unincorporated Clallam County, any materials other than stormwater.

(2) Allowable Discharges. The following types of discharges are not illicit discharges for the purpose of this Chapter unless the County Engineer, or their designee determines that the type of discharge, whether singularly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

(a) Diverted stream flows.
(b) Rising groundwaters.
(c) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
(d) Uncontaminated pumped groundwater.
(e) Foundation drains.
(f) Air conditioning condensation.

(g) Irrigation water from agricultural sources that is commingled with urban stormwater.

(h) Springs.

(i) Uncontaminated water from crawl space pumps.

(j) Footing drains.

(k) Flows from riparian habitats and wetlands.

(l) Non-stormwater discharges authorized by another NPDES or state waste discharge permit.

(m)Discharges from emergency firefighting activities.

(3) Conditionally Allowed Discharges. The following types of discharges are not illicit discharges for the purposes of this Chapter if they meet the stated conditions, unless the County Engineer, or their designee determines that the type of discharge, whether singularly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

(a) Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.

(b) Lawn watering and other irrigation runoff are permitted but must be minimized.

(c) Dechlorinated swimming pool, spa and hot tub discharges to surface waters. These discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and re-oxygenated, if necessary and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the stormwater system.

(d) Street and sidewalk wash water, water to control dust and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

(e) Other non-stormwater discharges. The discharges must be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the County which addresses control of such discharges by applying all known, available and reasonable methods of prevention, control and treatment (AKART) to prevent pollutants from entering surface or groundwater.

(4) Illicit Connections

(a) No person may use the stormwater system, directly or indirectly, to dispose of any solid or liquid matter other than stormwater.

(b) No person may make, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.

(c) Connections to the stormwater system from the interiors of structures are prohibited.

(d) Sewer connections to the stormwater system or to any watercourse are prohibited.

(e) Connections to the stormwater system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

Section 12. Section 27.14.120, Enforcement, is created to read as follows:

(1) The County Engineer, or their designee, is authorized to carry out inspection and enforcement actions pursuant to Clallam County Code (CCC) Chapter 33.59, Enforcement, and CCC Title 20, Code Compliance.

(2) If inspection or enforcement investigations by the County Engineer or their designee determines that new land development activity results in significant impacts to receiving water, infrastructure, county roads, or adjoining properties, then a Drainage Permit may be required to rectify the impacts regardless of the thresholds found in Section 27.14.050 above. Failure to comply with the voluntary compliance provisions outline above to obtain and implement the required Drainage Permit will be subject to enforcement actions found below.

(3) Any person who fails to comply with the standards contained within this Chapter and/or any person who fails to comply with a final written order may be assessed a civil penalty as follows:

(a) The County Engineer, or their designee, may assess the violator a civil penalty not to exceed $1,000 for each violation.

(b) Each violation or each day of continued unlawful activity shall constitute a separate violation. Each day that a person fails to comply with the terms of a final written order shall constitute a separate violation.

Section 13. Section 27.14.130, Fees, is created to read as follows:

The schedule of all fees associated with complying with this Chapter shall be those established pursuant to CCC Chapter 5.100. If Drainage Permit work is done in violation of this Chapter or the work is not done in accordance with an approved permit, a fee, not less than twice the applicable permit fee, covering investigation of any violation and inspection and plan checking of work required to correct the violation shall be charged to the violator to cover all actual costs. Such additional fee being in addition to any other of the remedies specified herein under Section 27.14.120, Enforcement.

Section 14. Section 27.14.140, Security, is created to read as follows:

The County Engineer, or their designee may require as a condition to the granting of a Drainage Permit, that the applicant furnish security in the form of a bond, cash escrow account, an irrevocable letter of credit or other security acceptable to the County in its sole discretion, in an amount determined by the County Engineer, or their designee to be sufficient to complete the restoration and replanting of the property in accordance with the terms of the Drainage Permit and within the duration thereof. The security shall be in an amount equal to the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the County Engineer, or their designee.

Section 15. Section 27.14.150, Authority, is created to read as follows:

The Clallam County Engineer, or their designee, shall administer and enforce compliance with all terms in this Chapter. The Clallam County Engineer, or their designee may adopt and amend administrative policies and procedures for the purposes of implementing and enforcing the provisions of this Chapter. All such administrative policies and procedures shall be available to the public at the Public Works Department.

Section 16. Section 27.14.160, Compliance with Other Laws, is created to read as follows:

Approvals and permits granted under this Chapter and any policies and procedures promulgated hereunder do not constitute waivers of the requirements of any other laws or regulations nor do they indicate compliance with any other laws or regulations. Compliance is still required with all applicable federal, state, or local laws and regulations. In the event of any conflict between this Chapter and any other Chapter of the Clallam County Code, the provisions of this Chapter shall prevail.

Section 17. Section 27.14.170, Effectiveness/No Retroactivity, is created to read as follows:

(1) This Chapter shall become effective on [October __, 2021]

(2) This Chapter shall be prospective in operation only.

(3) The provisions of this Chapter shall not apply to existing Land Disturbing Activity for which all previously required permits were obtained prior to the effective date.

(4) The provisions of this Chapter shall not apply to a project or development not yet constructed provided that an appropriate residential or commercial building permit has been obtained and the permit bears a date prior to the effective date of this Chapter.

ADOPTED this _____ day of _____ 20

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

ATTEST: _____
Randy Johnson

_____ _____
Loni Gores, CMC, Clerk of the Board Bill Peach

Clallam County
Small Project Drainage Manual

DRAFT

Version Date: August 13, 2021
Adopted Date: TBD

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SECTION 1 – INTRODUCTION TO SMALL RESIDENTIAL PROJECT DRAINAGE PLAN

This manual has been created to assist owners of property in Unincorporated Clallam County to manage stormwater runoff resulting from small residential projects where land is disturbed, and potential runoff may occur. The management of stormwater runoff, notably the flows that result from the construction of impervious surfaces like buildings and driveways, is regulated by Clallam County's Stormwater Management ("SWM") Ordinance (Chapter __ of Clallam County Code) which requires a stormwater activity permit to be issued by the County for development and redevelopment land activities that are not exempted and that involve a certain threshold level of land disturbance. The threshold level of land disturbance that triggers the stormwater permit approval process is specified in Tables A-D in the SWM Ordinance and should be consulted by property owners seeking to do a development/redevelopment project.

Under Clallam County's SWM Ordinance regulated land disturbing activities require the preparation and submission of an engineered stormwater management plan to be reviewed and approved by Clallam County. The Stormwater permit application must adhere to the Department of Ecology's 2019 Stormwater Manual for parcels located in the Unincorporated Port Angeles Urban Growth Area ("UPAUGA") and adhere to Ecology's 2019 Stormwater Manual for Western Washington as modified by the SWM Ordinance for all other parcels in Unincorporated Clallam County.

An Alternative streamlined process in the SWM Ordinance has been adopted for land disturbing projects that are considered "Small Residential Projects" that meet certain specified criteria set forth on page 2. If your project meets the criteria, you will only be required to submit the documents listed in this manual on page 5, including a drainage plan, for approval by the Department of Community Development.

A drainage plan is a proposed method for containing rainwater on your property. Clallam County requires drainage plans to control storm water which runs off each piece of property as a result of the development/redevelopment of the property.

The process described in this manual is not intended and cannot be used with multi-family, large-scale subdivision or land development projects or activities that include public infrastructure like roadways. This manual cannot be used for any parcels in the UPAUGA. If you have a development/redevelopment project on a parcel in the UPAUGA, you must adhere to Ecology's 2019 Stormwater Manual and the threholds and minimum requirements contained in such manual.

The stormwater best management practices ("BMPs") mentioned within this manual serve as examples and are not a comprehensive list of options. Please contact Clallam County with any questions or to discuss alternative solutions for site-specific applications.

1.1 Why Are Drainage Requirements Needed?

On undeveloped land, most rainwater soaks into the ground and flows slowly to nearby lakes and streams through the upper layers of soil. Almost any form of development increases the amount of rainfall that tends to run off property after a heavy rainstorm. Removing trees and other vegetation reduces the amount of water absorbed by roots and the subsequent evaporation through the leaves. Regrading the land eliminates natural pockets and depressions in the soil which hold water until it is absorbed into the soil. Covering ground with roofs, pavements, and similar impervious covers prevents the underlying soil from accepting surface water. Covering porous soil with comparatively impervious top soil and lawn decreases the rate the soil can absorb water. Driving over the ground (both during and after construction) compacts the surface, decreasing the small voids in the soil which let the water filter into the ground. Placing plastic films under landscaped areas prevents the underlying soil from absorbing water. These and other factors combine to decrease the ability of the native soil to absorb rainfall as well as it would have prior to development. To minimize the impacts of stormwater runoff associated with development, Clallam County requires appropriate management of that runoff.

1.2 Can I use this manual for my "Small Residential Project"?

Your project is a Small Residential Project and therefore may use the requirements contained in this manual if you satisfy ALL of the following criteria:

- Your project is on a parcel NOT located in the UPAUGA;

- Your project solely involves the development or redevelopment of a single family residence, duplex or townhome or accessory buildings to such dwelling or future planned dwelling;

- For parcels less than 1-acre, the proposed land disturbance is less than 10,000 sq. ft. and there is no more than 5,000 sf of new and replaced hard surfaces.

- For parcels greater than 1-acre, the proposed land disturbance is less than 12,000 sq. ft and there is no more than 7,000 sf of new and replaced hard surfaces.

- Your project is located outside a flood plain or shoreline designation under CC Code _____(See SMP Ordinance);

- Your project will not adversely impact a wetland, stream or water of the State or change a natural drainage water course;

Note: If your small residential project contains or is adjacent to a wetland, flood zone, area of erosion, steep slope hazard, landslide hazard area or landslide hazard drainage area, then the County will require plans prepared and stamped by a civil engineer licensed in the State of Washington.

Ultimately, the SWM Ordinance governs and should be consulted in the case that any interpretation is needed. For example, please consult the SWM Ordinance, Section ___, for exemptions that may apply to your land disturbing proposed project.

Definitions of Key Terms

Proper application of the small project drainage requirements in this manual requires an understanding of the following key terms and their definitions.

Best Management Practice (BMP). A practice or combination of practices that are the most effective and practicable means of managing stormwater runoff based on the best available science.

Civil Engineer. A person licensed by the State of Washington as a professional engineer in civil engineering.

Conveyance BMP. A stormwater management technique that conveys stormwater to or from a runoff management BMP such as a rain garden or infiltration trench, and slows flows as stormwater travels across and from a developed site.

Critical Areas. Any of areas of Clallam County which are subject to natural hazards or landform features which carry, hold, or purify water and/or support unique, fragile or valuable natural resources including fish, wildlife, and other organisms and their habitat. These sensitive areas include the following features: geologically hazardous areas; wetlands; streams; flood hazard areas; fish and wildlife conservation areas; and areas with a critical recharging effect on aquifers used for potable water, i.e., ground water discharge areas. This definition is intended to be wholly consistent with the provisions contained in Title 27 of the Clallam County Code.

Discharge. Any stormwater runoff that is not infiltrated or evaporated but instead flows from the conveyance or management BMPs onto adjacent land.

Dispersion. Spreading stormwater runoff over vegetated pervious areas to slow runoff and aid in infiltration

Drainage plan A plan for receiving, handling and transporting surface water or groundwater runoff within the project site.

End-of-Line Discharge BMP. A stormwater management technique that disperses stormwater, discharging from a pipe or ditch, to a slow and diffuse manner to prevent concentration and associated channeling.

Engineered Drainage Plan. A plan designed by a civil engineer licensed in the State of Washington as a professional engineer in civil engineering.

Hydrologic Soil Group. Soils are classified by the Natural Resource Conservation Service into four Hydrologic Soil Groups based on the soil's runoff potential. Soil properties that influence runoff potential include depth to a seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a very slowly infiltrating permeable layer. The four Hydrologic Soils Groups are A, B, C and D. Type A soils generally have the greatest infiltrative capacity and Type D soils have the least.

Impervious Surface. A hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development and causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, other surfaces which similarly prevent the natural infiltration of stormwater.

Manual. The State of Washington, Department of Ecology's 2019 Stormwater Management Manual for Western Washington.

On-Site Runoff Management BMP. A stormwater management technique designed to capture and absorb stormwater runoff from impervious surfaces such as roofs and driveways.

Pervious Surface. A surface that allows water to enter the ground by virtue of is porous nature or by large spaces in the material. Due to compaction, gravel driveways and parking areas do not count as permeable surfaces.

Raingarden. A vegetated depression that is designed to collect, store and infiltrate runoff. Raingarden areas typically include a mix of amended soils and vegetation.

Stormwater Region. Clallam County has three different stormwater regions based on the soil types, and amount of rainfall found in these areas. These regions determine the types and sizes of stormwater BMPs appropriate for use in managing stormwater in the project area. Consult the maps in Appendix B to determine the stormwater region your project is within.

Stormwater Runoff. Water which is not absorbed into the ground during and after a storm which then flows over the land.

Vegetated Open Space. Native undisturbed areas, rehabilitation of previously disturbed areas, or fields that are not regularly mowed. Active recreation areas and lawn shall not count towards vegetated open space.

1.3 Small Project Drainage Plan Requirements

1.3.1 Submittals

If you meet the criteria for a ***Small Project Drainage Plan*** Review and want to use it, the following must be submitted to the Department of Community Development for review and approval prior to construction activities, including earthwork, is started:

- **Small Project Drainage Plan Application Form** which will guide you through the submittal requirements. See Appendix A for an example of this form. Copies of the form are available from the Department of Community Development. The form will require you to provide a written overview of the proposed project that includes a description of the property, existing site conditions, proposed site improvements, operations and maintenance requirements (O&M) and proposed stormwater management techniques. Further instructions are available on the Drainage Plan Submittal Form.

- **Drainage Plan**: a scale drawing of the individual site showing the proposed improvements and how stormwater runoff from the improvements will be managed on the property. Consult Section II: Developing a Drainage Plan for guidance in preparing this plan.

- **Small Site Erosion and Sedimentation Control Plan-** a scale drawing of the project site used to show the limits of disturbance by the project and how required erosion control measures will be applied to prevent sediment from leaving the site during construction activities. This plan can sometimes be combined with the Drainage Plan.

1.3.2 Implementation

After a proposed drainage plan is approved by the County, the proposed improvements can be installed. The site improvements must be installed per the approved plan. If any changes to the plan are required, they must be reviewed and approved by the County before being constructed.

Separate building permits are required for any structures associated with the project.

1.3.3 Inspection

The drainage system must be inspected by the County during installation prior to certifying the structure for occupancy. Do not backfill over any underground installation until it has been inspected. The inspection requirements, such as when and how to schedule an inspection, will be identified in the approved plans and in the permit documentation.

1.3.4 Liability and Responsibility

You are responsible for damage caused by stormwater runoff due to your development. Clallam County's drainage requirements represent a good faith effort to address the potential problems associated with stormwater runoff due to development and during construction. However, the County has no control over the accuracy of information submitted and does not assume responsibility for damage which may occur due to stormwater runoff.

1.3.5 Operation and Maintenance Responsibility

The size, placement, and design of the drainage facilities as depicted by the drainage plan and approved by the Clallam County Department of Community Development must be maintained and may not be changed without written approval from the Clallam County Department of Community Development. Maintenance of all required drainage facilities is the responsibility of the owner of the site/lot served by these facilities.

SECTION 2 – DEVELOPING A DRAINAGE PLAN

This manual along with some basic measuring and drawing tools should be sufficient for most people to complete an acceptable drainage plan. Below is an example of a drainage plan that can be developed from a site plan. An example drainage plan is included in Appendix D for your use.

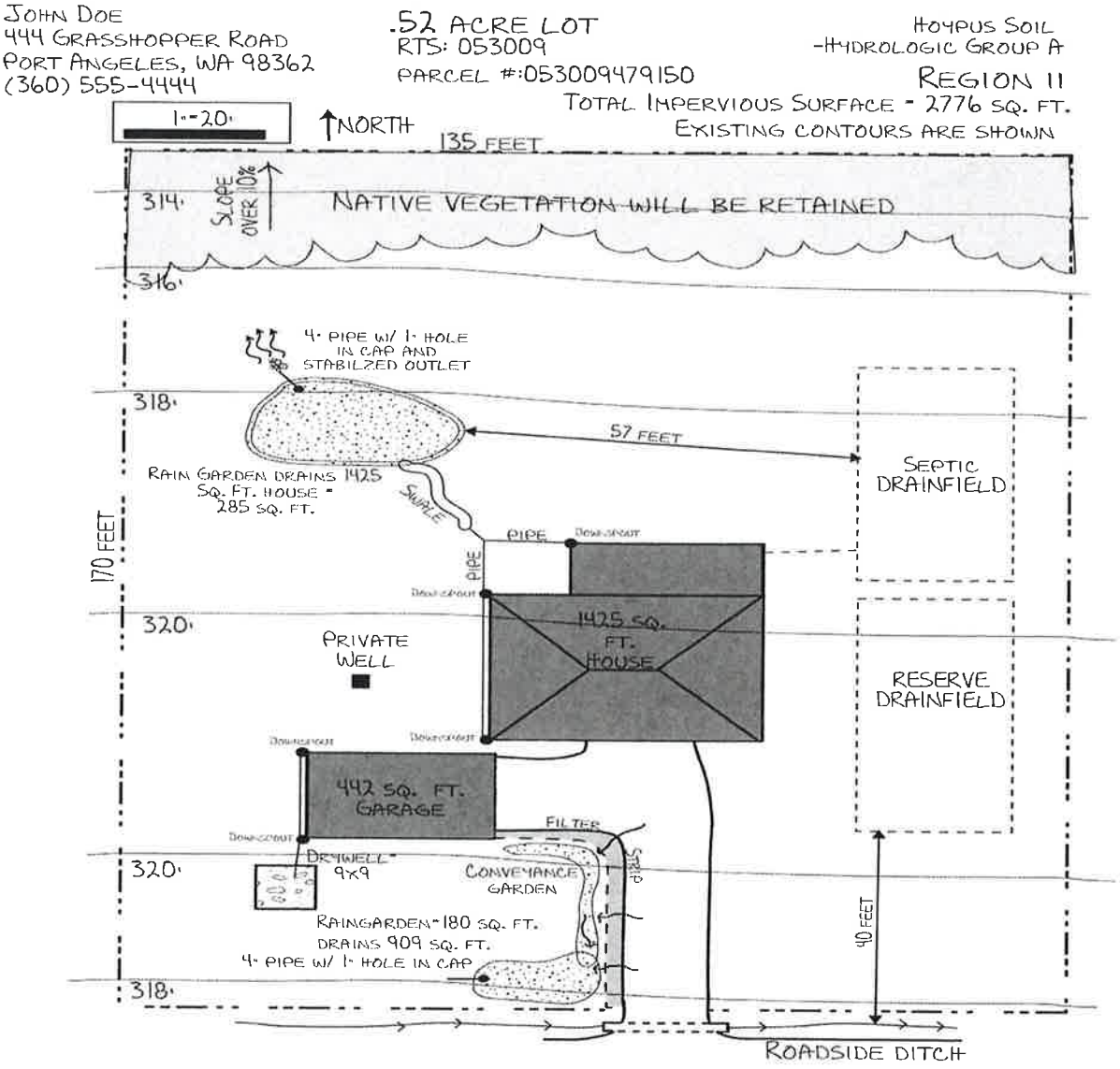

Figure 1. Example Drainage Plan

2.1 Elements of a Drainage Plan

The drainage plan must show the impervious areas such as a roof and driveway, the technique for managing the runoff generated by the impervious surfaces and the drainage path of the runoff from source to treatment area. Important considerations are the amount of impervious surfaces added and how good the soils are.

The primary goal of this plan to provide measures which prevent or greatly reduce the runoff generated by the improvements from leaving the site. This is called runoff management. The preferred method of managing stormwater is to infiltrate it. This does require the site to have average, or better soils.(Types A, B and C) and room on the site for a trench or a drywell. The 2nd preference for managing runoff from a small site improvement is dispersion. This option requires there be a native vegetated area downstream of the site that is of a prescribed length and less than a maximum slope. Runoff is dispersed (evenly spread) along the top of the vegetated dispersal area and allowed to sheet flow through the vegetation allowing the water to be naturally infiltrated.

2.2 Runoff Management BMPs (Section III-A)

The **Runoff Management** section of this manual presents general guidelines for design of BMPs for managing runoff from impervious surfaces such as roofs and driveways. In a ***Small Project Drainage Plan*** there are five options to manage stormwater from roofs and paved areas:

- Infiltration Systems
- Rainwater Dispersion
- Rain Gardens
- Runoff Filter Strips
- Rainwater Collection

The runoff management section of this manual provides general design requirements for the BMPs listed above, as well as specific sizing requirements for BMPs. There are additional BMPs that can manage stormwater, such as porous pavements. Those BMPs are included in the Manual for larger projects and are typically designed by a civil engineer.

2.3 Stormwater Conveyance BMPs (Section III-B)

The stormwater conveyance section of this manual presents general guidelines for conveying stormwater on your site. The stormwater conveyance BMPs serve to both convey stormwater from, and if necessary, to, a runoff management area such as a rain garden or infiltration trench, and to slow flows as they travel across and from a developed site. There are two options for the conveyance of stormwater on the site:

- Conveyance Piping
- Swales

The steps described below outline the process for development of a ***Small Project Drainage Plan***. For effective stormwater management, the plan needs to show the improvements and provide a BMP to manage the runoff.

1. Obtain an accurate topographic map for the site to use as a basis for the drainage plan. This can be as simple as a map that denotes flat areas, sloped areas, and drainage paths.

2. Find out the soil type on your project site in order to determine which stormwater management techniques in this manual will be applicable for your site. A soils professional or a septic designer can make this determination. For sites without a septic system, County soils maps can be consulted. To view the *Soil Survey of Clallam County*, go to http://www.clallam.net/Maps/ or visit the Clallam Conservation District.

3. Conduct a site inventory to determine existing patterns of water movement and vegetated areas on your site.

4. On your plan draw out your proposed improvements. Be sure to show all the proposed buildings, walks, driveways, and any other site improvements that are a part of the project. (see pro tip #1)

5. Using your plan, track, and identify on the plan, the path that water will flow along from the proposed downspouts or paved areas. Surface water will flow down the slope, perpendicular to topography lines. Use the drainage project planning chart on page x to select options for managing roof water runoff, driveway runoff, conveyance areas, and end-of-line discharge areas. For example, show a pipe connecting the roof downspouts to a drywell that will infiltrate the runoff.

6. Consult Section III of this manual for details on how to size and locate each of the BMP options.

7. Sketch your drainage plan. Appendix A includes a list of the required information to include in the plan.

8. Layout, on the drainage plan, temporary erosion control measures and complete the small site construction pollution prevention plan form.

9. Submit the plan, and all of the supporting information listed in the submittal checklist, to the Clallam County Department of Community Development. The County will review and approve the plan if it is acceptable. If it is not, the County reviewer will provide you with comments to consider and you will need to revise the plan and resubmit for approval.

2.4 PRO TIPS #1

The following are tips for creating a development that minimizes the impact your construction project will have on the patterns of water flow and vegetated areas of the site and help facilitate stormwater infiltration on the property:

- Use an eraser when working on your plan. The process is iterative, and you may need to adjust you plan along the way.
- Place structures as close to the public access point as possible to minimize road/driveway length. Minimize paved parking areas, and utilize porous paving options wherever possible.
- Slope paved areas to facilitate drainage to stormwater management areas.
- Reduce building footprints whenever possible. Utilize basements or taller structures with lofts or second stories to achieve square footage goals.
- Orient buildings on slopes with long-axis along topographic contours to reduce grading requirements.
- Set clearing limits that give maximum protection to soils and vegetation while allowing reasonable areas for equipment to maneuver on the site. Delineate the areas both on the construction plans and on the ground with temporary fencing or taping to help you visualize the layout before drawing it.
- Retain natural vegetation and avoid disturbing natural drainage patterns.

SECTION 3 – RUNOFF MANAGEMENT BMPS

A drainage system collects, cleanses, infiltrates, and conveys stormwater to a natural drainage system or existing storm sewer. The following are guidelines for the design and implementation of a ***Small Project Drainage Plan***, including techniques for managing run-off from impervious surfaces, conveying stormwater on the property, and for properly discharging stormwater from your property.

Runoff management is the main component of a small project drainage plan. This manual includes seven options to manage stormwater from roofs and paved areas. The main features and preferred application for each option are summarized below. Details of each option are explained in the following sections.

Rain Gardens

- Rain gardens are excavated basins in which runoff accumulates and slowly infiltrates or flows out through a small outlet opening.
- One of the most versatile options, rain gardens can be placed in any soil type and on most sites and should be the primary runoff management technique for most sites.

Infiltration Systems: Trenches and Drywells

- Infiltration utilizes gravel-filled basins or trenches to infiltrate runoff into porous soil.
- Requires soil with sandy or gravelly texture without high water table. A list of suitable soils for infiltration techniques can be found in Appendix C.
- Infiltration systems may clog with sediment over time and require replacement.
- Some trenches and drywells are considered Underground Injection Control (UIC) wells and are required to be registered with the Washington Department of Ecology.

Rainwater Dispersion

- Dispersion emphasizes use of vegetated areas to receive dispersed stormwater.
- Requires at least 50% vegetated open space on site with a drainage easement.
- Best on slopes less than 10% where runoff is easily routed to vegetated areas.

Rainwater Collection

- Rain barrels and cisterns are containers in which roof runoff is collected for later use or release. These options have limitations on size and application.
- Rain barrels and cisterns can only collect roof runoff, and the collected water is suitable for non- potable uses only.
- Rain barrels and cisterns require careful management to control and manage overflow.

Runoff Filter Strips

- Runoff filter strips are large roadside areas of sandy or gravelly soil covered with turf which allow filtering, storage and infiltration of paved area runoff.

- The filter strip area must be equal to that of the impervious paved area it is adjacent to (such as the driveway), excavated and filled with sand or gravel.

3.1 Infiltration Systems

Infiltration systems are BMPs that are designed to allow runoff to be absorbed into the ground. Soil conditions must be favorable enough to assure that the device used to soak water into the ground (e.g., infiltration trench, drywell, etc.) will perform as expected. Many locations in Clallam County have soils that are underlain by a compact layer of soil called glacial till or hardpan which severely limits infiltration capacity and causes water to accumulate at or near the soil surface during the wet season. This can make full infiltration of runoff impracticable, cost prohibitive, unreliable, or all three.

In order to utilize infiltration, a soils professional, such as a professional soil scientist certified by the Soil Science Society of America, a locally licensed on-site sewage designer, or a suitably trained person working under the supervision of a professional engineer, geologist, or engineering geologist registered in the State of Washington, shall complete site specific testing to categorize the soils and identify the soils type for the sizing of the infiltration system. Refer to BMP T5.10A for additional information.

Infiltration trenches that only receive runoff from single family residential roof runoff are not considered UIC wells. Infiltration trenches that receive runoff from any other surfaces shall be registered. Infiltration trenches can be registered online at: https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Underground-injection-control-program/Register-UIC-wells-online .

Consult Appendix C to determine if your soil is suitable for these techniques.

If you plan to utilize infiltration trenches or drywells to control stormwater runoff, you will need to follow the guidelines listed below:

- Confirm you the project parcel has soils that are type A, B, or C type soils. Sites D soils are not appropriate for infiltration. If infiltration is feasible, have a soils professional categorize the soils on the project parcel.

- In your drainage plan include locations of proposed drywells and trenches with their sizes.

- Using the sizing criteria, calculate the area of trench required for the project's roof area. The roof can be routed to a single trench, or a combination of trenches. In the case of multiple trenches, indicate which roof areas will be routed into each.

- Runoff from paved areas including driveways and parking areas should flow through or across a vegetated strip or swale prior to infiltration. This will help remove debris from the runoff and preserve the life of the infiltration trench.

- Infiltration systems must be appropriately sited with respect to the locations of septic drainfields, wells, and building foundations so as not to adversely affect them. Infiltration systems must be down gradient and at least 30 feet from the septic drainfield, at least 10 feet from foundations, and 100 ft. from wells. Infiltration systems shall be located on flat or gently sloped ground with grades of less than 15%.

- Infiltration systems must be filled with washed drain rock (1 ½" to 3" in diameter). The top and sides must be covered and wrapped with filter fabric so that the fine soils do not migrate into the voids of the drain rock. Landscaping cloth (generally available at hardware stores) works well for this purpose. A screen must be provided either at the outlet of the downspout or at the inlet to the drywell pipe to keep debris from entering the system.

3.1.1 Infiltration Trenches

Infiltration trenches are shallow gravel-filled trenches where runoff water is routed for storage and infiltration. Infiltration trenches work best in sandy or gravelly soil and are not appropriate in some clayey soil types (hydrologic group D).

Runoff from paved areas including driveways and parking areas should flow through or across a vegetated strip or swale prior to infiltration.

Infiltration trenches are sized according to the type of soils found on the site. The following minimum lengths (linear feet) per 1,000 square feet of roof area based on soil type may be used for sizing downspout infiltration trenches:

- Coarse sands and cobbles: 20 LF
- Medium Sand: 30 LF
- Fine Sand, loamy sand: 75 LF
- Sandy loam: 125 LF
- Loam: 190 LF

INFILTRATION TRENCH DESIGN WORKSHEET

Step 1. Determine the roof area and check the soil group/infiltration rate the design is based on.

Building area: _____ sqft (roof area)

Step 2: Determine the soil type found on the project site.

Soil Type:

__ Coarse sands and cobbles

__ Medium sand

__ Fine sand, loamy sand

__ Sandy Loam

__ Loam

Soil Professional that determined soil type: _____

Step 3: Determine Length of Trench Required.

(Building Area / 1000 sqft) x (Required Trench Length) =

(_____ / 1000) X _____ = _____ ft of Trench*

*Round trench length up to the nearest whole foot.

Required Trench Lengths

- Coarse sands and cobbles: 20 LF
- Medium Sand: 30 LF
- Fine Sand, loamy sand: 75 LF
- Sandy loam: 125 LF
- Loam: 190 LF

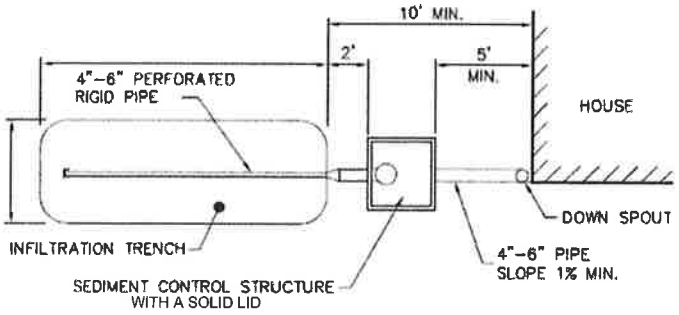

FIGURE 3

PROFILE
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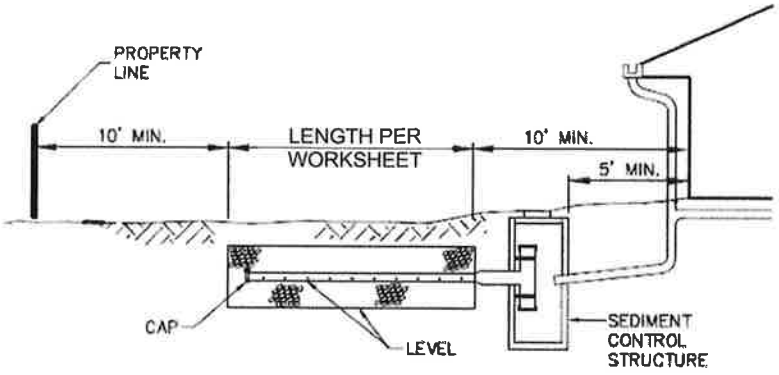

TRENCH SECTION
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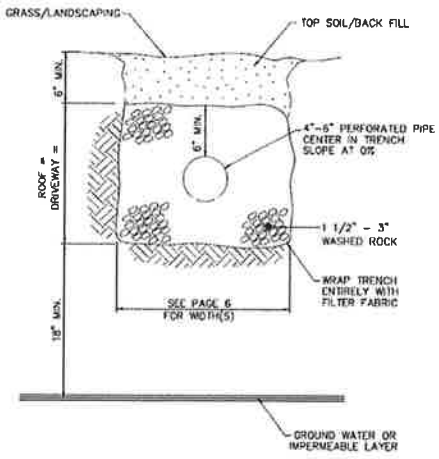


INFILTRATION DRYWELL WORKSHEET

A drywell is a simple, gravel-filled hole with a bottomless catch basin in the center into which runoff from the downspouts and gutters is routed. Drywells give a limited storage space for runoff to infiltrate slowly into the surrounding soil. Individual drywells can be used to manage runoff from up to 1,250 square feet of impervious surface area. Multiple drywells may be needed to manage the stormwater runoff on your property. Drywells are restricted to sandy or gravelly soil types (hydrologic group A and B).

When located in coarse sands, and cobbles, drywells must contain a volume of gravel equal to or greater than 60 cubic feet per 1000 square feet of impervious surface served. When located in medium sands, drywells must contain at least 90 cubic feet of gravel per 1,000 square feet of impervious surface served.

Similar to infiltration trenches, drywells that only receive runoff from single family residential roof runoff are not considered UIC wells. Infiltration trenches that receive runoff from any other surfaces shall be registered. Infiltration trenches can be registered online at: https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Underground-injection-control-program/Register-UIC-wells-online

Drywell Design Worksheet:

Step 1. Determine the roof area and check the soil group/infiltration rate the design is based on.

Building area: _____ sqft (roof area)

Step 2: Determine the soil type found on the project site.

Soil Type:

__ Coarse sands and cobbles

__ Medium sand

Drywells are not permitted in soils that do not meet the soil type listed above

Soil Professional that determined soil type: _____

Step 3: Determine Volume of drywell gravel required.

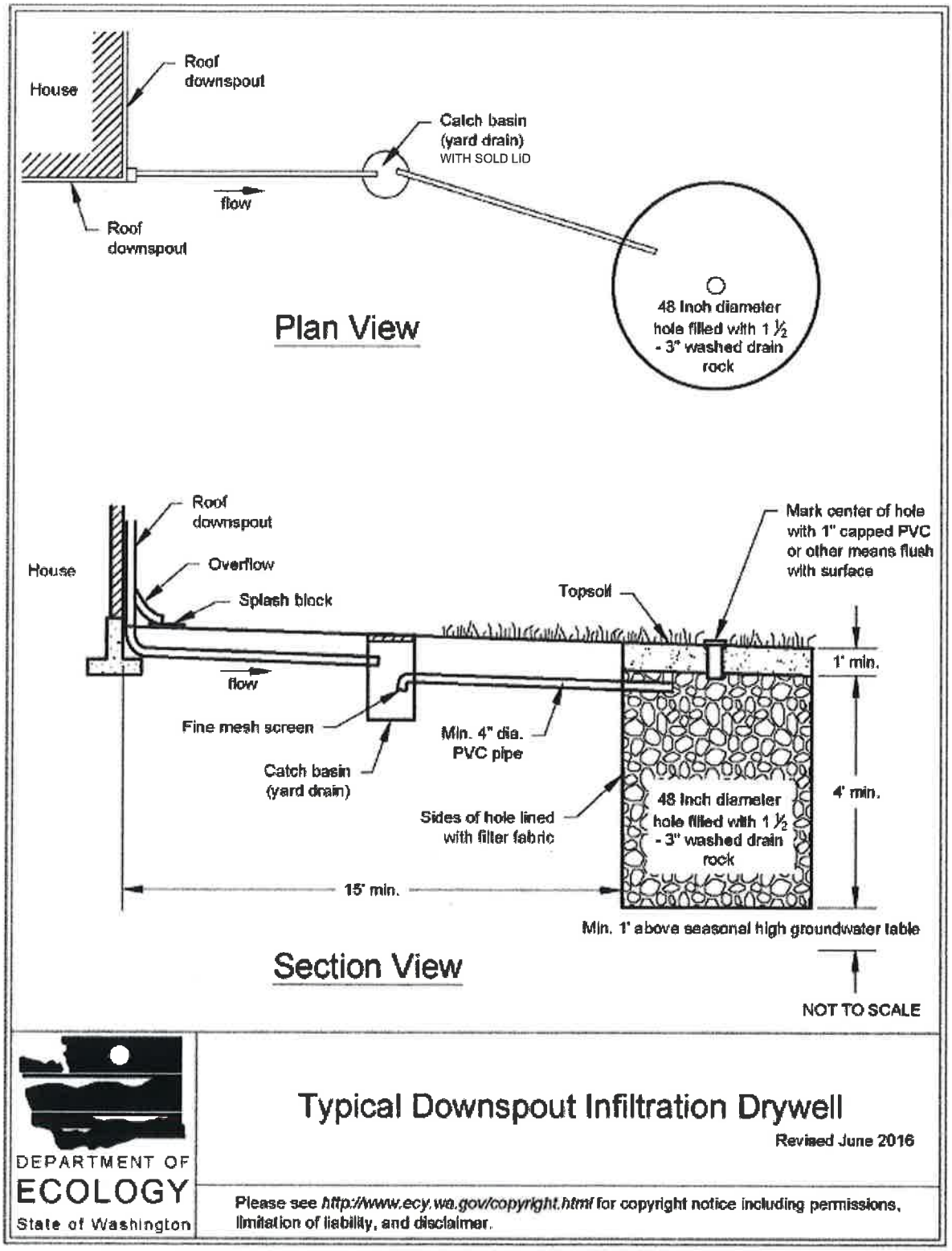
(Building Area / 1000 sqft) x (Required volume of gravel) =

(_____ / 1000) X _____ = _____ cuft of drywell gravel required.*

*Round up volume of gravel to the nearest whole cubic foot.

Required Trench Lengths

- Coarse sands and cobbles: 60 cuft / 1000 sqft of roof
- Medium Sand: 90 cuft / 1000 sqft of roof


House
Roof downspout
Catch basin (yard drain)
WITH SOLD LID
flow
Roof downspout
48 Inch diameter hole filled with 1 ½ - 3" washed drain rock
Plan View
House
Roof downspout
Overflow
Splash block
flow
Topsoil
Mark center of hole with 1" capped PVC or other means flush with surface
1' min.
Fine mesh screen
Min. 4" dia. PVC pipe
Catch basin (yard drain)
Sides of hole lined with filter fabric
48 Inch diameter hole filled with 1 ½ - 3" washed drain rock
4' min.
15' min.
Min. 1' above seasonal high groundwater table
Section View
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State of Washington
Typical Downspout Infiltration Drywell
Revised June 2016
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3.2 Rainwater Dispersion

Rainwater dispersion is a strategy that emphasizes minimization of impervious surfaces and evenly dispersing runoff into vegetated areas on your property. In order to utilize dispersion, there needs to be an appropriate vegetated open space that is down slope from the improvements, is large enough and has the desired slope. The vegetated open space includes native undisturbed areas, rehabilitation of previously disturbed areas, or fields that are not regularly mowed. Active recreation areas and lawn shall not count towards vegetated open space.

Dispersion is a good option for large rural lots. The following basic requirements apply to sites utilizing rainwater dispersion; additional measures may be required if site conditions warrant:

- The developed lot area must be predominately flat with slopes of no more than 10%.
- Provide at least 10-ft of dispersal trench for every 700 ft of roof area. A single trench shall not disperse more than 3500 sqft of roof. For roofs that exceed 3500 provide multiple trenches and spread trenches apart to the max extent possible.
- Areas of vegetated open space should be delineated clearly on the drainage plan.
- The maximum lot impervious surface area is 10% of the total parcel area.
- A vegetated flow path of at least 25 feet in length must be available along the path that runoff will follow prior to discharge to the nearest property line. The flow path must be as wide as the trench and slopes such that the water will not become channelize.
- A minimum 200-foot vegetated buffer from the point of dispersion to a critical area such as a stream or wetland. A vegetated flow path of at least 50-ft must be maintain between the outlet of the trench and slopes steeper than 15%.
- Dispersion areas must be at least 30 feet away from wells, and primary and reserve septic drainfields.
- Careful attention must be paid to spreading the stormwater properly. Runoff from each distinct impervious area should be dispersed to *different areas* and combining the flows from different areas should be kept to a minimum.

3.2.1 Small Lot Dispersion

Some areas of Region I in eastern Clallam County have excessively drained soils that are classified as hydrologic groups A or B. In these areas, rainwater dispersion can be used as the sole stormwater management regardless of the amount of vegetated open space on the lot. This is called Small Lot Dispersion. **See Appendix C to determine if the soil type on your site is suitable for this option.**

In situations with excessively drained soils, splash blocks are the simplest way to disperse the runoff collected from the roof area and discharged via a downspout. Downspout splash blocks or downspout extensions with splash blocks may be the only hardware required for areas with these excessively drained soil types. In general, if the ground is sloped away from the foundation, and there is adequate vegetation for effective dispersion, splash blocks will adequately disperse storm runoff into these gravelly or sandy soils. If the ground is level, adding downspout extensions to move the discharge point further from the foundation may be a better choice.

☐ The developed lot area must be predominately flat with slopes of no more than 10%.

- ☐ When utilizing Small Lot Dispersion, no more than 700 square-feet of roof area may be drained to a single splash block.
- ☐ A vegetated flow path of at least 25 feet in length must be available along the path that runoff will follow upon discharge from the splash block to the nearest property line.

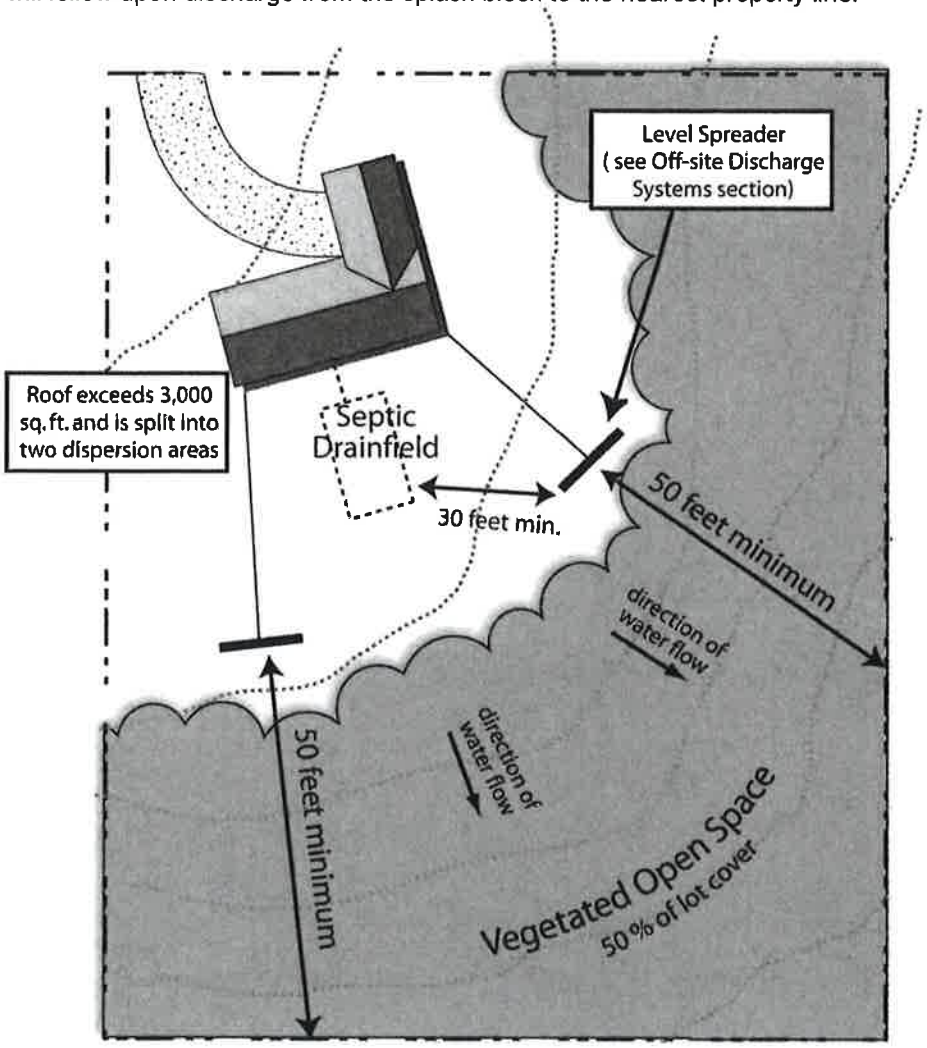
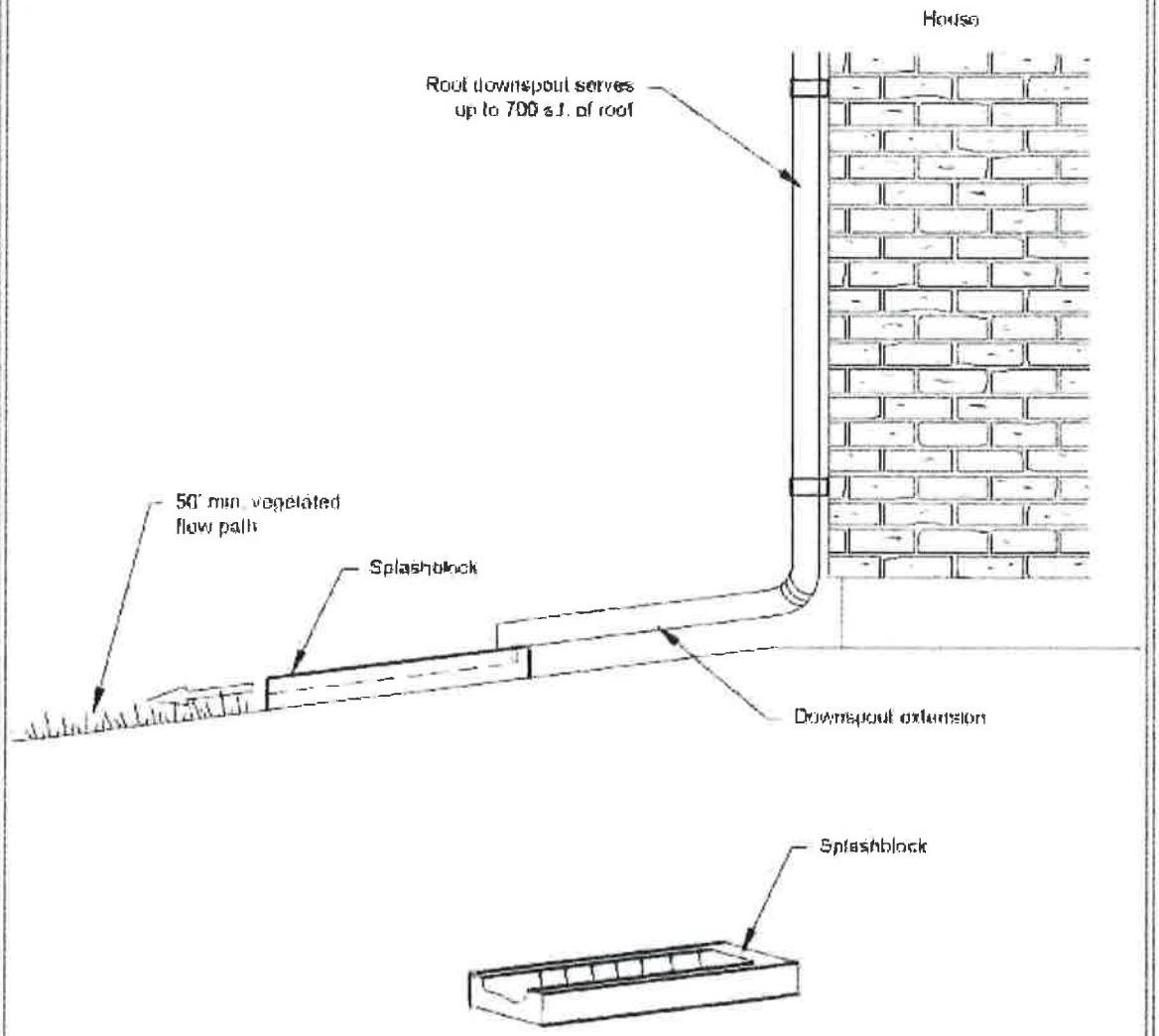


Figure 2. Example Dispersion Plan



Source: King County Department of Natural Resources, 1998

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Typical Downspout Splashblock Dispersion

Revised December 2016

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3.3 Rain Gardens

Rain gardens are excavated depressions lined with amended soil and planted with vegetation capable of thriving in wet soil in the winter and dry conditions in the summer. Raingardens provide bioretention, a process in which storm runoff partially infiltrated, partially absorbed by the plants and filtered by the vegetation and soil. Depending on the size and project site soils, it should be expected that ponding or overflows occur in larger precipitation events or when there are periods of sustained rainfall. Rain gardens, however, can be among the simplest and easiest to maintain stormwater BMPs.

The surface area of a Raingarden, as measured just below the overflow/outlet elevation, shall be at least 5% of the surface area draining to it.

Rain gardens have a minimum ponding depth of 6-inches.

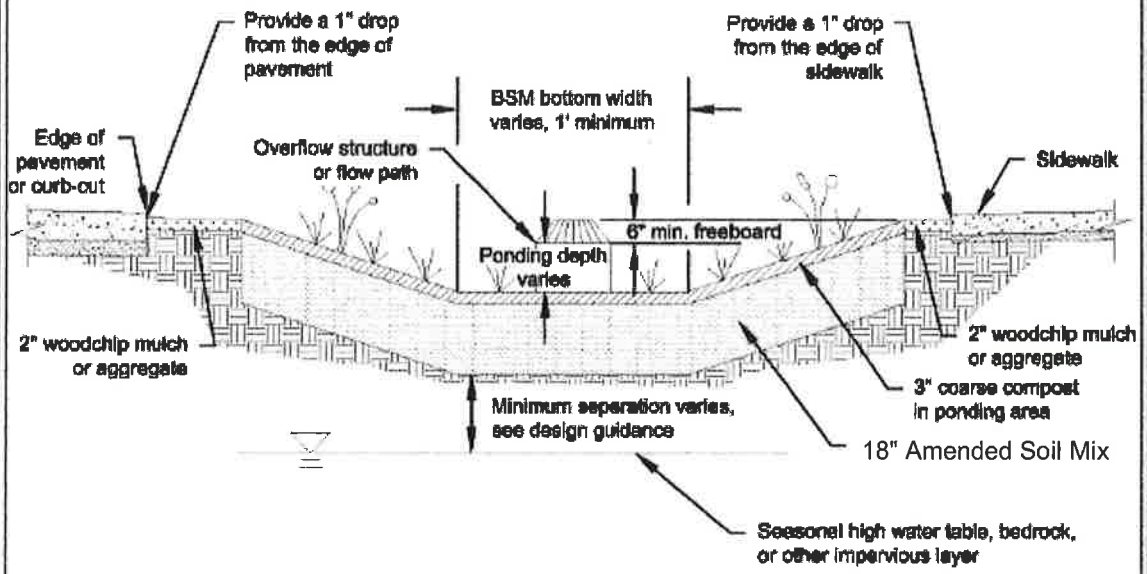
Pro Tip:

- Bioretention soils are very sensitive to over compaction. Construction must take place during good weather. Care must be taken to not compact during the installation of the plans.
- Raingardens will have ponding water in them during, and after, precipitation events.
- Refer to the Raingarden Handbook for Western Washington, Curtis Hinman - June 2013 (https://apps.ecology.wa.gov/publications/documents/1310027.pdf)
- Amended soils shall consist of 65% of the excavated soils + 35% compost. Amended soil shall be placed in the bottom of the raingard and lightly compacted. It is recommended that 6-inches of the amended soils be placed at a time and lightly tamped. Keep foot and vehicles off of the placed soil.
- Refer to the sample planting plans in the Raingarden Handbook link above.

Example: A 3,000 square foot house would require a rain garden with a surface area of 150 square feet.

If you utilize a rain garden to control stormwater runoff, you will need to follow the guidelines below:

- ☐ Rain gardens should be located on level to gently sloped ground. Use caution in locating rain gardens on slopes greater than 10%.
- ☐ Rain gardens shall be built to the required size as shown in the sizing table above.
- ☐ Rain gardens shall have a minimum ponding depth and at least 18-inches of amended soils.
- ☐ Side slopes shall be 3 horizontal to 1 vertical or less.
- ☐ Be sure to provide an overflow drain path for the rain garden. Outlets may consist of small spill ways or consisting of a 4" pipe. Overflow path shall be inspected and confirmed that overflow stormwater will not have a negative downstream impact.
- ☐ The rain garden shall include an additional overflow either by surface sheet flow or stabilized rock spillway to a level spreader, ditch or other stormwater dispersal system.
- ☐ The rain garden should be planted with vegetation appropriate for moist and seasonally dry conditions. See Appendix E for a list of recommended plants.



Notes:

1. Scarify subgrade 3" min. before bioretention soil installation

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Typical Bioretention

Revised January 2019

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3.4 Runoff Filter Strips

Runoff filter strips are lawn areas underlain by 1 to 1.5 feet of sand or gravel that are adjacent to driveways or parking areas. The turf and sand filter pollutants from runoff and allow stormwater to slowly infiltrate into the underlying soil.

Runoff filter strips shall encompass an area equal in width to the impervious surface area that drains to them. The lengths of the filter strip in areas with Type A or B soils shall be:

- 10' long for impervious areas up to 20'.
- For impervious areas greater than 20', the flow path through the filter strip shall be 10-feet, plus an additional 0.25-feet for every 1-foot of impervious area beyond the initial 20-feet.

In areas with Type C or D soils, the lengths of filter strips shall be:

- For every 1-foot of flow path length across the impervious surface, the flow path through the filter strip shall be 6.5-feet.

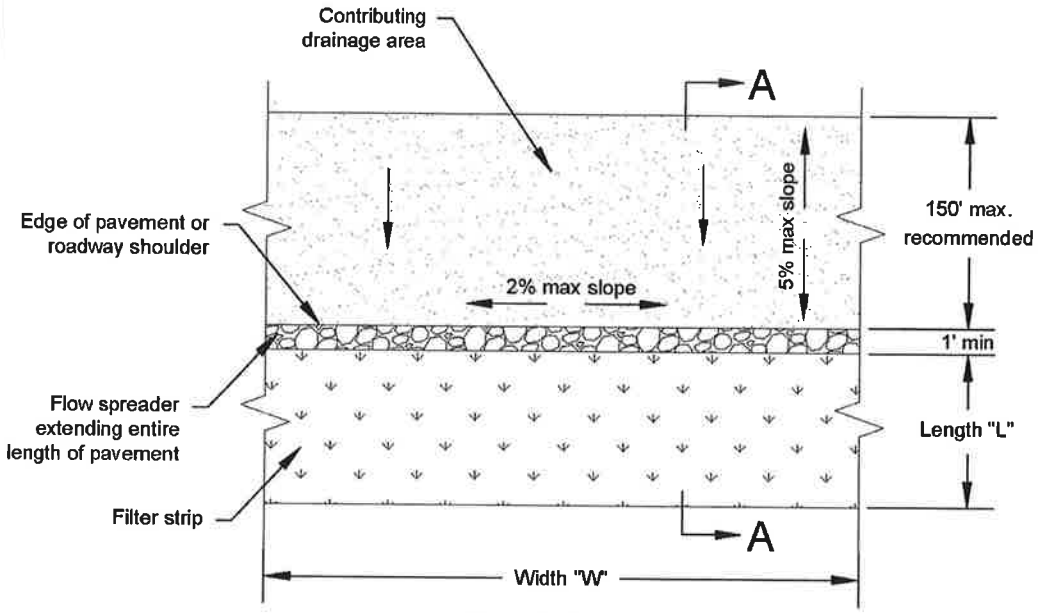
Additional filter strip criteria are

- The slope of the impervious area, such as a parking lot, draining to the filter strip must be less than 8 percent.
- The longitudinal slope of a road draining to a filter strip shall be less than 5%.
- The average slope of the filter strip shall be less than 15%.

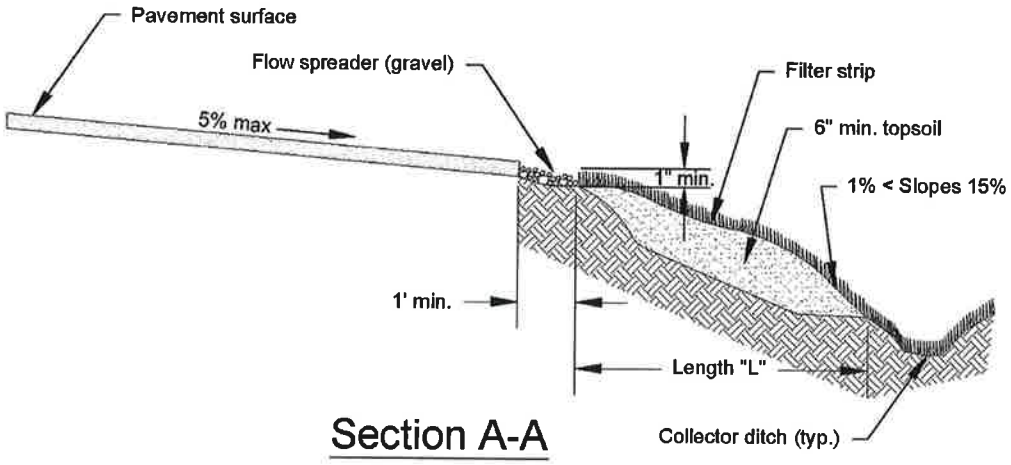
Examples:

- A 75' long paved driveway, 24' wide, in an area with Type B soils, would require a filter strip 11' wide along the entire length of the driveway. (10' + 0.25'/ft x 4' = 11-ft).
- A 75' long paved driveway, 10' wide, in an area with Type C soils, would require a filter strip 65' wide along the entire length of the driveway. (10' x 6.5'/ft = 65ft).

Figure V-7.11: Typical Filter Strip



Plan View



Section A-A

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Typical Filter Strip

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3.5 Rainwater Collection

Rainwater can be collected off of roofs and routed to containers such as rain barrels or cisterns for storage and later use. Up to 2,500 square feet of impervious surface may be mitigated by the use of rainwater catchment. Small systems of up to 2,200 gallons with water use restricted to non-potable outdoor uses can be incorporated into a drainage plan without engineered designs. Engineering design is required for systems requiring more than 2,200 gallons of storage.

Refer to https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-recovery-solutions/Rainwater-collection for additional information.

The table shown below shows the minimum size of storage required for the roof area draining to the cistern.

Square Footage of Roof Area Draining to Cistern							
		250	**500**	**1,000**	**1,500**	**2,000**	**2,500**
Required Cistern Volume by Region (Gallons)	**Region I**	400	800	1,600			
	Region II	500	1,100	2,200			Not permitted
	Region III	750	1,600			Not permitted	Not permitted

Shaded cells indicate rainwater catchment systems over 2,200 gallons that require an engineered design. Rainwater catchment can be used as the sole runoff management option for roofs up to 1,000 square feet and for up to 50% credit for additional roof areas. To receive credit for roof areas routed to cisterns or rain barrels, the storage volume must equal or exceed the amounts required in the sizing table above.

In order for rainwater catchment to aid in reducing flows from developed areas, it is important to manage overflow during storms. Ideally, spigots should be shut off during stormy periods, and overflow routed to additional BMPs such as a rain garden or infiltration trench. Storage levels kept to less than ¾ full by slowly lowering levels during dryer weather by irrigating lawns or gardens or very slowly draining to conveyance areas. Larger clean-out valves should never be used to lower water levels especially during winter months. Water from the cistern should be drained prior to freezing weather.

If you plan to utilize a cistern or rain barrels to collect stormwater runoff, follow the guidelines below:

- ☐ Containers should be placed on a concrete or brick footing on firm ground.
- ☐ Container capacity shall meet or exceed the size specified in the sizing chart for the roof area draining to it.
- ☐ Containers storing less than 1,000 gallons shall use an outlet spigot of ½", larger containers shall utilize spigots ¾" or larger.
- ☐ Containers must have an overflow pipe located below the top of the tank which is directly routed to a conveyance BMP.
- ☐ The container shall have a controllable spigot or valve located near the bottom. The spigot should drain to a hose or pipeline that can outlet to a conveyance BMP.
- ☐ The water collected from the gutter shall be filtered with a fine screen prior to discharging to the storage container.
- ☐ The container should have a valve of at least 2" in diameter to flush sediment out of the tank. This larger valve should not be used to drain the tank because of the rapid rate of draining.

3.6 Stormwater Conveyance BMPs

The stormwater conveyance BMPs collect and convey runoff on the site. When well implemented, conveyance BMPs can slow flows and allow some infiltration of stormwater as it travels across a developed site. To achieve these benefits, at least half of the flow paths from various impervious areas shall consist of open conveyance, thus limiting the use of pipes and narrow ditches. The two options for conveyance of stormwater consist of conveyance piping and swales. This section of the manual presents general guidelines for design of the following conveyance BMPs for small projects:

- Conveyance Piping
- Swales

3.7 Conveyance Piping

The most common way to convey stormwater is with Closed conveyance piping. Pipes are sold in many types of materials. PVC, and CPEP pipes are the most common types of pipes used for small site drainage plans. For culverts, or pipes that are shallow under vehicle areas, concrete and ductile pipes are recommended.

Pipes should be laid to a true line and grade. Pipes shall be bedded with well graded soils that do not contain rocks greater than 1-inch in diameter. The bedding shall be compacted below, around the sides of the pipe, and above the pipe to a firm and unyielding condition. Native soils can be generally used for backfilling the remainder of the trench. These soils shall be placed in layers no more that 8-12 inches and compacted. Wet soils that do not compact, or soils that contain a lot of debris and organics, may need to be replaced with an imported gravel borrow.

Refer to Section 7-08 General Pipe Installation Requirements in the current edition of the Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction for additional information.

3.8 Swales

Swales are broad, shallow ditches with gentle slopes. They are generally grassed and designed for easy mowing. Swales maybe stabilized with cobbles and decorative stones/river rock. Swales should be used on level or gentle sloped ground with grades less than 5%. The bottom width of a swale should be at least 2 feet. However, if the swale serves over 5,000 square feet of impervious surface, the bottom should be at least 3 feet wide.

3.9 End-of-Line Discharge BMPs

After stormwater has traveled through a Runoff Management BMP such as a rain garden, rainwater planter, or infiltration system, it is conveyed through an open conveyance BMP to a discharge point. This point should be at or near the point where water naturally flowed from the site before the permitted development. In order to eliminate or minimize any impacts associated with the discharge of stormwater from a site, stormwater shall be dispersed utilizing either a level spreader, continued dispersion or a rock energy dissipating pad. This section of the manual presents general guidelines for design of the following discharge BMPs for small projects:

- Level Spreaders
- Continued Dispersion

3.9.1 Level Spreaders

Level spreaders are structures that are designed to convert small concentrated stormwater flows to sheet flows over a large area. Level spreaders come in many forms, but all designs follow the same principle:

1. Concentrated flow enters the spreader through a pipe, ditch or swale.
2. The flow is slowed and energy is dissipated.
3. The flow is distributed throughout a long linear shallow trench or behind a low berm.
4. Water then rises and is dispersed over the level spreader.

3.9.2 Gravel Spreader Trenches

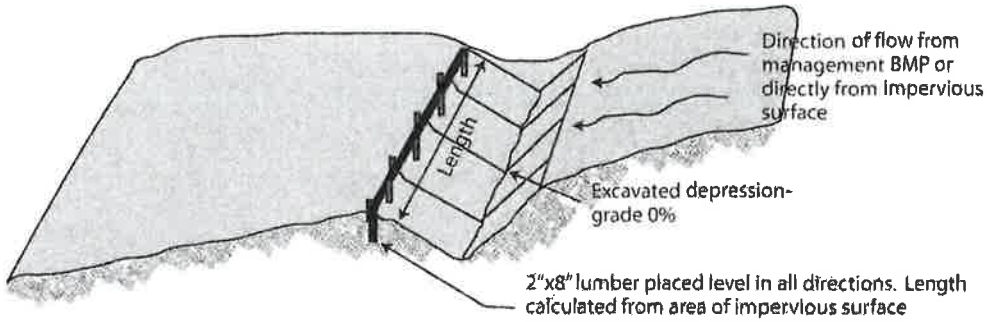
A gravel spreader trench is a gravel filled channel with a level downslope edge. Water pools in the channel, rises up and flows evenly over the edge of the channel as dispersed sheet flow. The channel should be dug along an elevation contour, which helps make the downstream lip "level." Landscape fabric should be used to underlay the channel and protect the downslope lip. A disadvantage of this type of spreader is that it is very hard to get the lip truly level and keep it that way.

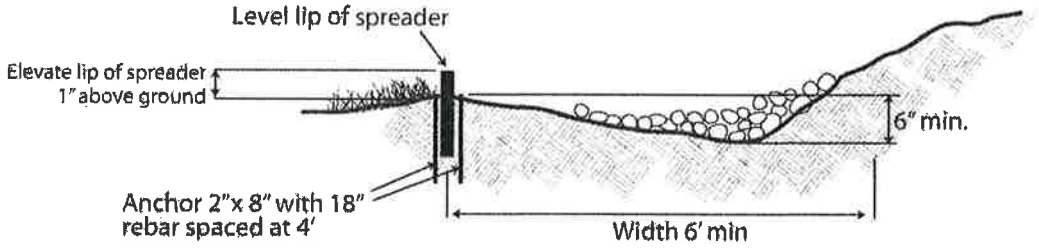
A spreader shall have a minimum length of 10 feet for every 1,000 feet of directly tied impervious surface. For example, to adequately disperse flows from an impervious surface (such as a driveway) that measures 1,500 square feet, a level spreader 15 feet long would be needed.

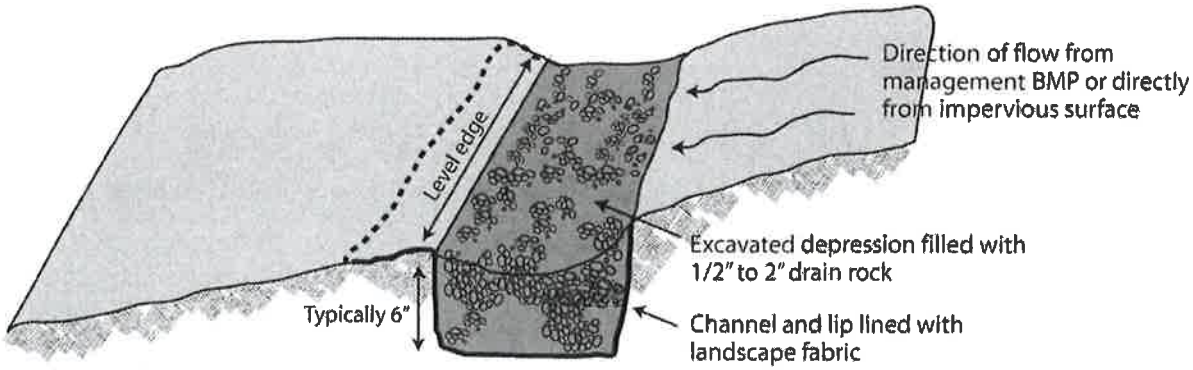
For the outflow of a BMP such as a rain garden, or planter, 2,000 square feet of impervious surface may be routed for every 10 feet of width of the level spreader. For example, a rain garden receiving the runoff from a 4,000 square foot surface should have an overflow leading to a level spreader 20 feet in length.

The maximum length of one level spreader shall be 30 feet. For areas larger than 3,000 square feet of impervious surface that are drained directly by a level spreader, more than one level spreader should be used. When used in conjunction with runoff management and conveyance BMPs such as a rain garden or conveyance furrow, impervious surfaces larger than 6,000 should incorporate more than one level spreader.

A vegetated flow path of at least 50 feet in length must be available along the path that runoff will follow upon discharge from the spreader to the nearest property line. The level spreader should be at least 200 feet from a critical area such as a stream, wetland or geologically hazardous area.


Direction of flow from management BMP or directly from impervious surface
Length
Excavated depression-grade 0%
2"x8" lumber placed level in all directions. Length calculated from area of impervious surface


Level lip of spreader
Elevate lip of spreader 1" above ground
6" min.
Anchor 2"x 8" with 18" rebar spaced at 4'
Width 6' min


Direction of flow from management BMP or directly from impervious surface
Level edge
Excavated depression filled with 1/2" to 2" drain rock
Typically 6"
Channel and lip lined with landscape fabric

Appendix A

Appendix A: Sample Drainage Plan Submittal Form

Copies of this form are available at the Clallam County Department of Community Development or on the website: [redacted]

FEE:

Clallam County Public Works Department
223 E. 4th Street, Suite 6 Port Angeles, WA 98362
360-417-2379 Fax 417-2513

DRA_____

Drainage Plan Submittal

Information

Please print. Leave no blank lines.

Landowner	Tax Parcel #
Phone	Prepared By (Agent)
Address	Address
City, ST ZIP Code	City, ST ZIP Code
Nearest County Road	Phone
	Short Plat Name

Driveway:

____ Not on County Road (accesses private rd, easement, or State Hwy)
____ Submitting permit now for driveway approach onto County road
____ Existing driveway approach onto County road

Block: ____ Lot: ____
Volume ____ Page: ____
Acreage: ____ Soils: ____

Regarding pre-approval for additional/future structures: Locations and dimensions must be shown on this site plan for future drainage fees to be waived. Future/Additional structures which create impervious areas that are equal to or greater than 5,000 square feet may require engineered drainage plans.

_____ _____
Signature of Owner/ Owner's Agent Date

Requirements: The following are required as part of a drainage plan submittal

- ☐ Drainage Plan (must be plotted to scale, with all significant dimensions given. Use attached sheet or attach a separate sheet, no larger than 11x17. See checklist for required information.
- ☐ Written Drainage Assessment
- ☐ Declaration of Covenant and Grant of Easement form

Submit the completed forms to the Clallam County Public Works Department. Incomplete information can delay processing of the drainage evaluation.

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Drainage Plan

DRAINAGE PLAN CHECKLIST:

The following information must be included on all small project drainage plans:

Identification

- ☐ Name, address, and phone number of applicant
- ☐ Parcel number
- ☐ Dimension of all property lines
- ☐ Street names and existing or proposed property address
- ☐ Section, township, and range of proposal.
- ☐ North arrow
- ☐ Legend if needed
- ☐ Scale—use a scale that clearly illustrates drainage features and BMPs/measures
- ☐ Show at least 5-foot contours for all slopes steeper than 15% .

Building and Site Development Features

- ☐ Footprint of all structures (existing and proposed)
- ☐ Future structures and improvements planned.
    - If you wish to have drainage review fees waived for future structures/improvements on this parcel, you must show them (with dimensions) on the site plan.
- ☐ Parking, roads, and driveways (existing and proposed)
- ☐ Sport courts, patios, pools and any other paved or impervious surfaces (existing and proposed)
- ☐ Total impervious surface land cover (existing and proposed)
- ☐ Location of any retaining walls and rockeries (existing and proposed)
- ☐ Existing or proposed septic system, including all system components and both primary and reserve drainfields.
- ☐ Utility structures (poles, fire hydrants, etc.)
- ☐ Existing easements
- ☐ Existing wells or wells to be abandoned.
- ☐ Newly created vegetated areas.
- ☐ Remaining **vegetated open space** that will remain undisturbed.

Natural Features and Critical Areas

For a map detailing the critical areas on your site, go to http://www.clallam.net/Maps/ or visit the permit counter at the Department of Community Development. *Development within 200 feet of a critical area requires an engineered drainage plan.*

- ☐ Existing natural features of the property (woods, pasture, brush).
- ☐ Existing hydrology- Location of all existing and proposed ditches, swales, pipes, etc.
- ☐ Delineation of all streams, wetlands, lakes, closed depressions, or other water features (including any required buffer widths)
- ☐ Delineation of all flood hazard areas, erosion hazard areas, steep slope hazard areas, landslide hazard areas, and their buffers and building setback lines.

Stormwater Management Information

In addition to the general information listed above, the following additional information is required on drainage plans that include installation of stormwater BMPs:

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- ☐ Identify the Stormwater Region your project is within.
  - Consult the map on page X to determine the stormwater region your project is within. This is critical for sizing various stormwater management techniques.
- ☐ Identify the soil type(s) on your project site in order to determine which stormwater management techniques in this manual will be applicable for your site.
  - For a County soils map showing this information, consult the *Soil Survey of Clallam County*, go to http://www.clallam.net/Maps/, or visit the Clallam Conservation District.
- ☐ Show delineation and dimensions of impervious surfaces and pervious surfaces, both existing and new.
- ☐ Show location and dimensions of runoff management BMP methods such as but not limited to infiltration trenches, drywells, rain gardens, permeable pavements, rain water storage tanks for managing stormwater from all impervious surfaces.
  - Use the drainage project planning chart on page x to select options for managing roof water runoff, driveway runoff, conveyance areas, and off-site ROW discharge areas.
  - Appendix C summarizes the BMPs appropriate for your soil type and slope.
  - Consult Section III of this manual for details on the design and applicability of each of the BMP options. Use the sizing charts located in Section III to determine the required dimensions for each BMP based on the stormwater region in which the project is located.
- ☐ Show delineation and dimensions of the flowpath of stormwater through the site - from the runoff management BMPs, to conveyance BMPs, to end-of-line discharge BMPs.
- ☐ Show setback lengths between stormwater management BMPs and any property line, structure, well, steep slope, stream, wetland, or septic system including drainfields.

Written Drainage Assessment

The written drainage assessment is a supporting document of the small project drainage plan that should include the following information:

- ☐ A description of the property:
  - **Property Description**: Describe the natural features of the parcel (i.e. woods, pasture, brush) and give the approximate area covered by those features.
  - **Existing Structures/ Improvements**: List any existing buildings, driveways (dirt, gravel, etc.), sidewalks, etc. and their area size in square feet or acres.
  - **New Structures/ Improvements:** List new buildings and their sizes along with any size changes in existing driveways, parking areas, landscaped areas, etc.
  - **Future Structures/ Improvements Planned**: If you wish to have drainage review fees waived for future structures/improvements on this parcel, you must list them (with dimensions) in this section. Show their locations on the plot plan.
  - **Remaining Undisturbed Land**: List and provide the size of the land (woods, pasture) not covered by buildings or improvements.
- ☐ Proposed Drainage Plan: A description of proposed stormwater management BMPs shown on the drainage plan and how they were selected.

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Parcel Number:	
Description	**Area (sq. ft.)**
Property description: (wooded, pasture, etc.)	
Existing Structures/ Improvements:	
New Structures and Improvements:	
Future Structures and Improvements:	
Proposed Drainage Plan:	

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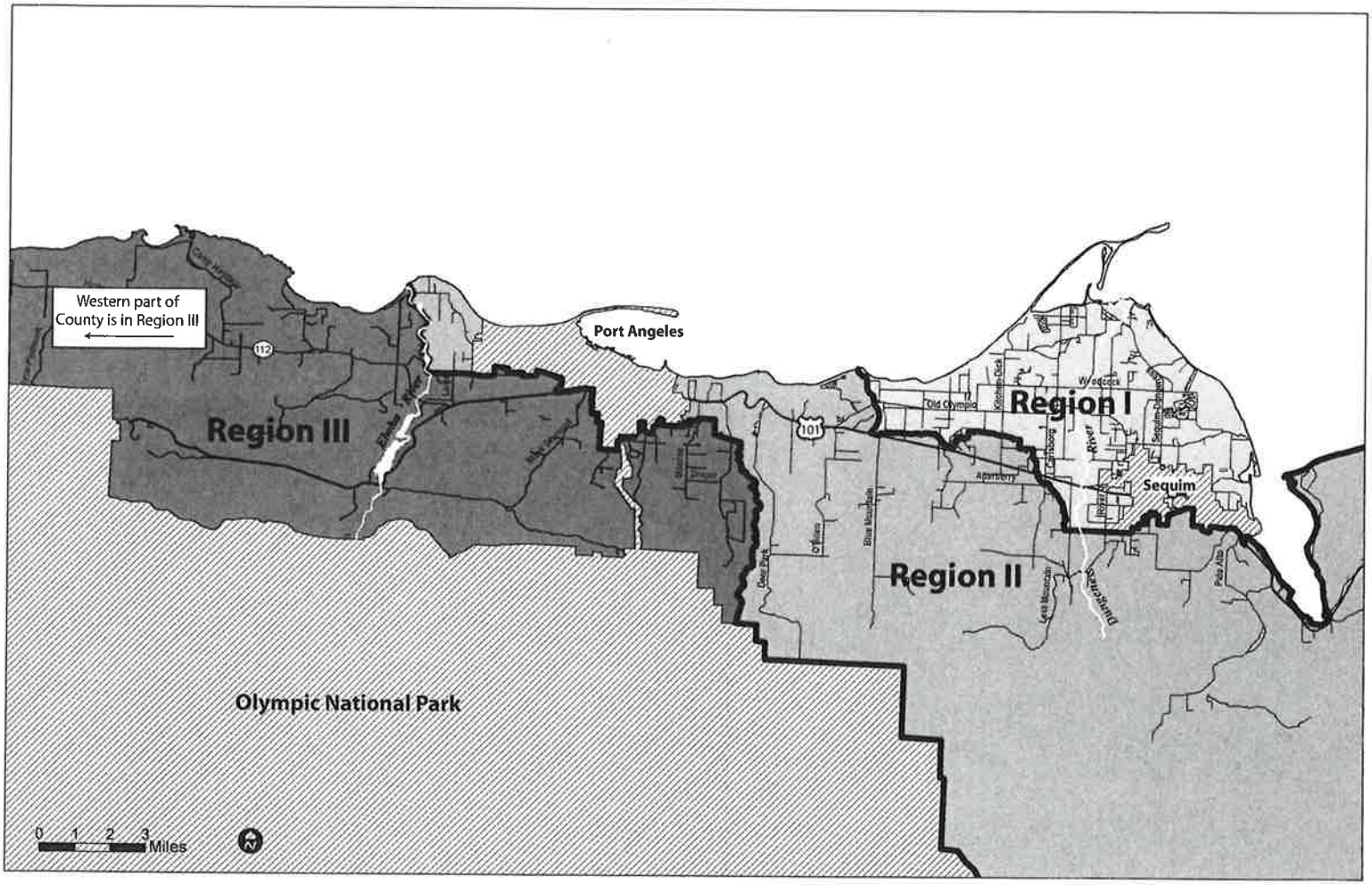
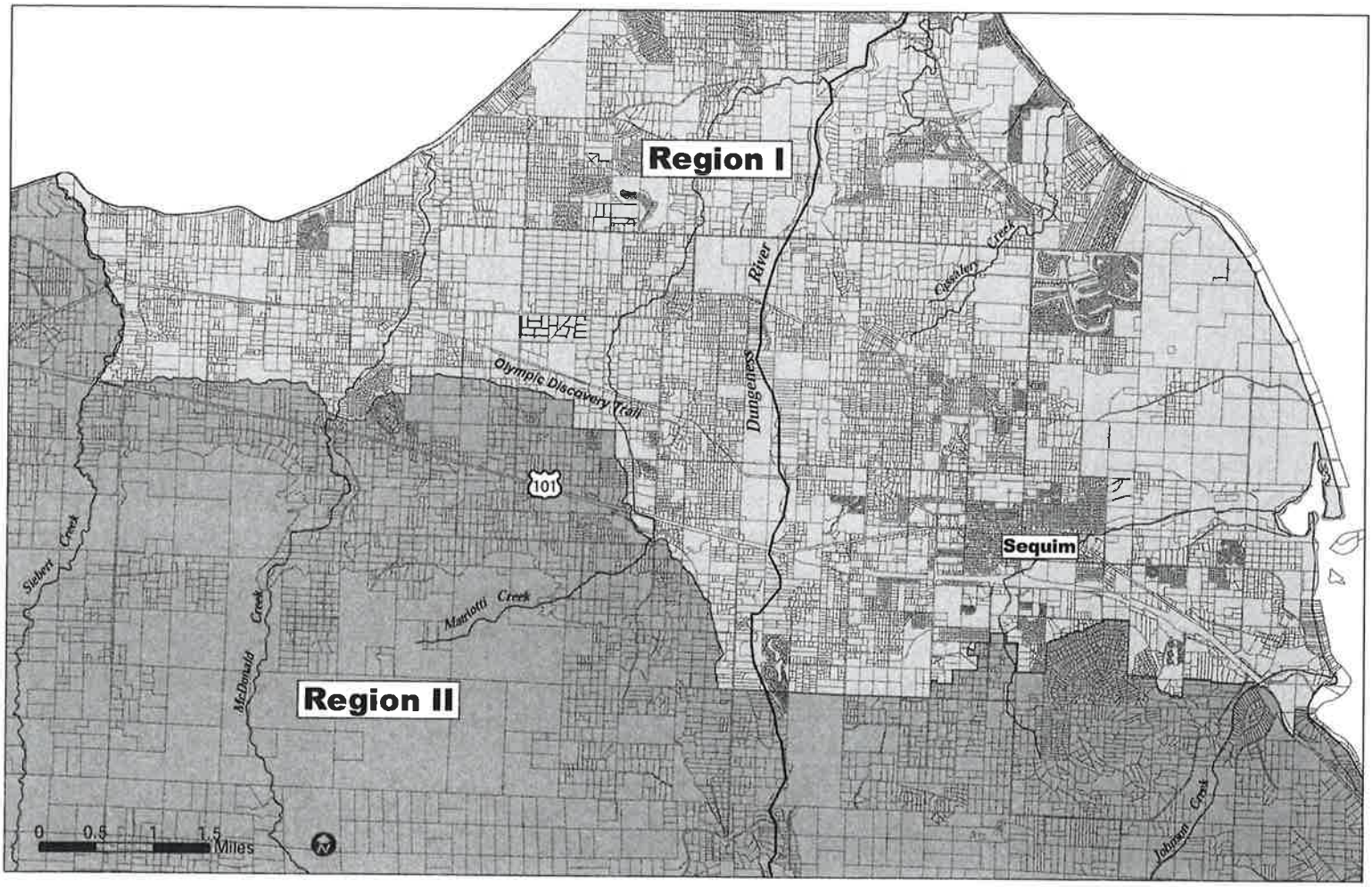
I hereby certify the information provided above and on the attached plot plan is true and accurate to the best of my knowledge and represents the ultimate development of the parcel.

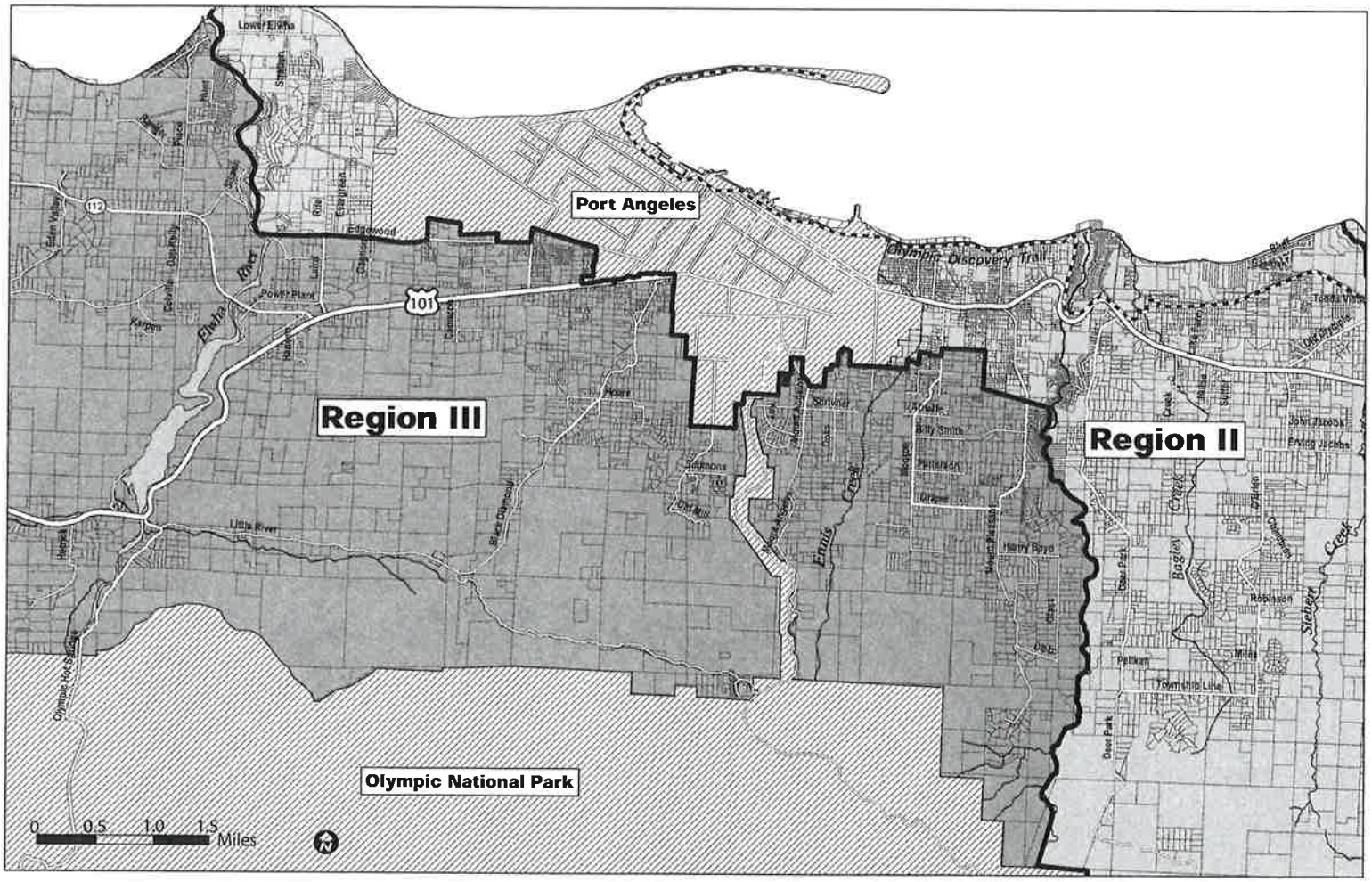
Signature of Owner/ Owner's Agent

Date

Appendix B


Western part of County is in Region III
Port Angeles
Region III
Region I
Region II
Sequim
Olympic National Park
0 1 2 3 Miles


Region I
Region II
Sequim
Dungeness River
Cassalery Creek
Olympic Discovery Trail
101
Siebert Creek
McDonald Creek
Marriotti Creek
Johnson Creek
0 0.5 1 1.5 Miles


Port Angeles
Region III
Region II
Olympic National Park
Olympic Discovery Trail
Elwha River
Little River
Ennis Creek
Siebert Creek
Bagley Creek
Deer Park
Township Line
Power Plant
Lower Elwha
Edgewood
Pelican
Robinson
Miles
Henry Beyer
Billy Smith
Simmons
Olympic Hot Springs
0 0.5 1.0 1.5 Miles

Appendix C

Appendix C: Suitable Soils and Slopes for BMPs

Some BMPs in this manual may not be appropriate for use in some areas of the county due to soil limitations or steep slopes.

The following tables outline applicable soils and slopes in the county for BMPs in the three stormwater regions. Soils are classified in different hydrologic groups depending on their drainage characteristics. The names and hydrologic groups of the soils present on your project site can be found in the *Soil Survey of Clallam County*, on the County website at http://www.clallam.net/Maps/ or by visiting the Clallam Conservation District.

Region I

BMP	Applicable Soils	Applicable Slopes
Runoff Management		
Infiltration Systems: Infiltration Trench Drywell	Only the following Hydrologic Group A or B soils: ▪ Carlsborg (7) ▪ Dick (16) ▪ Dungeness (17) ▪ Hoypus (23, 24,25) ▪ Pits (52) ▪ Sequim (63,64)	15% or less
Rainwater Dispersion	All Soils	10% or less
Small Lot Dispersion (with Splash Block)	Only the following Hydrologic Group A or B soils: ▪ Carlsborg (7) ▪ Dick (16) ▪ Dungeness (17) ▪ Hoypus (23, 24,25) ▪ Pits (52) ▪ Sequim (63,64)	10% or less
Rain garden	All Soils	10% or less
Rainwater Planters	All Soils	Level construction site
Runoff Filter Strips	All Soils	5% or less
Porous Pavement	Only the following Hydrologic Group A or B soils: ▪ Carlsborg (7) ▪ Dick (16) ▪ Dungeness (17) ▪ Hoypus (23, 24,25) ▪ Pits (52) ▪ Sequim (63,64)	5% or less
Rainbarrels/ Cisterns	All Soils	Level construction site
Conveyance		
Swales	All Soils	5% or less
Conveyance Furrows	All Soils	Greater than 15%
Conveyance Gardens	All Soils	10% or less
Gravel Trenches	All Soils	5% or less
Off-site Discharge		
Level Spreader	All Soils	All slopes
Continued Dispersion	All Soils	10% or less

Numbers after soils correspond to Soil ID numbers found on http://www.clallam.net/Maps/

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Region II

BMP	Applicable Soils	Applicable Slopes
Runoff Management		
Infiltration Systems: Infiltration Trench Drywell	Only the following Hydrologic Group A or B soils: ▪ Carlsborg (7) ▪ Dick (16) ▪ Dungeness (17) ▪ Dystric Xerorthents (18,19) ▪ Hoypus (23,24,25) ▪ Louella (34,35,36) ▪ Neilton (44,45,46) ▪ Pits (52) ▪ Schnorbush (59,60,61,62) ▪ Sequim (63,64) ▪ Terbies (70,71,72) ▪ Typic Xerofluvents (73)	15% or less
Rainwater Dispersion	All Soils	10% or less
Small Lot Dispersion	Not Applicable in Region II	----------
Rain garden	All Soils	10% or less
Rainwater Planters	All Soils	Level construction site
Runoff Filter Strips	All Soils	5% or less
Porous Pavement	Only the following Hydrologic Group A or B soils: ▪ Carlsborg (7) ▪ Dick (16) ▪ Dungeness (17) ▪ Dystric Xerorthents (18,19) ▪ Hoypus (23,24,25) ▪ Louella (34,35,36) ▪ Neilton (44,45,46) ▪ Pits (52) ▪ Schnorbush (59,60,61,62) ▪ Sequim (63,64) ▪ Terbies (70,71,72) ▪ Typic Xerofluvents (73)	5% or less
Rainbarrels/ Cisterns	All Soils	Level construction site
Conveyance		
Swales	All Soils	5% or less
Conveyance Furrows	All Soils	Greater than 15%
Conveyance Gardens	All Soils	10% or less
Gravel Trenches	All Soils	5% or less
Off-site Discharge		
Level Spreader	All Soils	All slopes
Continued Dispersion	All Soils	10% or less

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Region III

BMP	Applicable Soils	Applicable Slopes
Runoff Management		
Infiltration Systems: Infiltration Trench Drywell	Only the following Hydrologic Group A or B soils: ▪ Andeptic Udorthents (2) ▪ Calawah (5) ▪ Carlsborg (7) ▪ Dick (16) ▪ Dystric Xerorthents (18,19) ▪ Hoh (22) ▪ Hoypus (23,24,25) ▪ Hyas (26) ▪ Ilwaco (27,28) ▪ Klone (29,30,31) ▪ Louella (34,35,36) ▪ Lyre (39,40) ▪ Makah (41) ▪ Neilton (44,45,46) ▪ Palix (49,50,51) ▪ Pits (52) ▪ Queets (54,55) ▪ Quillayute (56) ▪ Schnorbush (59,60,61,62) ▪ Sequim (63,64) ▪ Snahopish (65) ▪ Solduc (66) ▪ Solleks (67,68) ▪ Terbies (70,71,72) ▪ Typic Xerofluvents (73) ▪ Wellman (74)	15% or less
Rainwater Dispersion	All Soils	10% or less
Small Lot Dispersion	Not Applicable in Region III	----------
Rain garden	All Soils	10% or less
Rainwater Planters	All Soils	Level construction site
Runoff Filter Strips	All Soils	5% or less
Porous Pavement	Only the following Hydrologic Group A or B soils: ▪ Andeptic Udorthents (2) ▪ Calawah (5) ▪ Carlsborg (7) ▪ Dick (16) ▪ Dystric Xerorthents (18,19) ▪ Hoh (22) ▪ Hoypus (23,24,25) ▪ Hyas (26) ▪ Ilwaco (27,28) ▪ Klone (29,30,31) ▪ Louella (34,35,36) ▪ Lyre (39,40) ▪ Makah (41) ▪ Neilton (44,45,46) ▪ Palix (49,50,51) ▪ Pits (52) ▪ Queets (54,55) ▪ Quillayute (56) ▪ Schnorbush (59,60,61,62) ▪ Sequim (63,64) ▪ Snahopish (65) ▪ Solduc (66) ▪ Solleks (67,68) ▪ Terbies (70,71,72) ▪ Typic Xerofluvents (73) ▪ Wellman (74)	5% or less
Rainbarrels/ Cisterns	All Soils	Level construction site
Conveyance		
Swales	All Soils	5% or less
Conveyance Furrows	All Soils	Greater than 15%
Conveyance Gardens	All Soils	10% or less
Gravel Trenches	All Soils	5% or less
Off-site Discharge		
Level Spreader	All Soils	All slopes
Continued Dispersion	All Soils	10% or less

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Appendix D: Sample Drainage Plans

The following pages include sample drainage plans from development situations likely to be encountered in different areas of Clallam County. While each drainage plan should be site specific and address the unique conditions found on the site, these sample plans can be used as general examples for managing stormwater on residential sites.

- Large Lot with Full Dispersion
- Small Lot Dispersion
- Small Lot with Poorly Draining Soils
- Typical Rural Lot with Well-Drained Soils
- Typical Rural Lot with Poorly Draining Soils

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Note: The following plans are intended as examples only. Each drainage plan should be designed to meet the specific conditions of the site.

Example A: Full Dispersion on Large Lot

A single family residential project with a roof area of 2,400 square-feet and a garage with a roof area of 970 square-feet on a 2.5 acre lot.

Step 1: Conduct Site inventory

A thorough inventory of the site is the initial step for developing and implementing an effective site design and drainage plan.

- The site is gently sloping with 5-7% slopes.
- There are no seeps, springs or visible drainage paths on-site.
- There are no environmental critical areas (e.g. wetlands, streams, geologic hazard areas) on the site.
- The forested portions of the site have native vegetated areas of trees and shrubs.
- The site utilizes an on-site septic system and well.

Step 2: Site Design

Using the information gathered in the Inventory, align the roads and structures on the site to maximize the preservation of vegetation and retain the existing flow of water on the site to the greatest possible extent.

- Building envelope and access point are identified.
- Clearing limits are marked on construction plans.

Step 3: Determine Soil Type and Stormwater Region

- The maps in Appendix A are consulted to determine the stormwater region of the project. The project is in Region III, in the Joyce area.
- The *Soil Survey of Clallam County* indicates the soil type of the project site is Elwha Gravelly Sandy Loam. According to the table in Appendix B, the soils are not suitable for infiltration techniques such as drywells or infiltration trenches.

Step 4: Drainage Plan Design

A drainage plan is developed using the project planning chart on page X and the details in the Small Project Drainage Plan Design Elements section (pages x-x) to select options for managing roof water runoff, driveway runoff, conveyance areas, and discharge areas. The sizing chart for each drainage element determines the required dimensions based on the stormwater region in which the project is located. The table in Appendix B is consulted to make sure the BMPs chosen are appropriate for the region and soil type. The following page shows the runoff, conveyance and discharge locations illustrated on the drainage plan for the site. The connection to the community drainage system is shown.

- ❑ Full dispersion of the roof runoff is possible because of the size of the lot, small building envelope and the existing vegetated open space is more than 50% of the lot cover.
- ❑ The house roof runoff is routed through downspouts, pipes and a swale to a spreader trench that is used to disperse the stormwater evenly.
- ❑ Splash blocks in combination with gutters and downspouts are used to disperse garage roof runoff.
- ❑ Runoff from the gravel driveway is dispersed into the surrounding lawn areas.

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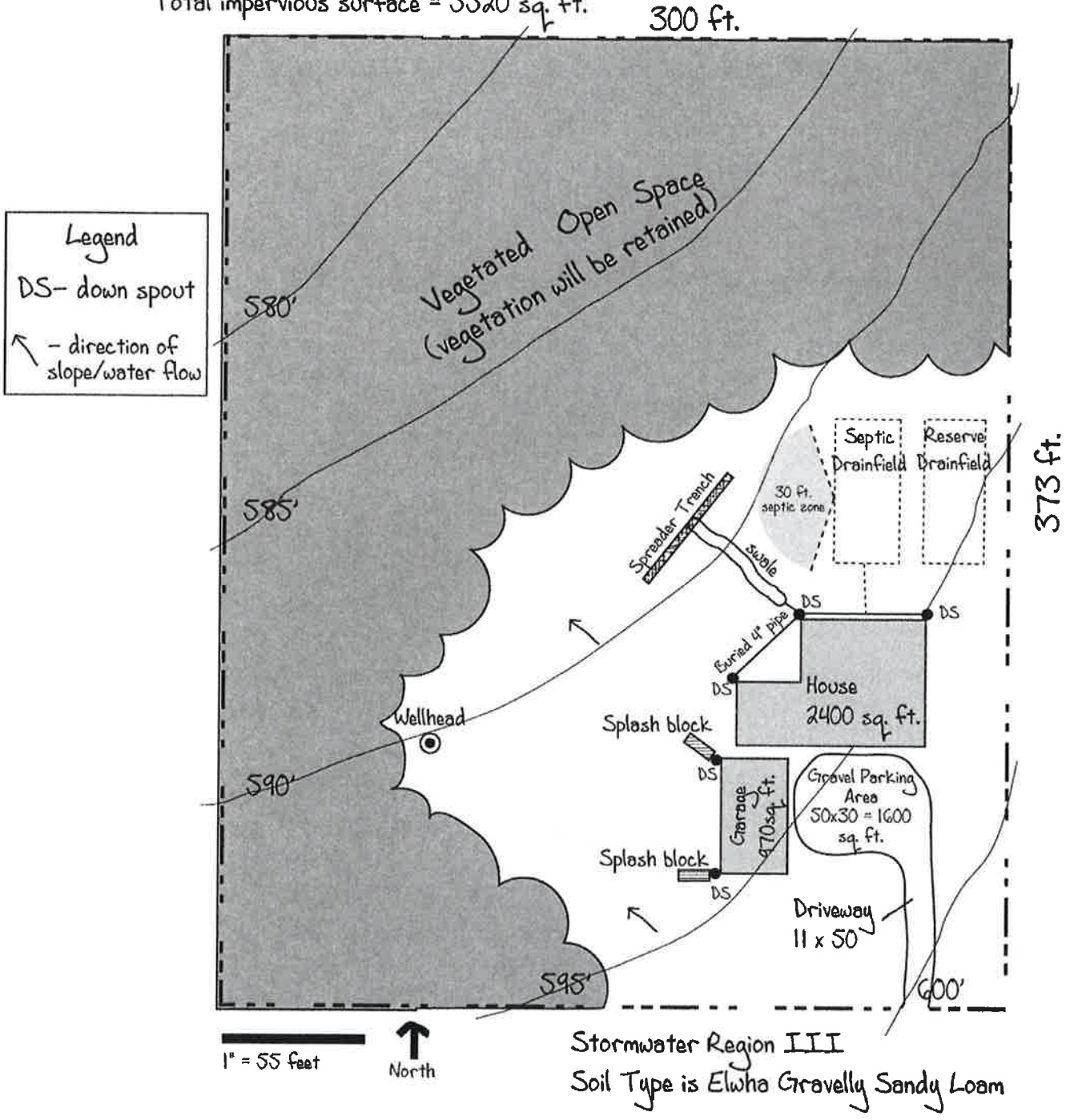
Example A: Full Dispersion on Large Lot

Applicant: John Doe
P.O. Box A4h
Port Angeles, WA 98362
(360) 555-3100

Parcel number: 083001232900
Project Address: 7543 Greenfields Lane
Joyce, WA 98343

Acreage = 2.5 acres
Total impervious surface = 5520 sq. ft.



Example B: Small Lot Dispersion

A single family residential project with a roof area of 2,040 square-feet, a 1,180 square- foot driveway/parking area and a garage with a roof area of 936 square-feet on a 0.62 acre lot near Carlsborg.

Step 1: Conduct Site inventory

A thorough inventory of the site is the initial step for developing and implementing an effective site design and drainage plan.

- The site is level and there are no seeps, springs or visible drainage paths on site.
- There are no critical areas on the site.
- The site is a former hayfield and has no existing native vegetated areas but does have an intact ground cover layer of pasture grasses.
- The site utilizes an on-site septic system and well.

Step 2: Site Design

Using the information gathered in the Inventory, align the roads and structures on the site to maximize the preservation of vegetation and retain the existing flow of water on the site to the greatest possible extent.

- Building Envelope and Access Point are identified.
- Clearing limits are marked on construction plans.

Step 3: Determine Soil Type and Stormwater Region

- The maps in Appendix A are consulted to determine the stormwater region of the project. The project is in Region I.
- According to the *Soil Survey of Clallam County*, the soil type of the project site is Carlsborg gravelly sandy loam (Hydrologic Group A). According to the table in Appendix B, this location is suitable for *Small Lot Dispersion*.

Step 4: Drainage Plan Design

A drainage plan is developed using the project planning chart on page X and the details in the Small Project Drainage Plan Design Elements section (pages x-x) to select options for managing roof water runoff, driveway runoff, conveyance areas, and discharge areas. The sizing chart for each drainage element determines the required dimensions based on the stormwater region in which the project is located. The table in Appendix B is consulted to make sure the BMPs are chosen are appropriate for the region and soil type. The following page shows the runoff, conveyance and discharge locations illustrated on the drainage plan for the site.

- ❑ Because this lot is eligible for *Small Lot Dispersion*, the roof runoff from the house can be managed with gutters, downspouts and splash blocks.
- ❑ No more than 700 square feet of roof area is drained to a single splash block. Size of drainage area is indicated for each dispersion site.
- ❑ A vegetated flowpath of at least 50 feet in length is available along the paths that runoff will follow upon discharge from the splash blocks to the nearest property line.
- ❑ Runoff from the driveway is dispersed into surrounding lawn area.

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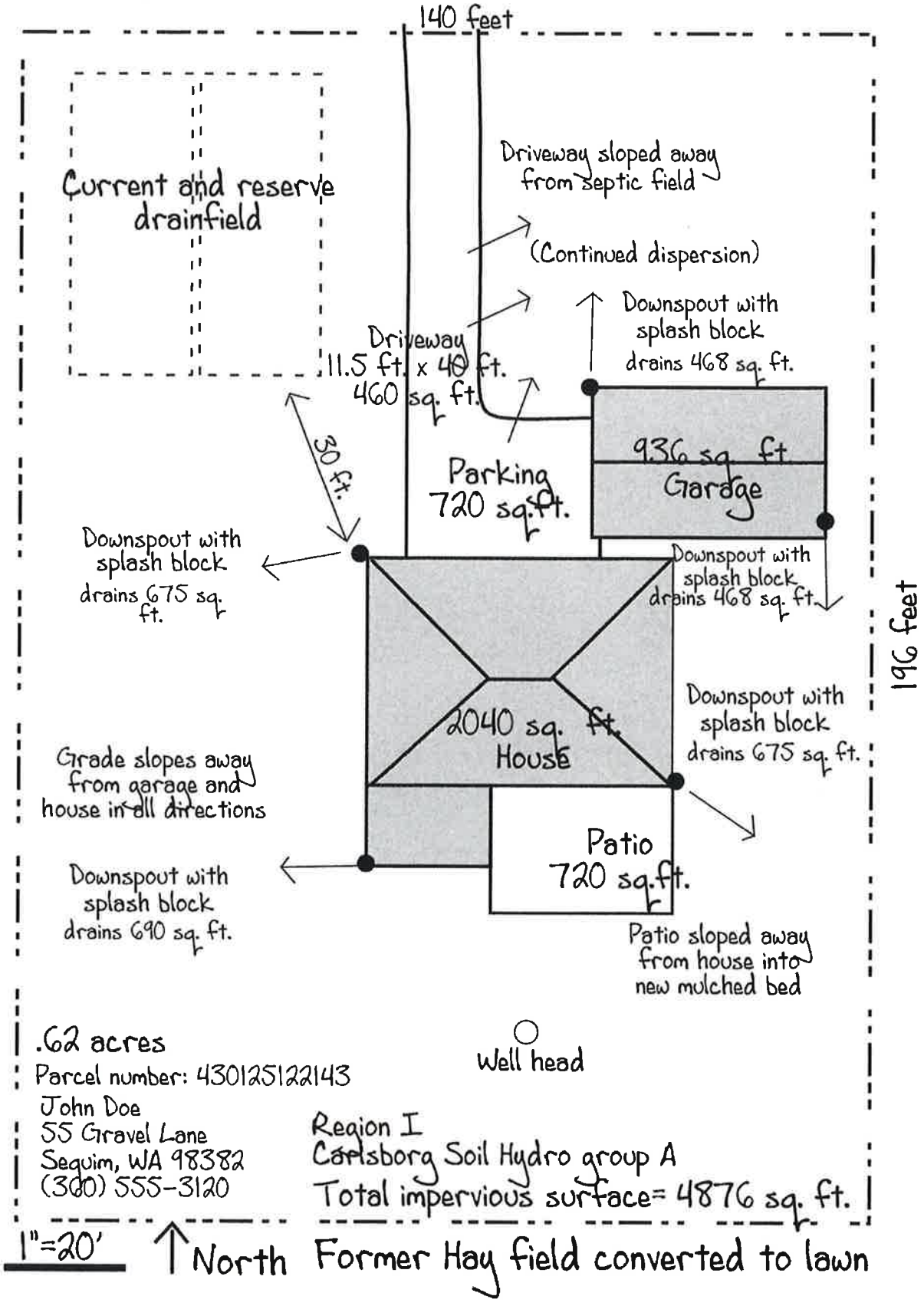
Example B: Small Lot Dispersion



Example C: Small Lot with Poorly Draining Soils

A single family residential project with a roof area of 1,854 square-feet, a 945 square-foot driveway, and a garage with a roof area of 528 square-feet on a 9,000 square-foot lot in the Sequim Urban Growth Area outside the City of Sequim.

Step 1: Conduct Site inventory

A thorough inventory of the site is the initial step for developing and implementing an effective site design and drainage plan.

- The site is level and there are no seeps, springs or visible drainage paths on site.
- There are no critical areas on the site.
- The site is former pasture land and has no existing native vegetated areas.
- The site has access to public sewer and water systems and a private community stormwater drainage system.

Step 2: Site Design

Using the information gathered in the Inventory, align the roads and structures on the site to maximize the preservation of vegetation and retain the existing flow of water on the site to the greatest possible extent.

- Building Envelope and Access Point are identified.
- Site was pre-cleared so defining clearing limits on plan is not an option.

Step 3: Determine Soil Type and Stormwater Region

- The maps in Appendix A are consulted to determine the stormwater region of the project. The project is in Region I, in the Urban Growth Area outside of the City of Sequim.
- According to the *Soil Survey of Clallam County*, the soil type of the project site is Clallam Gravelly Sandy Loam. According to the table in Appendix B, the soils are not suitable for infiltration techniques such as drywells and infiltration trenches.

Step 4: Drainage Plan Design

A drainage plan is developed using the project planning chart on page X and the details in the Small Project Drainage Plan Design Elements section (pages x-x) to select options for managing roof water runoff, driveway runoff, conveyance areas, and discharge areas. The sizing chart for each drainage element determines the required dimensions based on the stormwater region in which the project is located. The table in Appendix B is consulted to make sure the BMPs are chosen are appropriate for the region and soil type. The following page shows the runoff, conveyance and discharge locations illustrated on the drainage plan for the site.

- ❑ The roof runoff from the house is managed with gutters and downspouts that are piped to a rain garden. The surface area of the rain garden is sized at 357 sq. ft. to handle the 2,382 square foot total of roof area (house and garage) according to the table on page x. The overflow of the rain garden is routed to the existing community drainage system.

- ❑ The roof runoff from the garage is routed through a conveyance garden to slow and infiltrate some water and to provide an amenity along the backside of the house. The overflow of the conveyance garden is piped to the rain garden at the front of the house.

- ❑ The 945 sq. ft. driveway is paved. Because the driveway is less than 2,000 square feet, filter strips are all that is needed to manage the driveway runoff. The filter strip areas are equal in size to the driveway.

- ❑ The connection to the community drainage system is shown.

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Example C: Small Lot with Poorly Draining Soils

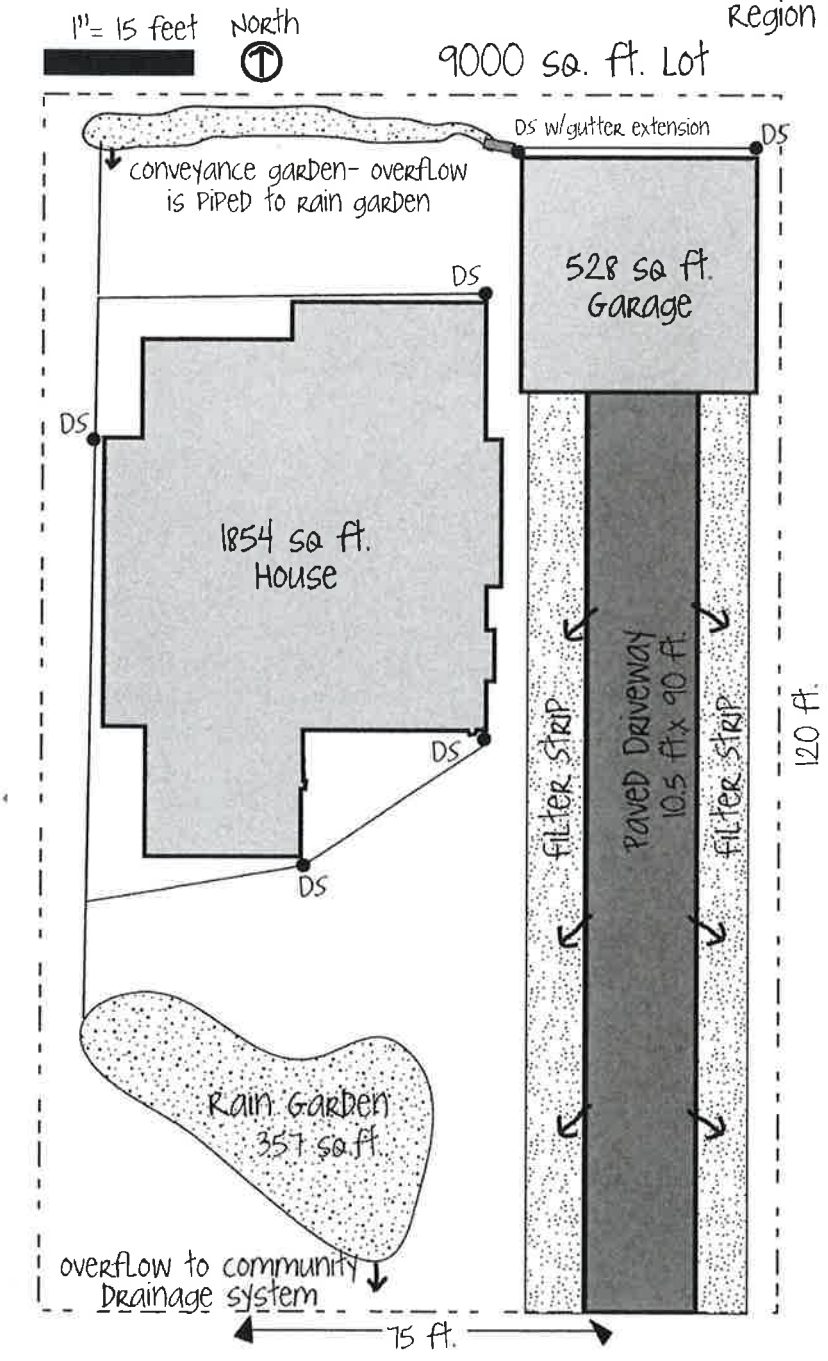
Jane Resident
P.O. Box 10-2
Sequim, WA 98382

Parcel number: 330223402100
Project Address: 435 Z Street
Sequim, WA 98382
T30N, R3W, Section 12

Acreage = 0.2 acres

Total impervious surface of house and garage = 2382 sq. ft.

Region 1 - Clallam soil



Example D: Typical Rural Lot with Well-Drained Soils

A single family residential project with a roof area of 3,281 square-feet and a garage with a roof area of 1,875 square-feet on a one-acre lot between Port Angeles and Sequim.

Step 1: Conduct Site inventory

A thorough inventory of the site is the initial step for developing and implementing an effective site design and drainage plan.

- The site slopes gently to the north with 5% slopes or less.
- There are no seeps, springs or visible drainage paths on-site.
- There are no critical areas on the site.
- The site has little native vegetation remaining.
- The site utilizes an on-site septic system and well.

Step 2: Site Design

Using the information gathered in the Inventory, align the roads and structures on the site to maximize the preservation of vegetation and retain the existing flow of water on the site to the greatest possible extent.

- Building Envelope and Access Point are identified.
- Clearing limits are marked on construction plans.

Step 3: Determine Soil Type and Stormwater Region

- The maps in Appendix A are consulted to determine the stormwater region of the project. The project is in Region II, east of Port Angeles.
- According to the *Soil Survey of Clallam County*, the soil type of the project site is Hoypus Gravelly Sandy Loam, Hydrologic Group A. According to the table in Appendix B, the soils are suitable for infiltration techniques such as drywells and infiltration trenches.

Step 4: Drainage Plan Design

A drainage plan is developed using the project planning chart on page X and the details in the Small Project Drainage Plan Design Elements section (pages x-x) to select options for managing roof water runoff, driveway runoff, conveyance areas, and discharge areas. The sizing chart for each drainage element determines the required dimensions based on the stormwater region in which the project is located. The table in Appendix B is consulted to make sure the BMPs chosen are appropriate for the region and soil type. The following page shows the runoff, conveyance and discharge locations illustrated on the drainage plan for the site.

- ❑ Roof runoff is handled by 3 different drywells and an infiltration trench to avoid exceeding the 1,250 sq. ft. drainage area limit to a single drywell. The size of the drywells and trench and the area it drains is noted on the plan.

- ❑ Infiltration trenches are used to manage the garage roof runoff. The infiltration trenches are sized at 40% of the drainage area, according to directions on p. The size of the trenches and the area they drain are noted on the plan.

- ❑ Runoff from the gravel driveway is handled by filter strips and a rain garden. The circular drive is graded to drain to the rain garden.

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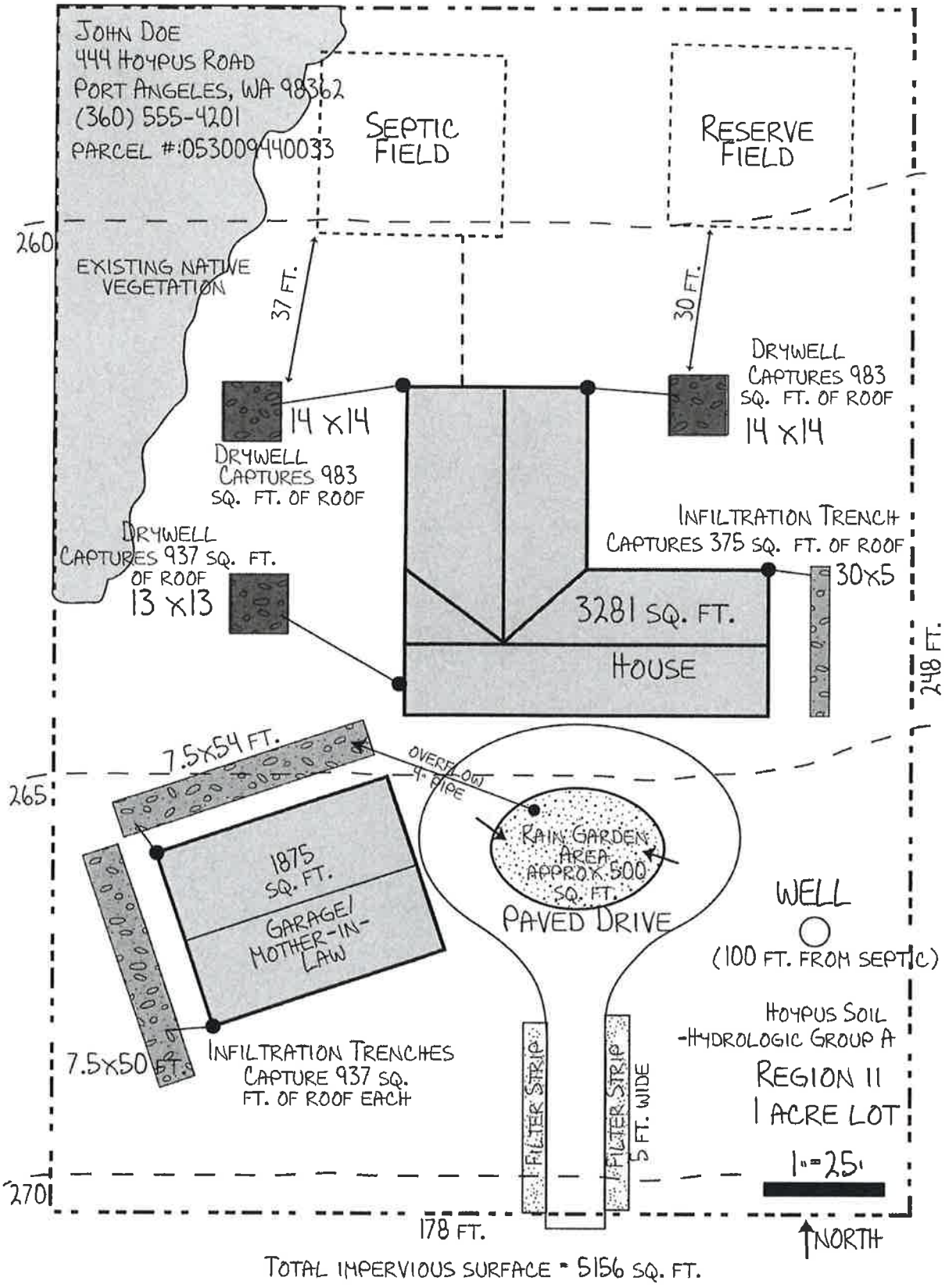
Example D: Typical Rural Lot with Well-Drained Soils



Example E: Typical Rural Lot with Poorly Draining Soils

A single family residential project with a roof area of 2,496 square-feet with a outbuilding with a roof area of 576 square-feet on a two-acre lot in the foothills above Port Angeles.

Step 1: Conduct Site inventory

A thorough inventory of the site is the initial step for developing and implementing an effective site design and drainage plan.

- The site has slopes over 15% draining to the northwest.
- There is a seep/ wet area along the hillside of the property that seasonally drains to the north.
- There are no critical areas on the site.
- The site was logged and has little native vegetation remaining.
- The site utilizes an on-site septic system and well.

Step 2: Site Design

Using the information gathered in the Inventory, align the roads and structures on the site to maximize the preservation of vegetation and retain the existing flow of water on the site to the greatest possible extent.

- Building Envelope and Access Point are identified.
- Clearing limits are marked on construction plans.

Step 3: Determine Soil Type and Stormwater Region

- The maps in Appendix A are consulted to determine the stormwater region of the project. The project is in Region III, south of Port Angeles.
- The *Soil Survey of Clallam County* shows the soil type of the project site is Elwha Gravelly Sandy Loam, Hydrologic Group C. According to the table in Appendix B, the soils are not suitable for infiltration techniques such as drywells and infiltration trenches.

Step 4: Drainage Plan Design

A drainage plan is developed using the project planning chart on page X and the details in the Small Project Drainage Plan Design Elements section (pages x-x) to select options for managing roof water runoff, driveway runoff, conveyance areas, and discharge areas. The sizing chart for each drainage element determines the required dimensions based on the stormwater region in which the project is located. The table in Appendix B is consulted to make sure the BMPs are chosen are appropriate for the region and soil type. The following page shows the runoff, conveyance and discharge locations illustrated on the drainage plan for the site.

- ❑ Roof runoff of the house is handled by a rain garden sized at 25% of the house size (according to the sizing information on page dddddd. The size of the rain garden and the area that it drains is noted on the plan.

- ❑ Swales and pipes are used to convey the roof runoff to the rain garden. A gravel spreader trench is used as end-of- the line discharge.

- ❑ Roof runoff from the outbuilding is managed by a downspout with a splash block that drains to 3 conveyance furrows on the northern slope.

- ❑ The gravel driveway utilizes a Runoff from the gravel driveway is dispersed into the surrounding lawn area.

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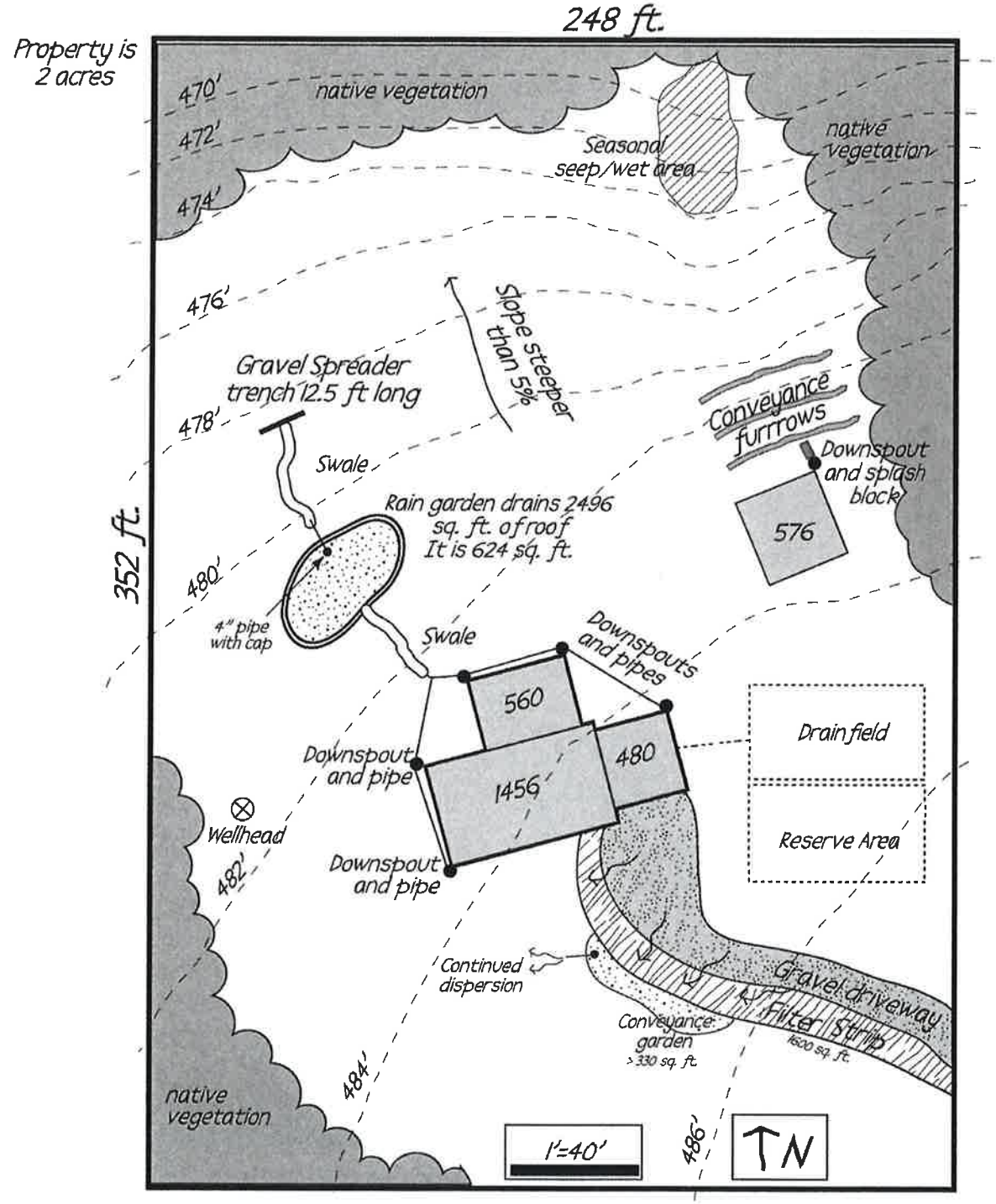
Example E: Typical Rural Lot with Poorly Draining Soils

Applicant: Jane Housebuilder
P.O. Box 42-10
Port Angeles, WA 98362
(360) 555-1410
Parcel number: 053029732220

Project Address: 56 Foothills Crt.
Port Angeles, WA 98362
Stormwater Region III
Elwha Soil- Group C

Total impervious surface = 3072 sq. ft buildings, 2944 sq. ft. gravel driveway



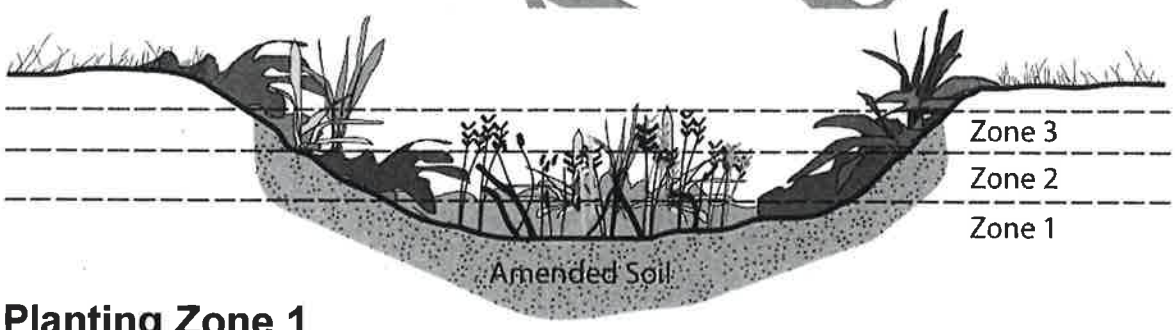
Appendix E: Recommended Plant List for Bioretention Areas

Adapted from *Low Impact Development: Technical Guidance Manual for Puget Sound*, Puget Sound Action Team and Washington State University Pierce County Extension, January 2005

The following native and non-native plants are recommended for use in Rain Gardens, Rainwater Planters, and Conveyance Gardens. Plants utilized in the bioretention areas should be adapted to withstand periods of dryness, but be able to tolerate saturated soil periodically. Conditions in the stormwater management areas will change from very dry during months with little or no rain, to wet or saturated soil following a storm event. The deeper areas of the Rain Garden and Conveyance Garden will be saturated more frequently than the sloping sides. The plants in the Rainwater Planter are at a more uniform depth, but soil moisture within the planter will vary seasonally.

The following list is arranged beginning with plants that thrive in wetter conditions to ones that prefer the slightly drier and higher sides of the Rain Garden or Conveyance Garden. Rainwater Planters should utilize plants from Zone 1 and Zone 2.

Zone 1: Areas of frequent inundation or standing water.
Zone 2: Periodically moist or saturated during larger storms.
Zone 3: Drier soils with infrequent inundation. Transition zone to existing landscape.



Planting Zone 1

Zone 1: Shrubs			
Scientific Name	**Common Name**	**Exposure**	**Mature Size/ Spread**
Cornus sericea	Red-osier dogwood	Sun/part shade	to 15 feet
Cornus sericea 'Kelsey'	Dwarf dogwood	Sun	to 1.5 feet
Cornis sericea 'Flaviramea'	Yellow dogwood	Sun/part shade	6-8 feet
Physicarpus capitatus	Pacific ninebark	Sun-part shade	6-13 feet
Spirea douglasii	Douglas spirea	Sun/part shade	4-7 feet
Rubus spectablis	Salmonberry	Shade	5-10 feet

Zone 1: Perennials			
Scientific Name	**Common Name**	**Exposure**	**Mature Size/ Spread**
Carex obnuta	Slough sedge	Sun/part shade	1-5 feet
Carex stipata	Sawbeak sedge	Part shade	10 inches-3 feet
Juncus effusus	Common rush	Sun/part shade	1-2 feet
Juncus ensipoluos	Daggerleaf rush	Sun	12-18 inches
Scirpus microcarpus	Small-fruited bulrush	Sun/shade	2-4 feet

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Planting Zone 2

Zone 2: Shrubs			
Scientific Name	**Common Name**	**Exposure**	**Mature Size/ Spread**
Acer circinatum	Vine Maple	Part shade	to 25 feet
Hammamelis intermedia 'Diane'	Diane Witchhazel	Sun/part shade	10-20 feet/ 10 foot spread
Oemleria cerasiformis	Indian plun	Sun/part shade	5-15 feet
Symphoricarpos albus	Snowberry	Sun/shade	2-6 feet
Rosa nutkana	Nootka rose	Sun/part shade	6-10 feet

Zone 2: Perennials			
Scientific Name	**Common Name**	**Exposure**	**Mature Size/ Spread**
Aquilegia formosa	Western Columbine	Sun/part shade	1-3 feet
Asarum caudatum	Wild Ginger	Shade	to 10 inches
Aster subspicatus	Douglas aster	Sun	5-2.5 feet
Iris douglasiana	Pacific Coast Iris	Sun/part shade	1-2 feet
Tellima grandiflora	Fringecup	Shade	1-3 feet
Hemerocallis fulva	Day Lily	Sun/part shade	1-4 feet
Heuchera micrantha	Purple Palace Heuchera	Sun/part shade	1-2 feet
Geranium sanguineum	Cranesbill	Sun/part shade	1.5 feet

Planting Zone 3

Zone 3: Shrubs			
Scientific Name	**Common Name**	**Exposure**	**Mature Size/ Spread**
Arbutus unedo 'Compacta'	Compact strawberry tree	Sun/part shade	to 10 feet
Holodiscus discolor	Oceanspray	Sun/part shade	to 15' feet
Mahonia aquifolium	Tall Oregon Grape	Sun/part shade	6-8 feet
Philadelphus lewis	Mock Orange	Sun/part shade	5-10 feet
Potentilla fruitcosa	Shrubby Cinqufoil	Sun	4 feet
Ribes sanguineum	Red-flowering current	Sun/part shade	8-12 feet
Rhododendron 'PJM'	PJM Rhododendron	Sun/part shade	4 feet
Vaccinium ovatum	Evergreen huckleberry	Part shade/shade	3-15 feet

Zone 3: Perennials and Grasses			
Scientific Name	**Common Name**	**Exposure**	**Mature Size/ Spread**
Achillea millefolium	Western Yarrow	Sun	4 inches-2.5 feet
Dicentra formosa	Pacific bleeding-heart	Sun/shade	6-20 inches
Festuca ovina 'Glauca'	Blue fescue	Sun/part shade	to 10 inches
Lupinus spp.	Lupine	Sun	3- 5 feet
Polystichum munitum	Sword Fern	Part shade/shade	2-4 feet
Rudbeckia hirta	Black-eyed Susan	Sun/part shade	3-4 feet
Smilacina racemosa	False Solomon's Seal	Par t shade	1-3 feet

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Appendix G:
Small Project Erosion and Sediment Control

The intent of erosion and sedimentation control measures is to prevent the erosion and transport of soils from a construction site. Eroded soil is a major pollutant to streams and wetlands and can have harmful impacts to private property by silting up drainage ways. Preventing construction site erosion can help prevent harm to salmon spawning beds, maintain good water quality, and safeguard public drainage infrastructure.

Erosion control is the most effective and inexpensive method to reduce the impacts associated with construction activities. These practices primarily involve the protection of site vegetation and soils, the trapping of eroded or tracked soils, and the reestablishment of vegetation after construction has been completed. The proper installation and maintenance of selected erosion control options to a large degree determines their effectiveness. Avoidance of land disturbance during the winter months, when erosion control is the most difficult is encouraged, and may be required as a part of the permitting of your project. It is important to remember that it is easier to prevent erosion than it is to trap it once it has been mobilized.

Limit site disturbance

The protection and management strategies discussed in this section are designed to protect vegetation and soil necessary for maintaining functioning hydrologic conditions on the site.

Equipment activity on construction sites can severely compact soil. Soil compaction is a leading cause of death or decline of mature trees in developed areas. Most tree roots are located within 3 feet of the ground surface and the majority of the ?ne roots necessary for water and nutrient absorption are within 18 inches. Roots can extend 2 to 3 times beyond the diameter of the crown. In addition to soil compaction, several other direct and indirect impacts can influence vegetation health during land development including:

- Direct loss of roots from trenching, foundation construction, and other grade changes
- Application of ?ll material
- Damage to trunks or branches from construction equipment and activities
- Exposure of forest interior areas to new stresses of forest edges as land is cleared
- Changes in surface and subsurface water ?ow patterns

Vegetation Protection

Leaving native vegetation intact is the single most effective method for reducing erosion on the construction site. Well marked clearing limits prevent disturbance to vegetation and soils in critical areas, buffers, and protected conservation and lot perimeter zones.

Vegetation Protection Guidelines:

- ❑ Map native soil and vegetation retention areas on all plans to protect soils and vegetation from construction damage.
- ❑ Clearing limits must be well marked with highly visible fencing or wire and tape and should be at least 3 feet high.
- ❑ Fencing for vegetation retention areas should be located at a minimum of 3 feet beyond the existing tree canopy along the outer edge of the tree stand.
- ❑ Individual trees that are to be preserved should be marked and the areas within the drip line protected from disturbance.
- ❑ Equipment operators should be informed of clearing limits prior to commencement of grading work. Walk property with equipment operators to clarify construction boundaries and limits of disturbance.
- ❑ Prohibit the stockpiling or disposal of excavated or construction materials in the vegetation retention areas to prevent contaminants from damaging vegetation and soils.
- ❑ Avoid excavation or changing the grade near trees that have been designated for protection.
- ❑ In areas of wildfire risk, utilize Firewise principles for developing a vegetation protection and planting plan. Consult the Firewise website (http://www.firewise.org/), the Washington State Department of Natural Resources, or your local fire department for details on Firewise recommendations.

Topsoil Conservation and Protection

Stockpiling topsoil for reuse during final site stabilization saves money by reducing the amount of soil to be imported and exported.

- ❑ Stockpile soil removed during grading.
- ❑ Cover stockpiled soil with mulch (preferred), plastic sheeting or temporary grass seeding (for stockpiles that may remain for several months) to prevent erosion.
- ❑ Surround stockpiles with silt fence.

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Control Sediment and Flows On-site

Most often some soil on a construction site will be mobilized. BMPs such as a stabilized entrance, silt fencing and sediment traps can capture and contain soil on site, reducing the amount of sediment and associated pollutants which can enter nearby waterways and wetlands.

Stabilize the Construction Entrance

Vehicles and heavy equipment can track mud offsite where it washes off the roads into ditches and waterways. A stabilized construction entrance is a stone pad located at the vehicular access point to the site that minimizes the amount of sediment and mud tracked offsite by construction site traffic.

- ❑ Stabilized entrance should use 4" to 8" angular quarry spalls
- ❑ Dimensions should be 75' minimum length, 15' foot minimum width, 1' depth
- ❑ If site soils are clayey, filter fabric should be placed under the stone pad to prevent soil from working into the rock material
- ❑ Install driveway culvert if roadside ditch is present
- ❑ Crown the entrance so runoff does not drain onto roadway
- ❑ Limit site access to one route
- ❑ Install fencing as necessary to restrict traffic to stabilized entrance
- ❑ Remove any mud or gravel that is tracked onto roadway by sweeping or shoveling it back onto site

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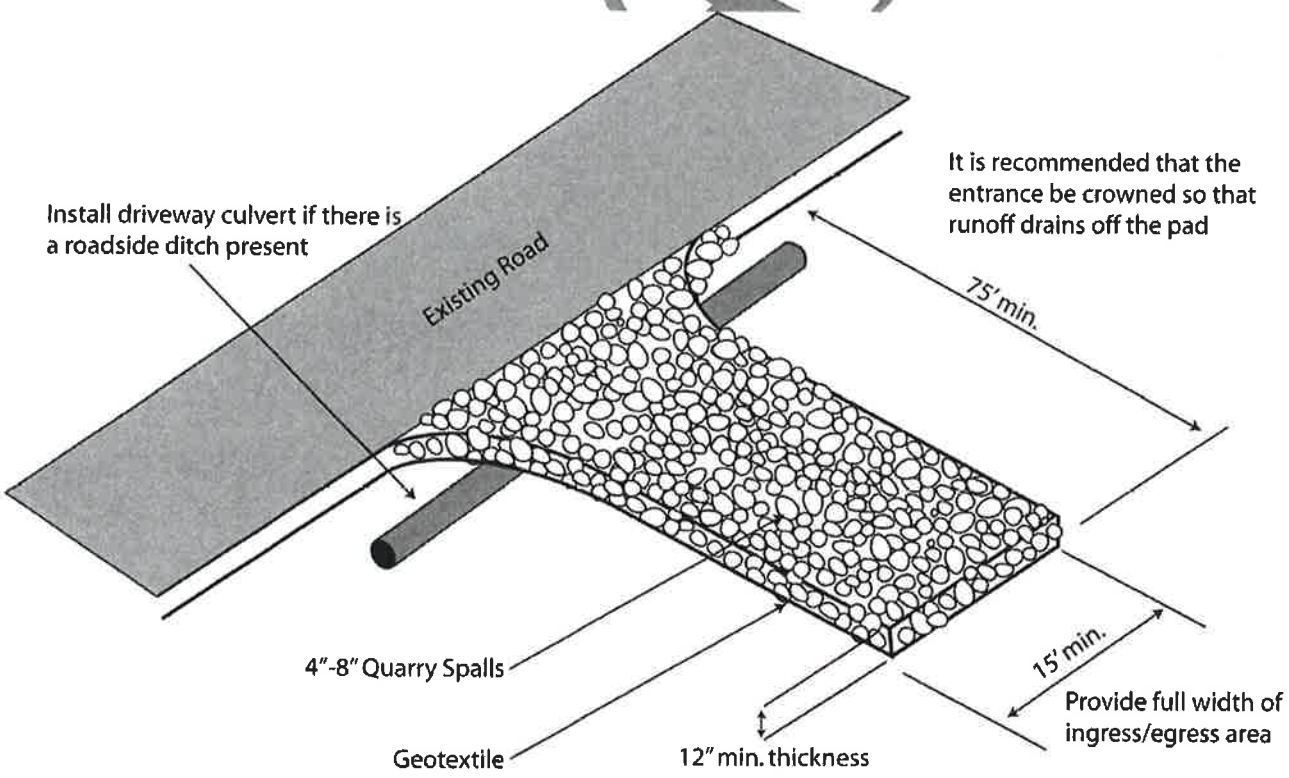
Figure A-1. Stabilized Construction Entrance



Silt fences

Silt fencing, also known as filter fencing, is a temporary physical barrier to intercept sediment that has been mobilized on site. Silt fences are usually placed around the perimeter of a construction site, and can be used for both retaining sediment and demarking clearing limits on the site.

- ❑ The fabric at the bottom of a silt fence must be firmly anchored into the soil by burying it in a "J" configuration in a trench that is backfilled.
- ❑ A wire mesh fence can be placed behind a silt fence to prevent collapse where soil may pile up against the silt fence.
- ❑ Follow manufacturer's instructions on proper installation of filter fabric.
- ❑ Choose filter fabric with proper porosity and ability to trap sediments for the soil type on site.
- ❑ Do not install across streams or ditches.
- ❑ Do not attach to existing trees
- ❑ Construct trench to follow natural contour of land to ensure best protection.
- ❑ Inspect fencing on a regular basis throughout construction.

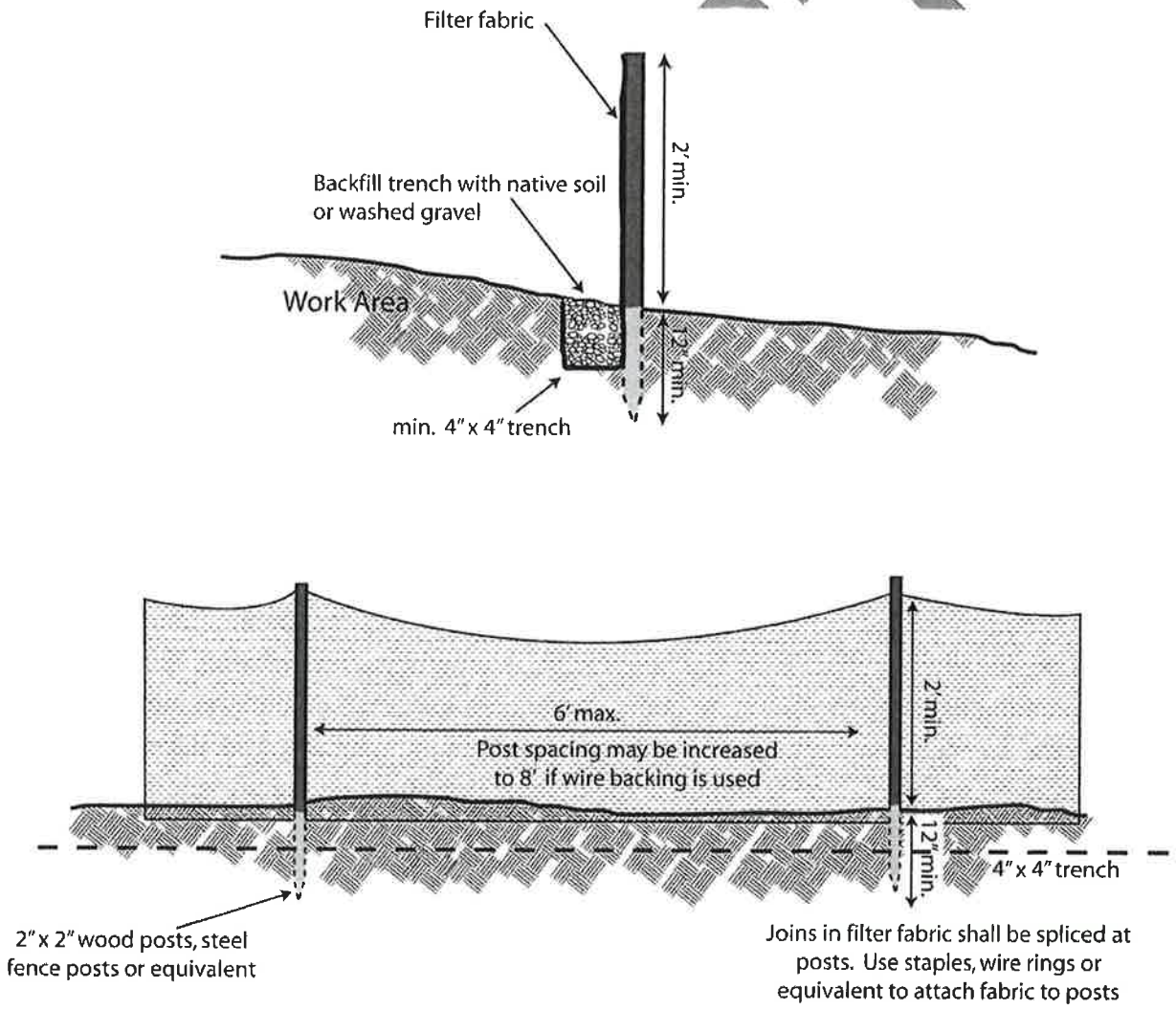


Figure A-2. Silt Fence diagram

Stabilize Soils

Covering disturbed areas with mulch, woven materials, plastic sheeting or temporary seeding prevents soil erosion on disturbed areas and soil stockpiles. If the final stabilization of the site will not occur for more than 30 days, additional measures may be needed to protect the site soil.

Mulching

Mulching provides immediate temporary protection from erosion. Common mulch materials include straw, compost, and wood chips. Mulch is a temporary measure that should be followed up by seeding or other permanent landscape implementation. Mulch may be covered with a loose weave net to protect it from wind and water exposure.

Type of mulch	Thickness of Application
Straw	2"-3" thick; 5 bales per 1000 sq. ft.
Hydromulch	25-30 pounds per 1000 sq. ft.
Composted mulch and compost	2" minimum
Chipped on-site vegetation	2" minimum
Wood-based mulch	2" minimum

Temporary Seeding

Seeding is intended to reduce erosion by stabilizing exposed soils. A well-established vegetative cover is one of the most effective methods of reducing erosion. Seeding can be temporary or permanent. Seeding may be used throughout the project on disturbed areas that have reached final grade or that will remain unworked for more than 30 days.

- ❑ Install all surface runoff control measures before seeding
- ❑ Mulch is required at all times because it protects seeds from heat, moisture loss, and transport due to runoff.
- ❑ All disturbed areas shall be reviewed in late August to early September and all seeding should be completed by the end of September. Otherwise, vegetation will not establish itself enough to provide adequate winter cover.
- ❑ The optimum seeding windows for western Washington are April 1 through May 31st and September 1 through October 1.

Temporary Erosion Control Seed Mix

Grass type	% by Weight
Chewings fescue *Festuca rubra var. commutata*	40
Perennial rye -*Lolium perenne*	50
Redtop or colonial bentgrass - *Agrostis alba* or *Agrostis tenuis*	5
White Dutch clover - *Trifolium repens*	5

Application rate of erosion control seed mix is 120 pounds per acre.

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Clallam County

Drainage Permit

Applicant Worksheet

This worksheet provides a step-by-step guide to submitting a complete Clallam County Drainage Permit application. The attached checklists explain the requirements for the exhibits that must accompany your application form.

Find out if you need a permit

To find out if your project requires a Drainage Permit, review the details in part 27.14.060 of the Clallam County Stormwater Ordinance. Depending on the project location, type of land development activity, and other project-specific factors, a permit may not be required, but Construction Stormwater Best Management Practices are always required. For project-specific questions, please contact ----------.

Application Checklist

For the Drainage Permit application to be considered complete, it must include the following components:

- Completed Drainage Permit Application Form
- Exhibit 1: Site Topographical Map (see Checklist 1)
- Exhibit 2: General Stormwater Site Plan (see Checklist 2)
- Exhibit 3: Construction Stormwater Pollution Prevention Plan (see Checklist 3)
- Exhibit 4: Vicinity Topographical Map (see Checklist 4)

See the attached Worksheet 1-4 for the requirements for each exhibit.

Worksheet 1: Site Topographical Map (Exhibit 1)

Site topographical map shall have at least the following information:

- Map to scale (i.e. 1 inch = 50, 100, or 200 feet etc) preferable as one inch equals one hundred feet (1" =100') (or less)
- North arrow
- Existing and proposed contours on-site (five foot (5') minimum contour interval) and within one hundred feet (100') of the project site
- Existing and proposed drainage patterns
- Delineation of any pre-development floodplain or floodway limits
- Delineation of any post-development floodplain or floodway limits
- Location of cross sections and any other hydrologic or hydraulic computer modeled features
- The location of all on-site drain tiles
- Boundaries of all watercourses, waterbodies, critical areas and buffers, with normal water elevations, if applicable, noted
- The existing and proposed impervious area and net new impervious area
- Location of all existing structures and those to remain on the project site noted
- Nearest base flood elevations
- All contours used in any calculation of depressional storage noted

Worksheet 2: General Stormwater Site Plan (Exhibit 2)

General Stormwater Site plan view drawing shall have at least the following information:

- Drawing at the same scale as the site topographical map
- Existing infrastructure intended to store and convey stormwater flow and stormwater runoff, including but not limited to, culverts, gutters, curbs, roadside ditches, storm sewer, swales and channels
- Proposed infrastructure intended to store and convey stormwater flow and stormwater runoff, including but not limited to, culverts, gutters, curbs, roadside ditches, storm sewer, swales and channels
- Design details for all BMPs, including stormwater structure and outlet work detail drawings
- Scheduled maintenance program (tasks and schedule) for BMPs and subsurface drainage systems as required under the applicable County adopted Stormwater Manual
- Identification of persons responsible for scheduled maintenance
- Permanent public access maintenance easements granted or dedicated to, and accepted by, a government entity
- Regulatory floodplain and floodway locations with base flood elevations and flood protection elevations noted
- Existing watercourses, waterbodies, critical areas and buffers. If impacts are proposed to these areas, additional drawing shall be submitted showing such impacts
- All plan areas at elevations below the high water elevation of any detention storage facility must be highlighted

Worksheet 3: Construction Stormwater Pollution Prevention Plan (SWPPP) (Exhibit 3)

Construction Stormwater Pollution Prevention Plan shall have at least the following information:

- Drawings at the same scale as the project site topographical map
- Existing and proposed roadways, structures, parking lots, driveways, sidewalks and all other impervious surfaces
- Existing soil types, vegetation and land cover conditions
- Limits and acreage of disturbance
- Location of any floodplain, floodway, watercourse, waterbody, critical area or buffer, wetland mitigation bank or facility
- Location of all erosion and sedimentation practices (e.g. sedimentation basins, sediment traps, diversion swales, silt fences, temporary seeding. Erosion control blankets)
- Details of all erosion and sedimentation practices
- List of maintenance tasks for all erosion and control practices
- Schedule for implementation and maintenance of erosion and sedimentation practices and temporary and permanent stabilization
- The name, address and telephone number at which the person(s) responsible for the erosion and sedimentation control practices may be reached on a twenty-four (24) basis

Worksheet 4: Vicinity Topographical Map (Exhibit 4)

Vicinity topographical map shall have at least the following information:

- Vicinity topographical map identifying the upstream drainage area to the project site and any downstream receiving channels (a minimum of five foot (5') contour map is preferred at a scale readable by the reviewer)
- Any waterbody boundaries for the drainage area through or from the project site
- Soil types related to hydrologic soils group, vegetation and land cover affecting runoff upstream of the project site for any upstream drainage area
- Overland flow path from the downstream end of the project site to the receiving channel

2019 Minimum Requirements (MR) 1 to 9 in the

2019 Stormwater Management Manual for Western Washington

MR 1	Prepare Stormwater Site Plan
MR 2	Construction Stormwater Pollution Prevention Plan (SWPPP)
MR 3	Source Control of Pollution
MR 4	Preservation of Natural Drainage Systems and Outfalls
MR 5	On-Site Stormwater Management
MR 6	Run-off Treatment
MR 7	Flow Control
MR 8	Wetland Protection
MR 9	Operation and Maintenance

Clallam County
Residential Driveway Stormwater Best Management Practices (BMP) Packet

Residential driveways that serve single-family residences, duplexes, or triplexes may use this packet to comply with the requirements in Chapter 27.14 of the Clallam County Code. The applicant must demonstrate to the County that they have employed one or more of the Stormwater Best Management Practices (BMPs) to manage the stormwater runoff from the residential driveway. Applicants shall provide the County with receipts from the purchase of materials to construct the applicable BMP as proof of installation. These BMPs shall be designed to accept the stormwater runoff from driveway impervious surfaces which shall not count towards the site's hard surfaces for the purposes of applying the minimum requirements in the applicable stormwater manual.

Option 1: BMP T5.12: Sheet Flow Dispersion

Sheet flow dispersion is the simplest method of runoff control. This BMP can be used for any impervious or pervious surface that is graded to avoid concentrating flows. Because flows are already dispersed as they leave the surface, they need only traverse a narrow band of adjacent vegetation for effective on-site stormwater management.

Applications and Limitations

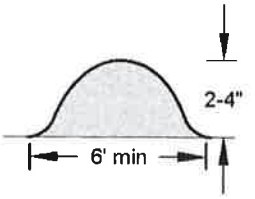
Use this BMP for flat or moderately sloping (< 15% slope) surfaces such as driveways, sports courts, patios, roofs without gutters, lawns, pastures; or any situation where concentration of flows can be avoided.

Design Guidelines

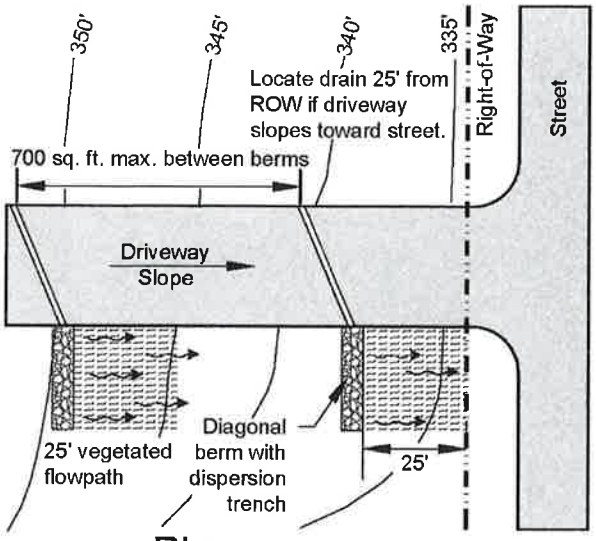
- See Figure V-3.2: Sheet Flow Dispersion for Driveways for details for driveways.
- See BMP T5.10B: Downspout Dispersion Systems for dispersion trench design criteria.
- Provide a 2-foot-wide transition zone to discourage channeling between the edge of the impervious surface (or building eaves) and the downslope vegetation. This transition zone may consist of an extension of subgrade material (crushed rock), modular pavement, drain rock, or other material acceptable to the Local Plan Approval Authority.
- Provide a 10-foot-wide vegetated buffer for up to 20 feet of width of paved or impervious surface. Provide an additional 10 feet of vegetated buffer width for each additional 20 feet of impervious surface width or fraction thereof. For example, if a driveway is 30 feet wide and 60 feet long provide a 20-foot wide by 60-foot long vegetated buffer, with a 2-foot by 60-foot transition zone.
- The design must not result in erosion or flooding of downstream properties.

- Runoff discharge toward landslide hazard areas must be evaluated by a geotechnical engineer or a qualified geologist. Do not allow sheet flow on or above slopes greater than 20%, or above erosion hazard areas, without evaluation by a geotechnical engineer or qualified geologist and approval by the Local Plan Approval Authority.
- For sites with septic systems, the discharge area must be ten feet downgradient of the drainfield primary and reserve areas (WAC 246-272A-0210). A Local Plan Approval Authority may waive this requirement if site topography clearly prohibits flows from intersecting the drainfield.

Source: King County Department of Natural Resources, 1998

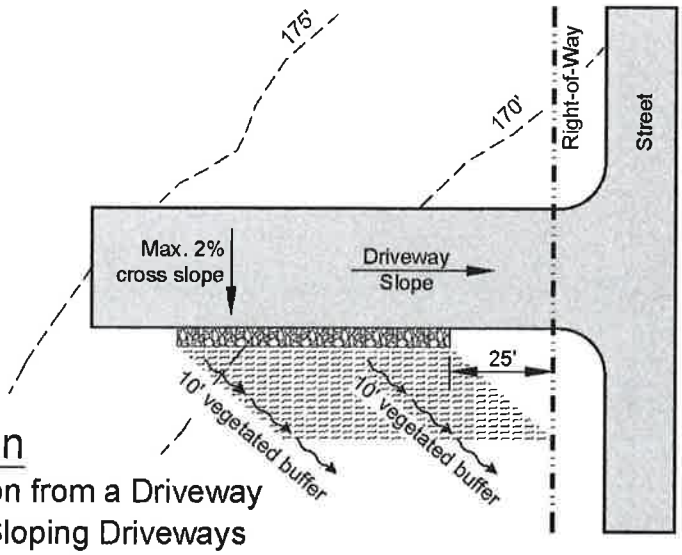


Berm Detail



Plan

Driveway Dispersion Trench
Driveway Slope Varies and Slopes Toward Street



Plan

Sheet Flow Dispersion from a Driveway
Flat to Moderately Sloping Driveways

NOT TO SCALE

DEPARTMENT OF ECOLOGY
State of Washington

Sheet Flow Dispersion for Driveways

Revised December 2016

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Option 2: BMP T5.11: Concentrated Flow Dispersion

Dispersion of concentrated flows from driveways or other pavement through a vegetated pervious area attenuates peak flows by slowing entry of the runoff into the conveyance system, allowing for some infiltration, and providing some water quality benefits.

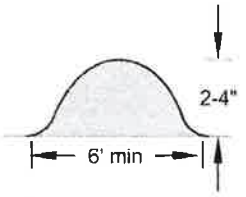
Applications and Limitations

- Use this BMP in any situation where concentrated flow can be dispersed through vegetation.
- Figure V-3.1: Typical Concentrated Flow Dispersion for Steep Driveways shows two possible ways of spreading flows from steep driveways.

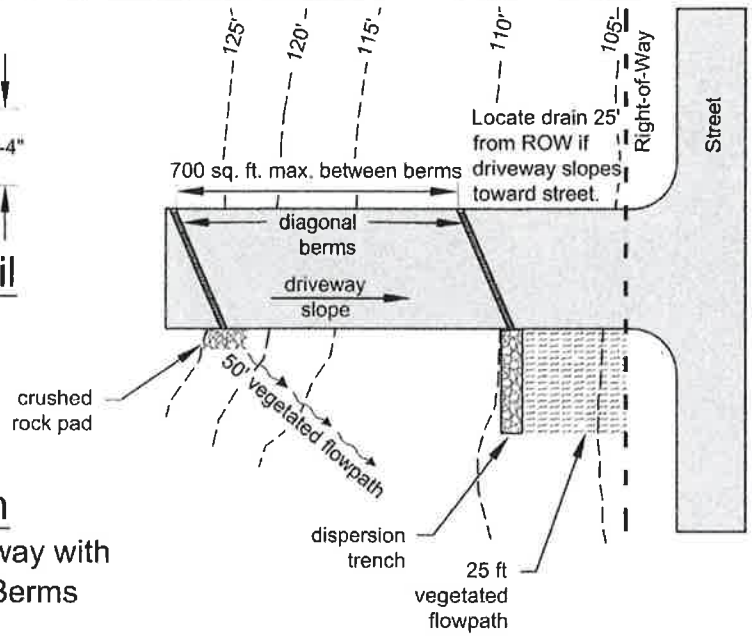
Design Guidelines

- Maintain a vegetated flow path of at least 25 feet between the discharge point and any property line, structure, steep slope, stream, wetland, lake, or other impervious surface.
    - If the vegetated flow path is 25 - 50 ft, the design must include a dispersion trench prior to discharge over the vegetated flow path.
    - If the vegetated flow path is 50 ft or more, the design may use either a dispersion trench or a pad of crushed rock (as described below) prior to discharge over the vegetated flow path.
- A maximum of 700 square feet of impervious area may drain to each concentrated flow dispersion BMP.
- Provide a pad of crushed rock (a minimum of 2 feet wide by 3 feet long by 6 inches deep) at each discharge point.
- See BMP T5.10B: Downspout Dispersion Systems for dispersion trench design criteria.
- No erosion or flooding of downstream properties may result.
- Runoff discharged towards landslide hazard areas must be evaluated by a geotechnical engineer or qualified geologist. Do not place the discharge point on or above slopes greater than 20%, or above erosion hazard areas, without assessment by a geotechnical engineer or qualified geologist and approval by the Local Plan Approval Authority.
- For sites with septic systems, the discharge point must be ten feet downgradient of the drainfield primary and reserve areas (WAC 246-272A-0210). A Local Plan Approval Authority may waive this requirement if site topography clearly prohibits flows from intersecting the drainfield.

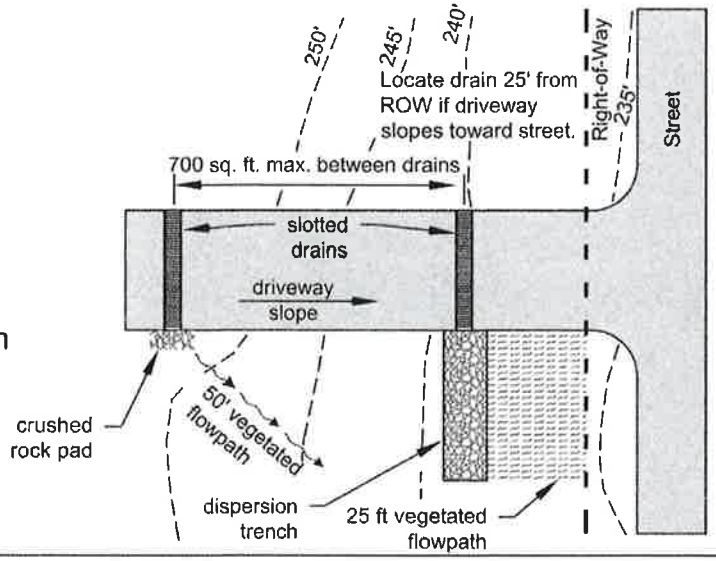
NOT TO SCALE



Berm Detail



Plan
Steep Driveway with Diagonal Berms



Plan
Steep Driveway with Slotted Drains

DEPARTMENT OF ECOLOGY
State of Washington

Typical Concentrated Flow Dispersion for Steep Driveways

Revised May 2019

Clallam County
Construction Stormwater Pollution Prevention
Best Management Practices (BMP) Packet

Small Projects which are not subject to a Drainage Permit pursuant to Section 27.14.050 of the Clallam County Code may use this packet to demonstrate compliance to Minimum Requirement #2 in the Department of Ecology's Stormwater Management Manual. Additionally, the applicant shall consider the twelve Construction Stormwater Pollution Prevention elements and implement applicable BMPs. A set of useful BMPs for typical rural residential construction are also included.

Small Projects that may utilize this packet include:

- Single-family residential, duplex, townhome, or accessory buildings to such dwellings on parcels less than 1 acre in size that add less than 5,000sf of new plus replaced hard surfaces or have less than 10,000sf of land disturbing activity
- Single-family residential, duplex, townhome, or accessory buildings to such dwellings on parcels greater than 1 acre in size that add less than 7,000sf of new plus replaced hard surfaces or have less than 12,000sf of land disturbing activity, or convert less than 1.5 acres of vegetation to lawn, or convert less than 5 acres of vegetation to pasture
- All other land disturbing activities that add less than 2,000sf of new plus replaced hard surfaces or have less than 7,000sf of land disturbing activity

Small Projects which require a building permit must submit a site plan that depicts the Construction Stormwater Pollution Prevention elements that will be employed during construction, as discussed within this packet.

Small Projects which do not require a building permit are still subject to the requirements within this packet.. Any new land development activity results in significant impacts to receiving water, infrastructure, county roads, or adjoining properties, then a Drainage Permit may be required to rectify the impacts regardless of the thresholds found in Section 27.14.050 CCC. Failure to comply with the voluntary compliance provisions outline above to obtain and implement the required Drainage Permit will be subject to enforcement actions found in Section 27.14.120 CCC. For small projects that do not require a building permit, there is no additional submittal required as part of the permit application.

Projects which are not considered Small Projects are subject to a Drainage Permit. Applicants must submit a Construction Stormwater Pollution Prevention Plan (SWPPP) in accordance with the applicable manual as specified in Section 27.14.050 of the Clallam County Code.

The following twelve elements must be considered for Construction Stormwater Pollution Prevention before and during the construction phase of the project:

1. Mark Clearing Limits
2. Establish Construction Access
3. Control Flow Rates
4. Install Sediment Controls
5. Stabilize Soils
6. Protect Slopes
7. Protect Drain Inlets
8. Stabilize Channels and Outlets
9. Control Pollutants
10. Control De-Watering
11. Maintain Best Management Practices
12. Manage the Project

Each of the twelve elements is described in more detail below:

Mark Clearing Limits

By minimizing the limits of clearing on the site, a builder can minimize stormwater runoff and provide effective control of pollution.

Establish Construction Access

Much of the sediment that leaves a construction site does so on the wheels of delivery and construction vehicles that drive off a project site. Construction access must be limited to a single location and a properly constructed Stabilized Construction Entrance (BMP C105) should be included on the site.

Control Flow Rates

Stormwater that leaves a project site unimpeded may exceed the capacity of the existing stormwater control facilities downstream and may contain sediment that may be deposited as the velocity of the runoff decreases. Stormwater protection on a construction site should include measures to control the flow rate of runoff from the site. This can be done by installing a Sediment Trap (BMP C240) or other measure that will impede the flow of water off a construction site.

Install Sediment Controls

In addition to limiting the rate of stormwater flow off a construction site, measures should be put in place to treat the runoff and remove sediment. Limiting of the cleared area (Element 1) will assist in this effort, but there will be exposed soils that may move with the runoff. Suggested BMPs for controlling sediment include Straw Wattles (BMPC235), Brush Barrier (BMP C231), Gravel Filter Berm (BMP C232), and Silt Fence (BMP C233). Installation of a Sediment Trap (Element 3) is an additional sediment control feature.

Stabilize Soils

An additional measure that can minimize sediment transport in runoff is to stabilize soils on the site with mulch or some other covering. This will limit the amount of soil that is exposed to rainfall, thus limiting the sediment that could potentially leave the site. BMPs that could be used for this include Mulching (BMP C121), Nets and Blankets (BMP C122), and Plastic Covering (BMP C123). During periods of dry weather dust can become a problem and

sediment could be transported from the site in high winds. BMP C140 Dust Control should be followed to limit loss of soils in windy conditions.

Protect Slopes

If the cleared area includes slopes of 3:1 (Horizontal: Vertical) or steeper, the slopes should be protected to limit runoff. If the slopes are not protected, rills and gullies may form, transporting sediment to the lower elevations and potentially off the construction site. The slopes should be graded to minimize erosion and runoff at the downstream end of the slopes, and runoff should be collected and treated. The following BMPs could be used Surface Roughening (BMP C130), Interceptor Dike and Swale (BMP C200), and Pipe Slope Drains (BMP C204).

Protect Drain Inlets

Runoff from urban construction sites often discharges into existing stormwater collection systems. Water enters the collection system through drain inlets. If there are drain inlets downstream of a construction site, they should be protected using BMP C220 Storm Drain Inlet Protection.

Stabilize Channels and Outlets

Any temporary on-site channels or ditches that are used to control runoff should be stabilized to prevent erosion in the channel. BMP C202 Channel Lining and BMP C209 Outlet Protection should be used.

Control Pollutants

The best way to control pollution is to limit the source of pollution. Construction debris should be maintained in a safe location. Vehicle maintenance on the construction site should be minimized and any spill should be promptly cleaned up. Concrete spillage should be kept to a minimum and cleaning of the concrete trucks after they have unloaded should be done in an area that will not drain off site (see BMP C151 Concrete Handling).

Control Dewatering

In some cases, excavation for the foundation or below ground structures will encounter ground water. This water must be removed (dewatered) from the excavation. Discharge of this ground water must be treated in a manner that will not cause damage downstream due to flow rates or added pollution. There are no specific BMP identified for this activity, but the water should be handled with care to assure that soils or other pollutants are not added to this flow.

Maintain BMPs

Installation of the appropriate BMPs is not adequate to completely control stormwater runoff. The BMPs that have been installed on the project must be inspected and maintained during the duration of the construction project. In addition, the temporary controls that were installed for construction should be removed within 30 days of completion of the work. Typically, once construction has been completed, the temporary facilities are not maintained, and by removing the facilities, it will ensure that these won't fail and discharge water or sediment that had been previously trapped or contained.

Manage the Project

Management of a project has four aspects:

1. Phasing construction to prevent transportation of runoff and sediment,
2. Limiting the work during seasons where large amounts of rainfall could be anticipated,
3. Coordination with Utilities and other Contractors, and
4. Inspection and Monitoring.

All of these for aspects are important and must be followed to ensure a project that will have minimal impact on the environment. Volume II of the Manual contains additional BMPs that could be used on-site. The applicant is encouraged to review the Manual to see if other BMPs may be applicable to, or more useful on, a particular site.

Best Management Practices from 2019 Ecology Stormwater Management Manual

The following BMPs for Construction Stormwater Pollution Prevention are sediment and erosion control measures for the construction phase of typical rural residential development. Some projects may not require implementation of all of these BMPs; others may require additional measures not listed here.

Click on the BMP to learn more about each BMP's purpose and design:

II-3.2 Source Control BMPs

BMP C101: Preserving Natural Vegetation

BMP C102: Buffer Zones

BMP C103: High Visibility Fence

BMP C105: Stabilized Construction Access

BMP C106: Wheel Wash

BMP C107: Construction Road/Parking Area Stabilization

BMP C120: Temporary and Permanent Seeding

BMP C121: Mulching

BMP C122: Nets and Blankets

BMP C123: Plastic Covering

BMP C124: Sodding

BMP C125: Topsoiling / Composting

BMP C126: Polyacrylamide (PAM) for Soil Erosion Protection

BMP C130: Surface Roughening

BMP C131: Gradient Terraces

BMP C140: Dust Control

BMP C150: Materials on Hand

BMP C151: Concrete Handling

BMP C152: Sawcutting and Surfacing Pollution Prevention

BMP C153: Material Delivery, Storage and Containment

BMP C154: Concrete Washout Area

BMP C160: Certified Erosion and Sediment Control Lead

BMP C162: Scheduling

II-3.3 Construction Runoff BMPs

BMP C200: Interceptor Dike and Swale

BMP C201: Grass-Lined Channels

BMP C202: Riprap Channel Lining

BMP C203: Water Bars

BMP C204: Pipe Slope Drains

BMP C205: Subsurface Drains

BMP C206: Level Spreader

BMP C207: Check Dams

BMP C208: Triangular Silt Dike (TSD)

BMP C209: Outlet Protection

BMP C220: Inlet Protection

BMP C231: Brush Barrier

BMP C232: Gravel Filter Berm

BMP C233: Silt Fence

BMP C234: Vegetated Strip

BMP C235: Wattles

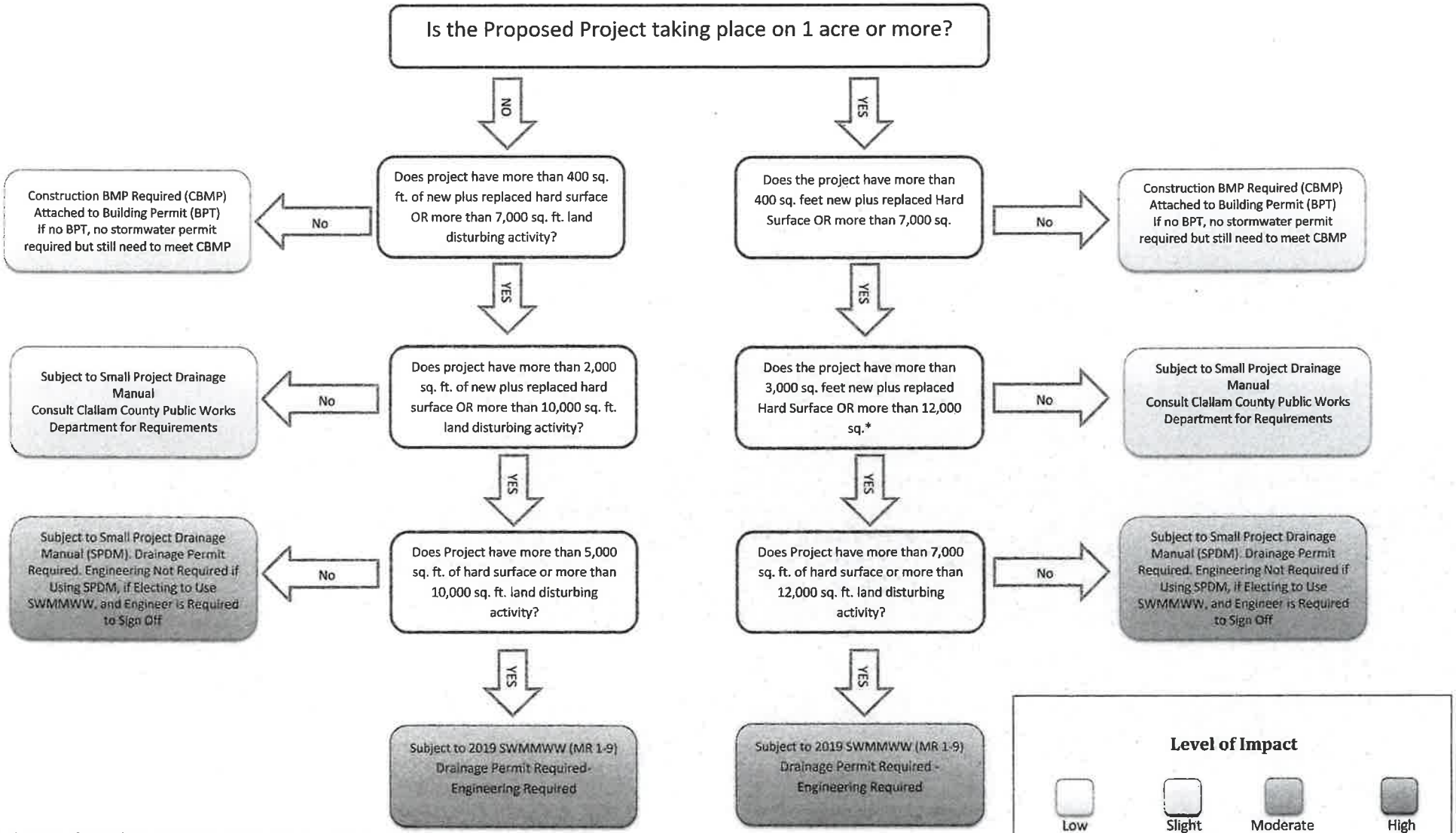
BMP C236: Vegetative Filtration

BMP C240: Sediment Trap

BMP C241: Temporary Sediment Pond

BMP C251: Construction Stormwater Filtration

Stormwater Development Requirements for Single-Family residences, Duplexes, Townhomes, and Accessory Buildings to Such Dwellings, Excluding residential Driveways Outside of the Port Angeles UGA



*OR >1.5 acres of veg to lawn conversion, OR >5 acres of veg to pasture conversion

AGENDA ITEM SUMMARY

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

6b
a7/21

Department: DCD

WORK SESSION ☒ **Meeting Date: 8-30-2021**

REGULAR AGENDA ☒ **Meeting Date: 9-7-2021**

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 Planning Commission has completed its review and public hearing process regarding a proposed ordinance intended to clarify the requirements for personal use of recreational vehicles, park models, and camping. The Planning Commission held a public hearing on July 7, 2021 and voted to forward the ordinance titled "Recreational Vehicles, Park Models, and Camping" to the Board of Commissioners on August 5, 2021. The Board may now review the ordinance for adoption and move forward with their public hearing process. The ordinance is intended to consolidate existing requirements and address deficiencies in the Clallam County Code. The ordinance will allow the placement of one RV or park model on a legal lot with proper screening and ensure park models meet installation instruction or be engineered, and requires proof of legal black and gray water disposal, disposal of solid waste, and ensure compliance with zoning, shoreline, and critical areas.

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

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Discuss the proposed ordinance and approve a Call for Hearing.

County Official signature & print name: Mary Ellen Winborn

Name of Employee/Stakeholder attending meeting: Donella Clark, Principal Planner

Relevant Departments: DCD

Date submitted: 8-25-2021

* 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

PUBLIC HEARING

Proposed Ordinance titled "Recreational Vehicles, Park Models, and Camping"

NOTICE IS HEREBY GIVEN that the Clallam County Board of Commissioners will conduct a public hearing on Tuesday, September 28, 2021 at 10:30 a.m., or as soon thereafter as possible in the Commissioners' Meeting Room of the Clallam County Courthouse, 223 East 4th Street, Room 160, Port Angeles, Washington. The hearing may also be attended by Zoom by going to https://zoom.us/join or by calling 253-215-8782 and then enter Meeting ID: 875 561 7844 Passcode: 12345. The purpose of the public hearing is to receive public testimony on proposed changes to the Clallam County Zoning code, amending and adding definitions to accompany a new section that would provide standards for the placement and use of Recreational Vehicles, Park Models, and the use of property for Camping.

SUMMARY OF PROPOSAL: Clallam County is proposing an Ordinance in order to clarify the requirements for recreational uses, which includes recreational vehicles, park models, and camping to occur throughout the unincorporated portions of the County. The recreational ordinance is intended to address the issue of ensuring that recreational vehicles and park models will adequately address waste water, solid waste, and adequate utilities and to ensure that recreational uses comply with zoning, shoreline, and critical areas requirements, consolidating the requirements already in place in Clallam County Codes.

HOW TO COMMENT: All persons wishing to comment are welcome to either submit their written comments before the hearing is commenced or present written and/or oral comments in person during the public hearing. Written comments should be sent to the Clallam County Board of Commissioners, 223 East 4th Street, Suite 4, Port Angeles, WA 98362-3015.

DOCUMENTS AND INFORMATION: Copy of the Ordinance is available for review at the Clallam County Department of Community Development located in the Clallam County Courthouse at 223 E. 4th Street, Port Angeles, WA or http://www.clallam.net/bocc/public_meetings.html.

In compliance with the Americans with Disabilities Act (ADA), appropriate aids and/or reasonable accommodations will be made available upon request. Requests must be received by the Commissioner's office (Phone: 360-417-2233; see address above) at least 7 days prior to the hearing. The facility is considered "barrier free" and accessible to those with physical disabilities.

Publish: September 19 and 26

Bill: Dept. of Community Development

Loni Gores, Clerk of the Board

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LETTER OF TRANSMITTAL

To: Clallam County Board of Commissioners

From: Clallam County Planning Commission

Subject: Transmittal to BOCC: Findings and Conclusions regarding an Ordinance about Recreational Uses

Dear Commissioners:

The Clallam County Planning Commission has completed its review and public hearing process regarding an Ordinance proposing standards for Recreational Uses, including RV's, Park Models, and Camping. The Planning Commission completed its review and approved its final recommendations to forward to the BOCC at its meeting on July 7, 2021. As Vice-Chairman of the Clallam County Planning Commission, having first received the authorization of the Commission, I am transmitting herewith the findings and recommendations of the Commission on this proposed Ordinance:

FINDINGS OF FACT:

1. Clallam County is proposing an Ordinance in order to clarify the requirements for recreational uses, which includes recreational vehicles, park models, tents, etc. to occur throughout the unincorporated portions of the County. The recreational ordinance is intended to address the issue of ensuring that recreational uses will adequately address waste water, solid waste, and have adequate utilities and to ensure that recreational uses comply with zoning, shoreline, and critical areas requirements, consolidating the requirements already in place in Clallam County Codes.

2. The recreational use ordinance provides standards for landowners wanting to occupy park models, recreational vehicles, or tent/yurts.

3. DCD initiated discussions regarding RV camping, living, and storage on residentially developed and vacant lots with the Planning Commission on March 21, 2018.

3. DCD held workshops with the Planning Commission on March 21, 2018, May 2, 2018, May 16, 2018, February 17, 2021, March 3, 2021, April 7, 2021, May 5, 2021, and June 2, 2021 to develop the ordinance.

4. DCD attended a Board of County Commissioners work session on May 17, 2021 to inform the Board and the public of the Planning Commission's work on the Recreational Use Ordinance.

5. DCD issued a SEPA Threshold Determination of a Determination of Non-Significance on June 21, 2021. The comment period on the DNS ended on

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July 7, 2021. This DNS was routed to the WA State Department of Ecology, Cities, and Tribes in Clallam County.

6. The Planning Commission held a Public Hearing on July 7, 2021 regarding the proposed Ordinance. Comments were received from the public via email, letter, and through testifying at the hearing. The hearing was closed and a decision on the matter tabled until August 5, 2021.

7. Staff made a presentation of possible changes to the ordinance to address concerns heard by the public on August 5, 2021.

8. The final draft Ordinance regarding Recreational Uses was presented at the August 18, 2021 Planning Commission Public Hearing. A vote was held recommending the ordinance be forwarded to the BOCC for consideration; 6 in favor, 1 opposed, and 1 absent.

Based on the above facts and findings, and the following attachments: proposed amendments to definitions defining Recreational Vehicle and RV Park, and adding the definition for Park Model or Recreational Park Trailer; ordinance sections with requirements for Recreational Vehicles (including Park Model) use, Temporary living quarters during construction, Tent and Yurts, and a Violation-Penalty; the Planning Commission adopts and transmits the following conclusion to the Clallam County Board of Commissioners.

CONCLUSION: The Clallam County Planning Commission concludes that the proposed Ordinance shall be included in the zoning code to:

1. Add definition of Park Models, update definition of Recreational Vehicles and RV Park in the zoning code.
2. Add requirements for placement and use of Park Models and Recreational vehicles.
3. Address temporary living in RV while obtaining a building permit.
4. Add standards for personal use of tents/yurts.
5. Address procedure for violations of these standards.

The Planning Commission recommends approval by the BOCC and as Chair of the Commission, has directed me as its duly authorized agent to transmit this recommendation to the BOCC.

Authentisign
Scott A Clausen
8/6/2021 9:06:22 PM PDT

Scott Clausen, Vice-Chairman

08/06/2021
Date

Ordinance _____

An ordinance amending Clallam County Code Title 33 Zoning, and adding a new section adopting standards for Recreational Vehicles, Park Models, and Camping

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Chapter 33.03, Section 33.03.010, Definitions is amended to read as follows:

For the purpose of this title, certain terms or words herein shall be interpreted as specifically defined in this chapter. All other words in this title shall carry the meanings as specified in the latest edition of Webster's New Collegiate Dictionary. Words or phrases not listed here have neither been amended or repealed by the ordinance codified in this section and remain as currently enacted.

(1) "Accessory apartment" means an accessory housing unit located above the first floor of a multistoried commercial or limited industrial use building.

(2) "Accessory dwelling unit" or "ADU" means a separate dwelling unit within a single-family dwelling or a separate structure associated with a single-family dwelling which is incidental and subordinate to the primary residential use of the property. Accessory dwelling units are further defined as follows:

(a) Detached. Those accessory dwelling units that are lawfully constructed within existing outbuildings, or stand alone, where the ADU does not share a common wall with the primary residential dwelling unit. ADUs that are connected to a primary residential structure only by a covered breezeway or similar appurtenant structure shall be considered detached.

(b) Attached. Those accessory dwelling units that share a common wall or floor/ceiling with the primary dwelling unit and do not meet the definition of detached accessory dwelling unit.

(3) "Accessory housing" means an accessory single-family housing unit, the residential use of which remains a clearly incidental and subordinate use to a legally constructed primary single-family dwelling, commercial, or industrial use. "Accessory housing" includes accessory dwelling units, accessory apartments, caretaker apartments, and temporary medical hardship dwellings.

(4) "Accessory use or improvement" means a use or improvement which is necessary for the full use and enjoyment of the main use of the property, is typically associated with the main use, and is subordinate to or incidental to the main use of a parcel and which includes the utilities necessary to serve the accessory use. Accessory uses and improvements are allowed in all zoning districts.

(5) "Administrator" means the Director of the Department of Community Development of Clallam County or his/her designee.

(6) "Affected party" means those parties with standing to bring action on appeals of decisions rendered pursuant to this title and is limited to the following parties:

(a) The applicant or owner of property on which the development is proposed;

(b) Any person entitled to notice of the application pursuant to CCC 33.37.010; or

(c) Any person who deems themselves aggrieved by a decision and who will suffer direct and substantial impacts from the proposal.

(7) "Agriculture" means improvements and activities associated with the raising and harvesting of crops and livestock. "Agriculture" includes ancillary activities, including equipment storage and repair, seasonal employee housing, and temporary on-site retail stands for the sale of agricultural goods.

(8) "Airport, general aviation" means an area of land or water that is used or intended to be used for the landing and taking off of aircraft. General aviation airports are designated by the Federal Aviation Administration (FAA) and may include ancillary structures and facilities that support the public and/or commercial use of the airport, including boarding terminals, air traffic control towers, cargo decks, baggage and ticketing terminals, parking areas, fueling facilities, aircraft storage (hangars), and aircraft servicing and repair facilities.

(9) "Airport, private use" means an area of land or water that is used or intended to be used for the landing and taking off of aircraft. Private use airports are not designated by the Federal Aviation Administration (FAA) as general aviation airports and may include ancillary structures and facilities that support the private, noncommercial recreational use of the airport, including air traffic control towers, parking areas, fueling facilities, aircraft storage (hangars), and aircraft servicing and repair facilities.

(10) "Allowed use" means a use or structure which is allowed outright by this chapter in one or more zones without issuance of a conditional use permit but remains subject to all other development regulations applicable to the proposal.

(11) "Antenna" means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

(12) "Asphalt plant" means a permanent (longer than three months) installation of an asphalt plant; provided, that the facility complies with all applicable water quality, air quality, and other environmental regulations.

(13) "Bed and breakfast inns" means a single-family dwelling on property occupied by the owner or manager which is constructed or converted partially or entirely into an overnight, short-term boarding house which does not detract from the residential appearance of the structure, and has five or fewer rooms for overnight accommodations.

(14) "Business park" means a commercial or industrial development supporting low-intensity activities compatible with adjoining residential land uses when properly landscaped.

(15) "Caretaker apartment" means an accessory housing unit that is permitted in association with a commercial or industrial use where no residential dwelling exists, and the expressed purpose of the accessory housing unit is to provide housing for an on-site security or operations personnel.

(16) "Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums and mausoleums.

(17) "Child daycare center" means a person or agency that regularly provides care for a group of children for periods of less than 24 hours (RCW 74.15.020).

(18) "Church" means a building or buildings intended for religious worship including ancillary activity and improvements such as religious education, assembly rooms, kitchen, reading room, recreation hall and may include a residence for church staff. This definition does not include schools devoted primarily to nonreligious education.

(19) "Commercial greenhouse or nursery" means a structure (greenhouse) or land (nursery) devoted to the cultivation and wholesale or retail of plants.

(20) "Commercial horse facility" means a facility greater than 2,000 square feet for the commercial boarding, care, training or riding of horses.

(21) "Commercial storage" means a structure, or part thereof, or area used principally for the storage of goods and merchandise.

(22) "Commercial use" means any premises devoted primarily to the wholesaling or retailing of a product or service for the purpose of generating an income.

(23) "Commercial use, neighborhood" means commercial uses whose primary function is to serve a limited geographic market area intending to enhance a neighborhood or limited residential market.

(24) "Commission" means the Clallam County Planning Commission appointed by the Board of Commissioners.

(25) "Communication relay facilities" means telephone, telegraph, television, radio, cables, microwave stations, retransmission improvements, substations and any other communication conveyance. This definition includes commercial broadcast stations, accessory control buildings, and security fencing.

(26) "Comprehensive Plan" means the Clallam County Comprehensive Plan, CCC Title 31.

(27) "Conditional use" means an activity or structure which is permitted in a zoning district through a special permitting process with public input and a determination that the proposed use is consistent with applicable land use regulations and the character of the neighborhood.

(28) "Corner lot" means a lot abutting on and at the intersection of two or more streets.

(29) "County" means Clallam County.

(30) "Density" means the number of dwelling units per gross acre of land, which includes road rights-of-way to the centerline of fronting streets, tidelands, and dedicated open space areas.

(31) "Development right" is defined as the difference between the existing use of a parcel and its potential use as permitted by existing law, i.e., a development right is equal to the unused development potential of a parcel of land. In simplest form, a single development right usually represents the potential to build one dwelling unit.

(32) "Development standards" means a set of requirements establishing parameters to be followed in site and/or building design and development.

(33) "Duplex" means two dwelling units having a common roof.

(34) "Dwelling unit" means any building or any portion thereof which is intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes having independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking, sanitation and including accessory structures and improvements.

(35) "Easement" means a grant of one or more property rights by the property owner to and/or for a specific or general use by a person or public.

(36) "Family daycare provider" means a child daycare provider who regularly provides child daycare for not more than 12 children in the provider's home in the family living quarters for periods of less than 24 hours (RCW 74.15.020).

(37) "Financial institution" means a building, property or activity, the principal use or purpose of which is the provision of financial services, including but not limited to: banks, facilities for automated teller machines (ATMs), credit unions, savings and loan institutions, stock brokerages and mortgage companies.

(38) "Gas station" means a principal building site and structures for the sale and dispensing of motor fuels or other petroleum products and the sale of convenience retail.

(39) "Grocery store" means a structure devoted primarily to the sale of staple foodstuffs and household commodities.

(40) "Gross floor area," for structures used for commercial or industrial purposes, shall include the sum of the horizontal areas of one or more floors of a building measured from the exterior face of exterior walls or from the centerline of a wall separating two commercial uses

but not including interior parking spaces, storage spaces, loading spaces and basements which are not used for human habitation or service to the public. For structures used for residential purposes, "gross floor area" shall include the sum of the horizontal areas of one or more floors of a building measured from the exterior face of exterior walls but not including garages or exterior storage spaces.

(41) "Group home" means a facility licensed by the State which is located in a single building utilized for the full-time shelter and care of a group of unrelated people. A group home is considered to be a multiple-family dwelling when it is occupied by 17 or more clients. A group home is considered to be a home enterprise when occupied by 16 or fewer clients and when consistent with the standards for a home enterprise.

(42) "Hazardous waste" means:

(a) Any discarded, useless, unwanted, or abandoned nonradioactive substances, including but not limited to certain pesticides or any residues or containers of such substances which are disposed of in such quantities or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes have short-lived toxic properties which may cause death, injury, or illness or have nutrogenic, teratogenic or carcinogenic properties; or are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

(b) Any waste described in subsection (42)(a) of this section which will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant hazard and may be concentrated by living organisms through a food chain or may affect the genetic makeup of man or wildlife and is highly toxic to man or wildlife; or if disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment.

(43) "Hazardous waste treatment and storage facility" means a site or facility used to store or treat hazardous waste as defined in subsection (42) of this section.

(44) "Home-based industry" means a revenue generating enterprise which is located on a residential parcel and which generates or involves outdoor activity and/or outdoor storage of equipment or supplies.

(45) "Home enterprise" means a revenue generating enterprise which is conducted entirely within a dwelling and/or inside other legally existing buildings on a residential property and is subordinate to and incidental to the residential use of the dwelling.

(46) "Indoor shooting range" means a facility, commercial, public or private, which provides for recreational shooting and hunter education within a fully enclosed and soundproof structure which is clearly subordinate to the residential use, if applicable, of the property.

(47) "Industrial use" means any premises devoted primarily to the manufacturing of finished or semi-finished products, and the processing of materials. This definition includes accessory facilities such as but not limited to storage facilities, transfer facilities, warehousing, heavy vehicular storage and repair, log storage milling and sorting.

(48) "Kennel" means an establishment which is designed to accommodate the temporary boarding of six or more household pets owned by persons other than the owner of the premises.

(49) "Land use" means an activity on land serving man in some manner.

(50) "Limited industrial use" means those industrial uses which generate minimal amounts of noise, odor, glare, traffic, and other nuisance characteristics.

(51) "Lodges" means any structure accommodating an organization which is operated not-for-profit where entrance to the premises is contingent upon the payment of a monthly or yearly fee.

(52) "Long-term commercial significance" includes (or signals) the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of land. Long-term commercial significance means the land is capable of producing the specified natural resources at commercially sustainable levels for at least the 20-year planning period, if adequately conserved. Designated mineral resource lands of long-term commercial significance may have alternative post-mining land uses, as provided by the Surface Mining Reclamation Act, Comprehensive Plan and development regulations, or other laws.

(53) "Lot coverage" means the total ground coverage of all buildings or structures on a site measured from the outside of external or supporting walls, but not to include: at-grade, off-street parking lots; deck areas; terraces; swimming pools; pool deck areas; walkways and roadways; and driveways.

(54) "Lot depth" means the horizontal length of a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line.

(55) "Lot line, front" means the boundary of a lot which is common to a public or private road or access easement. Where the lot abuts two or more roads the lot owner may designate one of the lot lines common to one of the roads as the front lot line at the time the lot is developed.

(56) "Lot line, rear" means the property line of a lot that is most opposite or most distant from the designated front lot line and that does not intersect any front lot line. In the case of a triangular lot, it means a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line. In the event that the front property is a curved line, then the rear property line shall be assumed to be a line parallel to a line tangent to the front property line at its midpoint. In the case of waterfront property, the rear lot line is that which adjoins the ordinary high water line, unless otherwise designated by the Zoning Administrator.

(57) "Lot line, side" means any lot line that is not a front or rear lot line, or any lot line that intersects a front lot line.

(58) "Lot, parcel, tract" means an ownership of land in which the boundary is defined by a deed recorded in the County Auditor's office and assigned a tax parcel number by the County Assessor; or a lot which has been defined by a survey recorded pursuant to Washington State surveying or platting laws and is assigned a tax parcel number by the County Assessor; or parcels recognized by resolution of the Board of County Commissioners adopted prior to the effective date of this title.

(59) "Lot width" means the horizontal distance between side lot lines measured at right angles to the lot depth line at a point midway between the front and rear property line. If the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the depth line of the lot at a distance midway from the front and rear lines required for the district in which the lot is located.

(60) "Marijuana processor" means a person licensed by the State Liquor and Cannabis Board to process marijuana into marijuana concentrates, usable marijuana and marijuana-infused products, and package them for sale in retail outlets and at wholesale to marijuana retailers.

(61) "Marijuana producer" means a person licensed by the State Liquor and Cannabis Board to produce and sell marijuana at wholesale to processors and other producers.

(62) "Marijuana retail" means a person licensed by the State Liquor and Cannabis Board to sell marijuana concentrates, usable marijuana, and marijuana-infused products in a retail outlet.

(63) "Master planned resort" means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreation facilities.

(64) "Medical hardship" means a physical or mental incapacitation requiring daily care by an on-site caregiver and is attested to, in writing, by a licensed practicing physician in the State of Washington.

(65) "Medical hardship dwelling" means a mobile home or manufactured home, as defined by WAC 296-150M-0020, allowed to provide temporary housing in cases of documented medical hardship.

(66) "Medical service facility" means a licensed medical physician's clinic or outpatient care clinic where overnight accommodations are not provided.

(67) "Mineral extraction" means activities involved in the extraction and processing of minerals from the earth for industrial, commercial, or construction uses, excluding water. For the purpose of this chapter, removal of solid materials from the earth is not deemed mineral extraction until the activity collectively results in more than three acres of land being disturbed or that results in pit walls more than 30 feet high and steeper than one horizontal to one vertical. This definition does not include disturbances greater than three acres of land during any time period if the cumulative area that has not been rehabilitated according to the State's reclamation requirements outlined in Chapter 78.44 RCW is less than three acres. Farming, road construction, mineral exploration testing and site preparation for construction shall not be deemed mineral extraction activities.

(68) "Mineral Resource Land Overlay District" or "MRLOD" means an overlay designation given to the location of a surface mine or proposed surface mine. A surface mine located upon land having the MRLOD designation may operate there without first obtaining a conditional use permit, if one would otherwise be required in the absence of MRLOD designation. Such a surface mine is and remains subject to the regulations listed in Chapter 33.62 CCC and all other applicable development regulations.

(69) "Minimum lot size" means the smallest parcel size upon which a dwelling may be placed or constructed; provided, that roads and open spaces which are dedicated to the public and tidelands shall be excluded when calculating lot size; provided, that lots in the Rural (R1) zoning district may include roads dedicated to the public as part of a land division in the minimum lot size calculation.

(70) "Mini-storage/self-storage" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants for the purpose of storing and removing personal property. A self-service storage facility is not a public warehouse.

(71) "Mixed-use" means development that combines two or more different land uses on the same lot or contiguous lots in the same zone, such as retail uses and residential uses.

(72) "Mobile home park" means a lot or parcel of land occupied by two or more mobile homes on a rent or lease basis, and approved by Clallam County pursuant to County regulations.

(73) "Motel/hotel" means a structure which provides overnight, short-term boarding to transient guests and not defined as a bed and breakfast inn facility.

(74) "Multiple-family dwelling" means a building containing three or more dwelling units.

(75) "Nonconforming use or structure" means a lawful structure or use existing at the time this title or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

(76) "Off-street parking" means any space specifically allocated to the parking of motor vehicles that is not located within a public right-of-way, travel lane, service drive, or any easement for public use.

(77) "Outdoor-oriented recreation facilities" means buildings, land alterations, or other facilities which are intended to provide for recreational activity including, but not limited to, campgrounds, boat launching facilities, golf courses and ball fields.

(78) "Outdoor shooting range" means a facility, commercial, public or private, and use, part of which occurs outdoors, which is established for the purpose of recreational shooting and hunter education/training. An "outdoor shooting range" includes the discharge of firearms for any lawful purposes. Accessory uses which directly relate to the use of the site as an outdoor shooting range such as campgrounds and indoor retailing of shooting supplies are included.

(79) "Parking space" means an area set aside for the parking of one motor vehicle.

(80) "Park Model or Recreational Park Trailer" means a type of recreational vehicle as defined in the American national standards institute A119.5 standard for park trailers as defined by RCW 43.22.335.

(81~~0~~) "Performance standards" means criteria that are established and must be met before a particular use will be permitted. These measures are designed to guide development of property and include, but are not limited to, open space requirements, water and wastewater requirements, buffer zones, screening, size and height limits for buildings, noise, vibration, glare, heat, air or water contaminants, and traffic.

(82~~1~~) "Permitted use" means an activity or structure which is either allowed in a zone pursuant to this chapter without conditions or formal action by the County, or is identified as a conditional use.

(83~~2~~) "Person" means a man, woman, firm, association, partnership, political subdivision, government agency, corporation or any other human entity whatsoever.

(84~~3~~) "Preferred use" means the use that is the most appropriate lawful use for a particular parcel because that use best furthers the public policy behind the zoning or overlay designation applicable to that particular parcel.

(85~~4~~) "Primary dwelling unit" means a structure consistent with the definition of "single-family dwelling," as set forth in this section; provided, that this definition applies to those single-family residential structures on parcels where an accessory dwelling unit, consistent with the standards of Chapter 33.50 CCC, is also present.

(86~~5~~) "Primitive campground" means a campground for day use and overnight accommodations by tenters only (no recreational vehicles or tent-trailers). A primitive campground is also an outdoor-oriented recreation use, unless specified in each zoning district.

(87~~6~~) "Professional office" means a structure accommodating the following professional offices: medical, dental, chiropractic, accounting, consulting, cosmetologist, real estate offices or such other offices of persons required to be licensed by the State of Washington following completion of required training.

(88~~7~~) "Public building" means a building or improvement which is used or owned by a governmental agency.

(89~~8~~) "Public improvement" means a facility which is used or owned by a governmental agency.

(9089) "Race track" means an area devoted to the racing of motor and nonmotorized vehicles or animals, and all improvements normally associated with racing such as off-street parking, patron seating, concessions, and a fixed race track.

(910) "Restaurant" means a business in which food is prepared and sold for consumption.

(921) "Research facility" means an improvement devoted to or supporting research activities and having minimal nuisance characteristics related to odor, noise, glare and radiation. "Research" is an activity devoted to the obtaining of knowledge and does not include any product retailing or wholesaling activity. Testing for surface and subsurface minerals is not a research activity.

(932) "Retail use" means a land use devoted primarily to the wholesale and retail sale of a product or service to the general public.

(94) "Recreational Vehicle (RV)" means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes as defined by RCW 43.22.335.

(953) "RV park" means two or more occupied RVs on a property~~a campground~~ for day use and overnight accommodations by motor homes, travel trailers, truck campers, ~~and~~ camping trailers, and park models.

~~——~~(964) "Satellite dish antenna" means a round, parabolic antenna intended to receive signals from orbiting satellites and other sources. Noncommercial dish antennas are defined as being less than four meters in diameter. Commercial dish antennas are typically those larger than four meters and typically used by broadcasting stations.

(975) "School" means a building where instruction is given to persons to enhance their knowledge or skills. Buildings where instruction is given primarily on religious matters are not deemed to be schools.

(986) "Setback" means the minimum distance allowed by this chapter between a lot line or the centerline of a street right-of-way and the foundation of any building on the lot; provided, however, that eaves, decks, porches, bay windows, chimneys or other architectural elements may project no more than two feet in any required yard except in instances where such projection would be over or on an easement, which is not allowed; and, provided further, that structures and improvements associated with utilities or roads dependent on location on or near road right-of-way shall be allowed without meeting the setback standards of the Zoning Code.

(997) "Shooting range" means a facility established for the purpose of recreational shooting, including, but not limited to, target and skeet shooting.

(10098) "Should," when used in a statement, indicates a preference, recommendation or exhortation rather than a mandate or requirement and is a synonym for "may."

(10199) "Single-family dwelling" means a dwelling unit detached from any other dwelling unit and intended for occupation by one family and including accessory improvements and uses. This definition includes manufactured homes such as mobile homes, modular homes and other homes manufactured in components or as one complete dwelling unit.

(1020) "Storage facility" means a building or fenced open yard used solely for the storage of goods and materials; provided, that automobile wrecking or salvage facilities are excluded from this definition.

(1031) "Street" means any vehicular right-of-way which:

(a) Is an existing State, County or municipal roadway; or

(b) Is a publicly owned easement; or

(c) Is shown upon a plat or short plat or survey approved pursuant to County regulations; or

(d) Is approved by other governmental action. The street shall include all land within the boundaries of the street right-of-way which is improved.

(104~~2~~) "Street classifications" means those functional classifications given to streets by the Clallam County Board of Commissioners under the provisions of RCW 36.86.070.

(105~~3~~) "Street right-of-way" means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation, and intended to be occupied by a street, as specified by recorded easements, recorded ownership instruments, or dedications accepted by the Board of County Commissioners for public transportation purposes.

(106~~4~~) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises of beer and/or wine.

(107~~5~~) "Timber harvesting" means improvements and activities associated with the growing and harvesting of trees. Such activity includes land preparation for tree planting, road construction, tree thinning, brush control, log storage and sorting yards, tree nursery facilities, research activity related to timber growing, improvements required for environmental impact mitigation, temporary chipping and barking activity utilizing portable equipment, storage of materials, vehicles and equipment supporting timber growing, harvesting and transportation activities, staging areas and facilities, timber trans-shipment facilities, log scaling facilities, the extraction of gravel and rock necessary to support timber management activity and all other silviculture and associated practices which are recognized by and consistent with the regulations of the Washington State Forest Practices Act of 1974.

(108~~6~~) "Timber labor camp" means facilities which are designed to accommodate persons who are employed in timber management activities. Such facilities provide overnight sleeping, waste disposal and one cooking facility to serve the entire facility.

(109~~7~~) "Tourist shop" means a facility devoted primarily to the sale of a product or service to the traveling public, including antique or curio shops, crafts, and memorabilia.

(110~~08~~) "Transfer of development rights" or "TDR" means an innovative voluntary program in which unused transferable development rights (TDRs) credited by the County to one parcel can be sold and transferred without buying and selling the land. These transferable development rights may be utilized in an urban growth area to increase allowable densities.

(111~~09~~) "Unclassified use" means an activity or land use not defined by this title and not listed as an allowed use, a conditional use, or a prohibited use in this title.

(112~~0~~) "Urban growth area" means those areas designated by Clallam County pursuant to the policies in the County-wide Planning Policy and the Comprehensive Plan.

(113~~1~~) "Urban level of facilities and services" means those services defined as "urban governmental services" with levels of service as defined within the capital facilities element of the Clallam County Comprehensive Plan.(112) "Utility" means a fixed, conveyance type improvement serving two or more ownerships. Said improvement conveys power, gas, water, sewage, surface drainage, or communication signals. This definition does not include intercounty or interstate transmission facilities.

(114~~3~~) "Vacation rental" means a legally constructed dwelling intended for occupancy of the entire dwelling (not rental of individual rooms) by any person/group other than the primary owner for periods of 30 days or less and is an allowed use in all zoning districts that allow single-family residences. Uninhabitable structures like garages, barns, or sheds shall not be used

as vacation rentals. "Vacation rental" does not include a bed and breakfast permitted and operated in accordance with this code.

(11~~5~~4) "Variance" means an exception from the minimum standards of this chapter allowed by the provisions of Chapter 33.30 CCC.

(11~~6~~5) "Vehicular repair" means a structure or land use devoted to the repair of motor vehicles and not otherwise defined as a home-based industry.

(11~~7~~6) "Veterinary clinic" means any building or portion thereof designed or used for the medical care or treatment of cats, dogs, or other animals.

(11~~8~~7) "Wholesale commercial use" means establishments or places of business primarily engaged in selling merchandise or services to retailers, industrial customers, institutional agencies, professional business users or to other wholesalers.

(11~~9~~8) "Wood manufacturing" means any wood manufacturing premises devoted primarily to the manufacturing of semi-finished products, finished products and the processing of materials. This definition includes accessory facilities such as but not limited to storage facilities, transfer facilities, warehousing, heavy vehicular storage and repair, log storage, milling and sorting.

(120~~19~~) "Wood manufacturing (small-scale)" means any wood manufacturing activity meeting the following criteria: cabinet shops and other wood finishing facilities; all activity takes place indoors; and the structure is less than 5,000 square feet.

(12~~0~~1) "Wrecking yard" or "junk yard" means an open area where scrap materials or motor vehicles are bought, sold, exchanged, recycled, stored, disassembled or handled, but which cannot be used again for the purpose for which it was originally intended.

(12~~1~~2) "Zone" means a mapped area to which a uniform set of regulations applies. The Clallam County Official Zoning Map describes the extent and boundaries for the zones described within this title.

(12~~2~~3) "Zoning" means the process by which a county or municipality legally controls the use of property and physical configuration of development upon tracts of land within its jurisdiction.

Chapter 33.48, Recreational Vehicles, Park Models, and Camping**, is created to read as follows:**

Section 33.48.010, Purpose is created to read as follows:

The purpose of this chapter is to protect public health, safety, and welfare of Clallam County citizens and the environment by providing standards for recreational vehicles and camping on private property.

Section 33.48.020, Requirements for Recreational Vehicle Use is created to read as follows:

(1)—One RV may be placed and occupied on a legal lot and shall meet the standards of this code. Upon request by DCD (i.e. complaint received), the applicant shall provide evidence of compliance with these standards.

(2) Duration of stay within an approved/legal RV park or mobile home park will be determined by the manager/owner.

(3) Within frequently flooded areas, the maximum number of days a park model or RV can be occupied is 180 days and it must be ready for highway use (per FEMA regulations).

(4) For parcels over 2.4 acres in size, events with multiple RV's (family reunion, hunting camp, etc.) are allowed for a maximum of 56 days per year, no longer than 14 consecutive days. If multiple RV's are on the property in excess of 56 days per year and more than 14 consecutive days shall be identified as an RV park.

(5) Proof of legal black and gray water disposal shall be provided for use of an RV on property. Permanent connection to an approved septic or sewer connection by Clallam County Environmental Health or Public Works is required for an RV to be occupied more than 180 days per calendar and/or where water is installed and used at the property. Sani-cans are only approved for dry camping and shall be screened from public view.

(6) Solid waste (as defined by Chapter 41.11, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts) must be properly disposed from the property as outlined in Solid Waste Regulations (Chapter 41.11). In the event of solid waste investigation (i.e. burning of trash, the accumulation of junk vehicles, or more than 12 cubic feet of solid waste as outlined in Section 41.11.070 CCC, etc), documentation of the disposal of solid waste in an approved facility will be required to be provided to Clallam County DCD and/or Environmental Health.

(7) No more than two unoccupied recreational vehicles of any kind may be stored on a property, and only one unoccupied RV may be stored on parcels under five acres.

(8) RVs shall not be parked on a public roadway, right-of-way, or easement.

(9) RVs shall be licensed and operable, and shall not include any fixtures or attachments such as decks, porches, attached skirting, etc. that would prevent the movement of the vehicle.

(10) All units, appurtenances, and personal property (other than solid waste) shall be screened from adjacent properties and roadways through use of existing/proposed structures, fencing, berms, landscaping, etc.

(11) Permanent electrical service should be provided whenever feasible or if intended to be used more than 180 days in a calendar year, which is intended to reduce noise, fumes, fire hazard, and potential spills of fuel from the use of generators. Use of generators should include noise reducing measures (low noise ratings, mufflers, insulation, location, etc) to comply with the Washington State Department of Ecology Maximum Environmental Noise Levels codified at WAC 173-60, which includes stricter standards at night time (10 p.m. to 7 a.m.).

(12) Improvements to a site shall not disturb the native vegetation within a critical area, shoreline, or their buffers without compliance with Shoreline and Critical Area regulations. On pre-existing sites (developed prior to adoption of applicable regulations), placement on the developed area is allowed.

(13) Placement shall comply with the zoning, shoreline, and critical areas codes to the maximum extent possible.

(14) No more than one RV may be connected to a hook-up (electric and/or water) without being considered an RV park except as per 5 above, and renting of space(s) constitutes an RV park, which requires compliance with the underlying zoning.

(15) If conditionally allowed, RV parks with 4 or less spaces will not require approval of a binding site plan.

(16) The Administrator may permit one temporary RV for a caretaker for commercial/industrial development, or documented medical hardship for a caretaker or immediate family member. The temporary RV will require submittal of a request to be renewed every three years upon proof of continuing need, and shall not be allowed if a primary and accessory dwelling unit are already located on the parcel.

Section 33.48.030, Requirements for Park Models is created to read as follows:

(1) Only one Park Model may be placed and occupied on a legal lot and shall meet the above standards. Upon request by DCD (i.e. complaint received), the applicant shall provide evidence of compliance with these standards.

(2) Park models shall be secured with a system that meets the requirements per the manufacturer's installation instructions or, by engineered design, and shall be installed to prevent overturning and roof uplift.

(3) Park models placed on property with a single family residence will disqualify the property for an accessory dwelling unit.

(4) Park models may have skirting and detached (not structurally connected) decks if located outside of a floodplain.

Section 33.48.040, Temporary Living Quarters during Construction is created to read as follows:

During construction of a single family residence, the land owner may place an RV for temporary living quarters. Upon completion of the single family residence or expiration of the building permit the RV shall no longer be used as living quarters.

Section 33.48.050, Tents and Yurts is created to read as follows:

A property owner may camp without improvements using tents or unpermitted yurts on their property for no more than 30 days. Dry camping may not be used as a permanent living arrangement. Construction of yurts for permanent living requires approval of a building permit. If the land owner intends to create improvements to the property, or camp more than 30 days, or provide camp sites to the public, the owner shall comply with underlying zoning standards. If allowed outright, the applicant shall provide a site plan showing compliance with all zoning setbacks and critical area/shoreline buffers, provide a source of approved septic disposal, and if

potable water is intended to be provided, an approved water system shall be noted. Platforms or stands that are 30 inches or greater in height, which are constructed for the placement of tents, require issuance of a building permit. Any other structures must comply with Building Department standards.

Section 33.48.060, Violation-Penalty is created to read as follows:

Failure to comply with the provisions of this chapter shall be a violation. Violations of this code will be subject to civil penalties listed in Chapter 20 for non-commercial violations.

ADOPTED this _____ day of _____2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

ATTEST:

_____
Loni Gores, Clerk of the Board

_____
Bill Peach

DRAFT

5A

9/7/21

AGENDA ITEM SUMMARY

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

Department: Finance

WORK SESSION ☐ **Meeting Date:**

REGULAR AGENDA ☒ **Meeting Date:** **09/7/2021**

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 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 Preliminary Budget for Clallam County. The submission of this preliminary budget is the first step in the budget adoption process, with the following key dates to follow:

- Thursday, September 9th—1PM Public Meeting to be held in the BOCC Board Room to Present 2022 Preliminary Budget—(this is in replacement of the cancelled PA Chamber of Commerce event on 9/7)
- Sept 15-24th—The Administrator, CFO and the Budget Director to meet with each department;
- Monday, September 21st—5 Year Capital Plan along with Proposed 2022 Capital Budget to be presented at BOCC work session for consideration and discussion;
- Wednesday, September 29th— 12pm Forks Public Meeting to Present 2022 Preliminary Budget—Forks Chamber of Commerce;
- Monday, October 11th—CFO and the Administrator submit the Recommended Budget to the BOCC;
- October 13th-29th—BOCC, Administrator, CFO and Budget Director to meet with each department;
- Tuesday, October 26th— 11:45am Sequim Public Meeting to Present 2022 Recommended Budget—Sequim Chamber of Commerce;
- Monday, November 15th—CFO and the Administrator to submit the Proposed Final Budget to the BOCC;
- Tuesday, December 7th—Property Tax Levy Certification; 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 Preliminary Budget Summary—All Funds;
- General Fund 4 Year Comparison of 2022 Preliminary Budget to Projected/Actual Results for 2021-2019;
- General Fund 4 Year Comparison of 2022 Preliminary Budget to Adopted Budgets for 2021-2019;
- General Fund Breakdown Analysis of the Change in Operating Surplus/Deficit between the 2022 Preliminary Budget Deficit and 2021 Forecasted Surplus;
- 2022 Preliminary 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 Preliminary Budget.

It is important to note that this preliminary budget represents each departments' preliminary budget submissions and reflect their base budgets with all budgeted positions assumed filled in accordance with how policy currently requires us to budget, which, as has previously been discussed, 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 preliminary 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 preliminary 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. However, as our sales tax forecast for the remainder of 2021 may prove to be overly conservative, the sales tax revenue budget for 2022 will likely need to be revisited multiple times during the 2022 budget process.

Finally, there are certain costs not yet incorporated into this preliminary budget pending further discussion with the departments and/or the BOCC, including:

- Capital outlays;
- One-time and Recurring Department Requests Over the Base Preliminary Budget;
- Finalization of the General Fund's 2022 indirect cost allocation plan;
- Conclusion of the two remaining collective bargaining agreement renewals (PD & CO Sergeants); and

- Other initiatives or changes in support funding the BOCC would like to incorporate into the budget.

GENERAL FUND BUDGET OVERVIEW

At a high level, the 2022 Preliminary Budget projects a beginning General Fund Balance of approximately $15.953 million, Revenues totaling $43.733 million, Expenditures (including Transfers Out to the Lower Dungeness and Dungeness Off-Channel Reservoir Capital Projects, HHS, Flood Control and other funds) of $45.591 million, resulting in a budgeted use Reserves of ($1.858) million, and leaving an ending General Fund Balance of $14.096 million, representing an ending reserve level of 31% of total operating expenditures. Below are the revenue and expenditure highlights behind these results:

REVENUE BUDGET HIGHLIGHTS

In this preliminary roll up of the 2022 budget, General Fund Revenues (excluding COVID-related reimbursements) are projected to total $43,633k, representing a $392k or 0.9% increase over 2021 projected revenue expected, and a $2,610k or 6.3% increase over the 2021 originally adopted budget. When you further exclude Transfers In revenue (which consist mainly of cash flow neutral transfers from the Lower Dungeness and Dungeness Off-Channel Reservoir projects), General Fund Revenues are projected to increase $692k or 1.7% 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 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 16%+ growth projected currently in 2021, which was driven by a number of factors, including:

- A robust economic recovery as COVID vaccinations became widely available which allowed many businesses to more broadly return to a fully reopened status,
- Considerable Federal stimulus that was injected into the economy,
- Pent up retail demand coupled with supply chain disruptions driving higher retail sales along with inflationary pressures in many sectors,
- The housing market experiencing significant increases in home value and sales activity in an ultra-low interest rate environment, and
- A rapid snap back of employment levels in the County as job openings exploded.

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 $961k or 4.23%. Property taxes are projected to increase $310k or 2.75% 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 $498k or 5%, which again reflects our assumption that sales taxes grow at a more moderate rate as compared to the 20-30% 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 $175k or -14.9% 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

Intergovernmental grant revenues are projected to decrease $595k 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, Superior Court and decreases in other areas, as offset by 3.3% growth in Intergovernmental tax revenues from PILT, PUD Privilege Tax, Criminal Justice, Marijuana and Liquor related excise taxes.

CHARGES FOR GOODS & SERVICES

Charges for Goods & Services are projected to increase $689k or 9% in 2022 driven mainly due to recovery of certain COVID-impacted revenue streams, including Sheriff Jail revenues derived from the provision of excess jail bed space to the State Department of Corrections which were negatively impacted during 2021 due to COVID jail capacity restrictions (approx. $300k), the resumption of the County Fair (+$205k), and the commencement of a Mental Health Court within District Court 1 which will be funded through Hargrove funds paid to the General Fund by the HHS Chemical Dependency/Mental Health fund (+$200k).

FINES & PENALTIES

Fines & Penalties are budgeted to decrease -$134k or -13.8% 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.

MISCELLANEOUS REVENUE

Miscellaneous Revenue, consisting mainly of interest income and parks camping fees, is projected to decrease $260k or -12.8%, driven mainly by a $383k 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. Partially offsetting this

continued decline in interest income 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 preliminary 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 $1.84 million in 2022, consisting of $1.5 million from the Lower Dungeness Floodplain Restoration project and $300k related to the Dungeness Off-Channel Reservoir project. This represents a decrease of -$300k over 2021, relating specifically to the Transfer In budgeted in 2021 related to 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 may or may not receive grant funding to fund. These Transfers In are fully offset by a corresponding changes in Transfers Out relating to the Lower Dungeness, Off-Channel Reservoir, and Serenity House HHS project, making these cash flow neutral events for the General Fund.

EXPENDITURE BUDGET HIGHLIGHTS

Turning to expenditures for the General Fund, our preliminary expenditure budget, excluding COVID-related costs) currently stands at $45,591k, an increase of $3,676k or 8.77% from our 2021 projected expenditures, and an increase of $941k or 2.1% over the adopted 2021 budget.

SALARIES, WAGES & BENEFITS

The largest driver of the increase over 2021 projected expenditures is in Payroll and Benefits costs. Representing approximately 73% of our total expenditure budget, Payroll and Benefits are up $2,271k or 10.63% and $943k or 10.76%, respectively, to the 2021 forecast, 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 $1.95 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 preliminary budget due to policy, is nevertheless achievable in 2022. If you adjust our 2022 personnel cost budget for this average $1.67 million average budget underspend, our combined personnel costs in reality are expected to increase $1.54 million or 5.1% in 2022 as compared to 2021.

This 5.1% 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 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 bargain agreements renewed in July 2021. 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.

As compared to the 2021 adopted budget, Payroll is budgeted to increase 4.9%, while Benefits are budgeted to increase 1.7%. We have budgeted 3.82 more FTEs in 2022 as compared to the 2021 budget, with additions in BOCC Operations (+.45 FTE), DCD Environmental Quality (+.25 FTE), DCD Permit Center (+1.0 FTE), DCD Long Range Planning (+.37 FTE), HHS Admin (+1.4 FTE), and Sheriff Operations (+1.54 FTE), as offset by reductions in HHS Environmental Health (-.4 FTE) and DCD Admin (-.86 FTE). It is important to note that the preliminary budget does not factor in health insurance benefit rate increases, which will not be known until October and will be reflected in the Administrator Recommended Budget.

SUPPLIES

Supplies are projected to increase $73k or 6.25% compared to 2021 non-COVID projected supplies costs, but decrease marginally compared to the 2021 adopted budget. This increase is mainly due to 2021 projected underspend to budget and diversion of supplies budget costs to COVID-related purposes in 2021.

SERVICES

Services in 2022 are projected to increase $861k or 13.86% over 2021 projected non-COVID services, and increase $545k or 8.3% 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);
- Creation and operation of a Mental Health Court in District Court 1 (budget currently reflects a $200k placeholder in Services pending finalization of a personnel budget for this function);
- 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 Recover services;
- Higher IT infrastructure-related network monitoring services costs ($34k) resulting from the County's IT infrastructure refresh project of 2020/2021; and
- 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 $2.68 million, a $402k or -13% decrease from 2021. This decrease is mainly due to the Transfer Out incurred in 2021 related to the General Fund's provision of $300k of bridge funding to HHS in support of the Serenity House bathroom remodel project required for Serenity House to open its expanded shelter space and to facilitate the County's shutdown of isolation shelter operated since April 2020. Also driving the decrease is a lack of Parks/Facilities and IT Capital Projects transfers being reflected in the 2022 Preliminary Budget pending completion of the 5 Year Capital Plan update which will be incorporated in the Administrator Recommended Budget. Partially offsetting these decrease are Transfers Out of $113k to Clallam Bay/Sekiu sewer to address a negative fund balance shortfall in this fund (this will likely be transitioned to a REET Capital Fund pending completion of the 5 Year Capital Plan update) and a $38k increase in Transfer to the Flood Control fund relating to staff and other costs budgeted in support of the Dungeness Off-Channel Reservoir.

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

• Lower Dungeness Floodplain	$1,500,000
• Dungeness Off-Channel Reservoir	300,000
• HHS Operations	556,600
• PW--Clallam Bay/Sekiu Sewer	113,000
• PW--Flood Control	145,877
• Local Crime Victim Comp	17,000
• Employee Healthcare	19,000
• Law Library	20,000
• PW--Solid Waste	4,000
• HHS Chemical Dependency/Mental Health	5,887
TOTAL TRANSFERS OUT—2022	**$2,681,364**

CONCLUSION/TAKE-AWAYS

Based on this preliminary revenue and expenditure budget, the budget reflects utilizing ($1,858k) of General Fund reserves to fully fund the 2022 budget. However, as discussed previously and as outlined in the attached "Breakdown of Preliminary Budget Deficit", based on historical average underspend to our personnel and benefits budgets of $1.6 million-$1.9 million, it is likely the preliminary budget deficit for 2022 is closer to ($191k), as compared to 2021's projected surplus of $1,326k (excluding COVID-related revenues/expenditures), which would leave an ending fund balance of $15,763k for 2022, or a reserve of 36% of expenditures.

Please also note that there are several outstanding issues that have yet to be factored into the General Fund budget in its current preliminary state that to the extent approved will likely increase the amount of reserves needed to fund, including:

- Capital requests--pending finalization of what capital outlay expenditures the Board approves to be funded through the General Fund in 2022, this will need to be layered into the General Fund budget as well as those other capital reserve funds to be utilized. We expect to have the 5 Year Capital Draft Plan presented to the BOCC by the 3rd week of September and have

incorporate a preliminary list of 2022 capital outlays in the Administrator Recommended Budget.

- Department Requests for 2022—as outlined in the attached "2022 Department Requests Over the Base Budget", a total of $1,413,064 of additional General Fund spending requests have been submitted, of which $159,377 are one-time requests and $1,253,687 are ongoing funding requests. Some of the larger requests include:

    - HHS Operations—requesting $440,620 of recurring additional spending to fund the addition of 5 FTE staff, including a Public Health Nurse II, two COVID-19 Contract Tracer Positions (2 year positions), a Suicide Prevention Coordinator, and a Public Health/Social Worker. Given HHS Operations limited funding sources, these requests have initially been requested to be funded through transfer by the General Fund (although approximately $174k of this request appears eligible to be funded through the County's American Rescue Plan Act special revenue fund).

    - Superior Court—requesting $250,210 of ongoing spending to support additional adult felony, civil contemp, and guardian at litem costs increases, salary increases of Pro Tem Court Commissioners and Bailiffs, the addition of 1 FTE Administrative Specialist and a .5 FTE part time Court Facilitator position. Also requesting $31,700 of one-time spending for Signature Pad Solutions, audio/visual equipment, and office furniture for additional staff.

    - Prosecuting Attorney Coroner—requesting $249,250 of recurring additional spending relating to the staffing of 1 full-time and 3 part-time Deputy Coroner/Death Investigators, death investigator certification costs, and additional outside coroner services costs in response to recent legislation affecting how County coroner functions will soon have to be performed.

    - Information Technology—requesting $56,720 of ongoing spending related to increasing interconnectivity capabilities in support of remote workforce, county departments, other agencies and the public, and additional staff training relating to new technologies and security challenges;

    - Human Resources—requesting $47,100 of ongoing funding related to extra help to provide back-up for key payroll/benefits staff, purchase additional NeoGov onboarding functionality, fund professional affiliation subscriptions, and increased job opening advertising.

    - Sheriff—requesting $55,000 of one-time spending to acquire ten MDTS for patrol vehicles, and $1,500 of ongoing spending to support administrative and travel costs of newly transferred staff.

    - Prosecuting Attorney Operations—requesting $38,000 of ongoing spending for additional professional development training, cell phone expanded needs, and additional case file storage, and $6,100 of one-time costs to upgrade audio/visual equipment in its conference room.

- Parks & Facilities—requesting $88,887 of ongoing spending for addition of 1 FTE Maintenance Worker, increase in building repair and maintenance and related supplies costs.

- WSU—ongoing spending request of $58,500k to support the addition of 1 FTE Animal Agriculture staff position to provide additional 4-H support, and an increase in salary for existing 4-H Agent staff.

- Conclusion of Two Outstanding Collective Bargain Agreements— we expect to have these efforts concluded and their cost impact included in the Administrator Recommended Budget to be submitted in October.

COVID-19 COSTS & AMERICAN RESCUE PLAN ACT FUNDS

- The General Fund 2022 Preliminary Budget currently does not reflect any COVID-specific budgeted revenues or expenditures, outside of $100k of FEMA reimbursements the County expects to receive in 2022 for eligible COVID expenditures incurred in the 2nd half of 2021. All eligible COVID-related expenditures in 2021 are presumed to be funded out of the NonDepartmental—American Rescue Plan Act special revenue fund for 2022.

- Of the $15.02 million of American Rescue Plan Act funding awarded to the County, approximately $6.1 million has been allocated to date as follows:

Small Business/Non Profit Economic Assistance (through EDC)	$2,500,000
Childcare Economic Assistance (through EDC)	$ 500,000
Residential and Commercial Utility Assistance (through Clallam PUD)	$ 350,000
Affordable Housing/Homelessness Support (excluding PHA-All View)	$ 369,903
Affordable Housing—PHA (placeholder depending on grant outcome)	$ 337,500
Local Water Systems Infrastructure	$ 150,000
Food Security Support to Food Banks (PA--$1.348m, Sequim $186k, Forks $100k, New Hope Clallam Bay $250k)	$1,883,950
TOTAL ARPA FUNDS ALLOCATED TO DATE	**$6,091,353**
ARPA FUNDS REMAINING TO BE ALLOCATED	**$8,929,287**

The 2022 Preliminary Budget for the ARPA fund currently assumes approximately $6.0 million of ARPA funds will be spent by the end of 2021, with the remaining $9 million assumed to be expended by the end of 2022. These assumptions reflect our best guess at this point, and depend greatly on future discussions still pending relating to evaluation of County internal requests for funding totaling approximately $10.9 million that are still being reviewed for eligibility prior to their submission for consideration by the BOCC, as well as approval of additional external and internal needs funding by the BOCC.

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

Recommended 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:

September 1, 2021

Exhibit A

CLALLAM COUNTY 2022 Preliminary 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	1,903,069	0	-1,897,789
00100.	221	G	Auditor	0	1,001,550	1,497,109	0	-495,559
00100.	231	G	Treasurer	0	27,090,073	707,704	0	26,382,369
00100.	241	G	Board of County Commissioners - Operations	0	110	821,654	0	-821,544
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	82,862	0	-82,862
00100.	291	G	NonDepartmental	0	109,010	2,449,424	0	-2,340,414
00100.	293	~	General Fund Reserves/Indirects	0	1,800,000	958,106	0	841,894
00100.	331	D	Comm Dev - Administration	0	6,000	536,374	0	-530,374
00100.	332	D	Comm Dev - Environmental Quality	0	366,831	386,758	0	-19,927
00100.	333	D	Comm Dev - Permit Center	0	1,109,501	1,155,698	0	-46,197
00100.	334	D	Comm Dev - Long Range Planning	0	240,330	623,307	0	-382,977
00100.	361	D	Hearing Examiner	0	0	42,500	0	-42,500
00100.	411	I	Information Technology	0	60,000	2,068,879	0	-2,008,879
00100.	421	I	Geographic Information System	0	0	202,922	0	-202,922
00100.	461	I	Human Resources	0	10,801	605,399	0	-594,598
00100.	511	H	HHS - Environmental Health	0	935,767	1,227,098	0	-291,331
00100.	513	H	HHS - Administration	0	126,300	783,031	0	-656,731
00100.	811	L	Sheriff - Operations	0	1,109,013	7,455,951	0	-6,346,938
00100.	813	L	Sheriff - Animal Control	0	500	214,735	0	-214,235
00100.	814	L	Sheriff - Search and Rescue	0	1,500	20,865	0	-19,365
00100.	815	L	Sheriff - Jail	0	2,163,319	4,295,447	0	-2,132,128
00100.	816	L	Sheriff - Jail Medical	0	360,836	777,723	0	-416,887
00100.	817	L	Sheriff - Emergency Services	0	135,119	281,237	0	-146,118
00100.	831	L	NonDepartmental - Indigent Defense	0	272,033	1,589,391	0	-1,317,358
00100.	841	L	Prosecuting Attorney - Operations	0	248,609	3,034,131	0	-2,785,522
00100.	842	L	Prosecuting Attorney - Child Support	0	260,000	306,580	0	-46,580
00100.	843	L	Prosecuting Attorney - Coroner	0	40,001	160,800	0	-120,799
00100.	851	L	Juvenile Services	0	2,922,189	3,620,626	0	-698,437
00100.	861	L	Superior Court	0	356,393	1,610,968	0	-1,254,575
00100.	871	L	District Court I	0	1,027,200	1,280,159	0	-252,959
00100.	881	L	District Court II	0	136,661	409,489	0	-272,828
00100.	891	L	Clerk	0	316,594	981,480	0	-664,886
00100.	911	O	Parks and Facilities	0	890,510	2,629,264	0	-1,738,754
00100.	912	O	Parks and Facilities - Fair	0	412,015	481,243	0	-69,228
00100.	931	O	WSU Extension	0	218,300	383,849	0	-165,549
			TOTAL GENERAL FUND	15,953,000	43,732,995	45,590,612	14,095,383	-1,857,617
			OTHER FUNDS					
10101.	611	P	PW - Roads	5,934,618	13,986,658	14,751,100	5,170,176	0
10135	611	P	PW - Flood Control	52,553	233,927	203,982	82,498	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	141,882	59,481	0
11061	811	L	Sheriff - Nine-One-One Enhanced	96,857	752,380	725,380	123,857	0
11065	811	L	Sheriff - OPSCAN Operations	582,902	398,232	259,733	721,401	0
11068	811	L	Sheriff - Operation Stonegarden	2,719	559,833	518,805	43,747	0
11070	811	L	Sheriff - 24/7 Sobriety Program	59,530	41,000	55,213	45,317	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	1,665,955	1,646,017	164,616	0
11322	511	O	HHS - Homeless Task Force	460,534	515,000	688,864	286,670	0
11323	511	H	HHS - Chemical Dependency/Mental Health	2,189,439	1,845,890	2,181,150	1,854,179	0
11324	511	O	HHS - Affordable Housing	229,665	95,000	85,000	239,665	0
11331	511	H	HHS - Developmental Disabilities	818,157	1,635,819	1,921,632	532,344	0
11401.	821	L	Law Library	15,858	54,000	45,319	24,539	0
11701.	841	L	Pros Attny - Local Crime Victim Comp	26,667	178,647	186,287	19,027	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	26,300	4,382	87,466	0
12241	231	G	Treasurer - Land Assessment	10,692	14,438	15,750	9,380	0
12401	221	G	Auditor - Document Preservation	564,332	110,000	137,977	536,355	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	256,781	216,334	0
13051	381	D	Noxious Weed - LMD#2 Lake Sutherland	42,774	18,834	23,620	37,988	0
19910	291	O	Non Dept - Conservation Futures	564,650	302,800	0	867,450	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	243,384	284,478	82,572	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	580,999	1,420,000	1,000,000	1,000,999	0
19941	291	O	Non Dept - Opportunity Fund	4,733,230	1,763,000	583,949	5,912,281	0
19951	291	O	Non Dept -Affordable Housing Sales Tax	266,410	149,000	0	415,410	0
19961	291	L	Non Dept - American Rescue Plan Act	1,500,000	7,500,000	9,000,000	0	0
19991	291	L	Non Dept - Emergency Communication Tax	2,005,662	1,854,000	1,866,600	1,993,062	0
			TOTAL SPECIAL REVENUE FUNDS	21,903,913	35,961,044	36,965,361	20,899,596	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	1,052,929	1,490,000	106,000	2,436,929	0
30201.	911	P	Parks and Facilities - Real Estate Excise Tax Projects 2	1,079,282	1,490,000	880,000	1,689,282	0
30301.	331	D	Comm Dev - Lwr Dungeness Floodplain	476,492	9,022,732	9,054,971	444,253	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	454,016	0	330,425	123,591	0
30701.	411	I	Information Tech - Capital Projects	258,606	0	105,000	153,606	0
30901.	331	D	Comm Dev - Carlsborg Water Mitigation	64,592	0	64,592	0	0
			TOTAL CAPITAL PROJECT FUNDS	3,419,091	16,002,732	14,540,988	4,880,835	0
40201.	611	P	PW - Solid Waste	12,377	100,016	102,020	10,373	0
41401.	611	P	PW - Clallam Bay-Sekiu Sewer	200,000	2,038,522	2,034,783	203,739	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	195,114	161,321	299,741	56,694	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	33,000	117,184	0
			TOTAL ENTERPRISE FUNDS	1,027,825	2,366,411	2,469,544	924,692	0
50301.	611	I	PW - Equipment Rental and Revolving	2,879,550	3,429,025	2,426,570	3,882,005	0
50401.	461	I	HR - Risk Management	1,198,231	2,293,851	2,352,251	1,139,831	0
50501.	461	I	HR - Workers' Compensation Claims	360,570	355,979	567,854	148,695	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	32,023	202,259	0
			TOTAL INTERNAL SERVICE FUNDS	4,677,182	6,126,313	5,403,698	5,399,797	0
			TOTAL OTHER FUNDS	31,037,455	60,461,034	59,385,091	32,113,398	0
			TOTAL BUDGET	46,990,455	104,194,029	104,975,703	46,208,781	0

CLALLAM COUNTY
GENERAL FUND 2022 PRELIMINARY 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 Preliminary Budget	2021 Projected	2020 Actuals	2019 Actuals	2018 Actuals	2022 Preliminary Budget	2021 Projected	2020 Actuals	2019 Actuals	2022 Preliminary Budget	2021 Projected	2020 Actuals	2019 Actuals	2022 Preliminary Budget	2021 Projected	2020 Actuals	2019 Actuals
REVENUES:																	
Taxes	23,693	22,732	20,899	20,466	18,988	961	1,833	433	1,478	4.23%	8.77%	2.12%	7.79%	54.18%	51.41%	46.84%	50.27%
Licenses & Permits	1,000	1,175	1,004	1,019	1,056	-175	171	-15	-37	-14.86%	17.05%	-1.46%	-3.53%	2.29%	2.66%	2.25%	2.50%
Intergovernmental Revenues	5,399	5,991	5,700	5,289	6,657	-592	291	411	-1,368	-9.89%	5.10%	7.77%	-20.54%	12.34%	13.55%	12.78%	12.99%
Charges for Goods & Services	8,275	7,586	7,479	9,525	8,918	689	107	-2,047	607	9.09%	1.44%	-21.49%	6.81%	18.92%	17.16%	16.76%	23.40%
Fines & Penalties	833	967	879	956	1,045	-134	88	-77	-89	-13.82%	10.02%	-8.09%	-8.52%	1.91%	2.19%	1.97%	2.35%
Misc Revenue (Interest Inc, Camping Fees, etc)	1,774	2,034	2,235	2,562	2,203	-260	-201	-327	359	-12.80%	-9.00%	-12.75%	16.28%	4.06%	4.60%	5.01%	6.29%
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	78	96	50	98	67	-18	46	-48	31	-18.73%	93.87%	-49.30%	46.39%	0.18%	0.22%	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%	1.69%	1.18%	1.55%	1.63%
Transfers In	1,840	2,140	561	132	45	-300	1,579	429	87	-14.02%	281.46%	324.94%	193.37%	4.21%	4.84%	1.26%	0.32%
TOTAL REVENUE--EXCLUDING COVID REIMB	**43,633**	**43,241**	**39,500**	**40,712**	**39,305**	**392**	**3,741**	**-1,212**	**1,407**	**0.91%**	**9.47%**	**-2.98%**	**3.58%**	**99.77%**	**97.79%**	**88.53%**	**100.00%**
Intergovernmental--COVID Reimbursements	100	975	5,118	0	0	-875	-4,143	5,118	0	-89.74%	-80.95%	-	-	0.23%	2.21%	11.47%	0.00%
TOTAL REVENUE--INCLUDING COVID REIMB	**43,733**	**44,216**	**44,618**	**40,712**	**39,305**	**-483**	**-402**	**3,906**	**1,407**	**-1.09%**	**-0.90%**	**9.59%**	**3.58%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**
EXPENDITURES:																	
Payroll	23,633	21,362	20,594	19,962	19,346	2,271	768	632	616	10.63%	3.73%	3.17%	3.19%	54.04%	48.31%	46.16%	49.03%
Benefits	9,707	8,764	8,466	8,166	7,766	943	298	300	400	10.76%	3.52%	3.67%	5.15%	22.20%	19.82%	18.97%	20.06%
Supplies	1,236	1,163	1,110	1,074	1,123	73	53	37	-49	6.25%	4.74%	3.40%	-4.38%	2.83%	2.63%	2.49%	2.64%
Services	7,072	6,211	6,049	7,680	7,308	861	162	-1,630	372	13.86%	2.67%	-21.23%	5.09%	16.17%	14.05%	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	0	95	338	434	413	-95	-243	-96	21	-100.00%	-71.89%	-22.13%	5.14%	0.00%	0.21%	0.76%	1.07%
Transfers Out	2,681	3,083	2,174	545	235	-402	909	1,629	310	-13.03%	41.80%	299.10%	132.27%	6.13%	6.97%	4.87%	1.34%
Payment to Risk Management/Workers Comp Funds	1,261	1,237	1,229	1,095	685	24	8	134	410	1.96%	0.62%	12.26%	59.90%	2.88%	2.80%	2.76%	2.69%
TOTAL EXPENDITURES--EXCLUDING COVID	**45,591**	**41,915**	**39,961**	**38,955**	**37,462**	**3,676**	**1,954**	**1,006**	**1,493**	**8.77%**	**4.89%**	**2.58%**	**3.99%**	**104.49%**	**96.93%**	**101.17%**	**95.69%**
Salaries & Wages--COVID	0	11	245	0	0	-11	-234	245	0	-100.00%	-95.52%	-	-	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	43	213	0	0	-43	-170	213	0	-100.00%	-79.82%	-	-	0.00%	0.10%	0.48%	0.00%
Services--COVID	0	212	3,207	0	0	-212	-2,995	3,207	0	-100.00%	-93.39%	-	-	0.00%	0.48%	7.19%	0.00%
Capital Outlays--COVID	0	90	702	0	0	-90	-612	702	0	-100.00%	-87.17%	-	-	0.00%	0.20%	1.57%	0.00%
Transfers Out--COVID	0	515	995	0	0	-515	-480	995	0	-100.00%	-48.24%	-	-	0.00%	1.16%	2.23%	0.00%
TOTAL EXPENDITURES--INCLUDING COVID	**45,591**	**42,787**	**45,336**	**38,955**	**37,462**	**2,804**	**-2,549**	**6,381**	**1,493**	**6.55%**	**-5.62%**	**16.38%**	**3.99%**	**104.25%**	**96.77%**	**101.61%**	**95.69%**
NET OPERATING SURPLUS (DEFICIT)--EXCLUDING COVID	**-1,958**	**1,326**	**-462**	**1,757**	**1,842**	**-3,284**	**1,788**	**-2,218**	**-86**	**-247.63%**	**-387.20%**	**-126.28%**	**-4.66%**	**-4.49%**	**3.07%**	**-1.17%**	**4.31%**
NET OPERATING SURPLUS (DEFICIT)--INCLUDING COVID	**-1,858**	**1,429**	**-718**	**1,757**	**1,842**	**-3,287**	**2,147**	**-2,475**	**-86**	**-229.99%**	**-298.90%**	**-140.90%**	**-4.66%**	**-4.25%**	**3.23%**	**-1.61%**	**4.31%**
ADJ FOR PAYROLL/BENEFITS HISTORIC BUDGET UNDERSPEND DUE TO POSITION DARK TIME	**1,667**																
PROJECTED NET OPERATING SURPLUS (DEFICIT)--ADJUSTED FOR HISTORIC PAYROLL UNDERSPEND	**-191**	**1,429**	**-718**	**1,757**	**1,842**	**-1,620**	**2,147**	**-2,475**	**-86**	**-113.34%**	**-298.90%**	**-140.90%**	**-4.66%**	**-0.44%**	**3.23%**	**-1.61%**	**4.31%**

CLALLAM COUNTY
GENERAL FUND 2022 PRELIMINARY 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 Preliminary Budget	2021 Projected	2020 Actuals	2019 Actuals	2018 Actuals	2022 Preliminary Budget	2021 Projected	2020 Actuals	2019 Actuals	2022 Preliminary Budget	2021 Projected	2020 Actuals	2019 Actuals	2022 Preliminary Budget	2021 Projected	2020 Actuals	2019 Actuals
BUDGETED ENDING FUND BALANCE	**14,096**	**15,953**	**14,524**	**15,243**	**13,486**					**-11.64%**	**9.84%**	**-4.71%**	**13.03%**	**32.23%**	**36.08%**	**32.55%**	**37.44%**
As a % of Total Expenditures	31%	37%	32%	39%	36%												
PROJECTED ENDING FUND BALANCE	**15,763**	**15,953**	**14,524**	**15,243**	**13,486**					**-1.19%**	**9.84%**	**-4.71%**	**13.03%**	**36.04%**	**36.08%**	**32.55%**	**37.44%**
As a % of Total Expenditures	36%	37%	32%	39%	36%												
GENERAL FUND REVENUE DETAIL																	
TAX SUMMARY:																	
Real and Personal Property Taxes	11,561	11,251	10,992	10,840	10,456	310	259	152	384	2.75%	2.36%	1.41%	3.67%	26.44%	25.45%	24.64%	26.63%
Juvenile Correction Sales and Use Tax	1,832	1,745	1,507	1,445	848	87	238	63	596	4.98%	15.78%	4.33%	70.32%	4.19%	3.95%	3.38%	3.55%
Timber Excise Tax	375	284	212	450	383	91	73	-238	67	31.85%	34.39%	-52.97%	17.63%	0.86%	0.64%	0.47%	1.11%
Local Retail Sales and Use Tax	8,635	8,224	7,097	6,678	6,300	411	1,127	419	378	5.00%	15.88%	6.28%	6.00%	19.74%	18.60%	15.91%	16.40%
Leasehold Excise Tax	52	47	70	70	70	5	-22	0	0	10.76%	-31.89%	-0.67%	0.13%	0.12%	0.11%	0.16%	0.17%
Local Criminal Justice/Public Safety	1,238	1,180	1,021	983	931	58	159	38	52	4.95%	15.54%	3.83%	5.63%	2.83%	2.67%	2.29%	2.42%
TOTAL TAX REVENUE	**23,693**	**22,732**	**20,899**	**20,466**	**18,988**	**961**	**1,833**	**433**	**1,478**	**4.23%**	**8.77%**	**2.12%**	**7.79%**	**54.18%**	**51.41%**	**46.84%**	**50.27%**
OTHER GENERAL FUND REVENUES:																	
Licenses & Permits	1,000	1,175	1,004	1,019	1,056	-175	171	-15	-37	-14.86%	17.05%	-1.46%	-3.53%	2.29%	2.66%	2.25%	2.50%
Intergovernmental Revenues--Grants	2,262	2,857	2,841	2,395	3,450	-595	16	446	-1,055	-20.82%	0.57%	18.60%	-30.57%	5.17%	6.46%	6.37%	5.88%
Intergovernmental Revenues--PILT, PUD Privilege Tax, Criminal Justice, Marijuana/ Liquor Excise, Autopsy, Other	3,136	3,134	2,859	2,894	3,207	2	274	-35	-313	0.08%	9.60%	-1.19%	-9.76%	7.17%	7.09%	6.41%	7.11%
Charges for Goods & Services	8,275	7,586	7,479	9,525	8,918	689	107	-2,047	607	9.09%	1.44%	-21.49%	6.81%	18.92%	17.16%	16.76%	23.40%
Fines & Penalties	833	967	879	956	1,045	-134	88	-77	-89	-13.82%	10.02%	-8.09%	-8.52%	1.91%	2.19%	1.97%	2.35%
Misc Revenue (Interest Inc, Camping Fees, etc)	1,774	2,034	2,235	2,562	2,203	-260	-201	-327	359	-12.80%	-9.00%	-12.75%	16.28%	4.06%	4.60%	5.01%	6.29%
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	78	96	50	98	67	-18	46	-48	31	-18.73%	93.87%	-49.30%	46.39%	0.18%	0.22%	0.11%	0.24%
Timber Sales	740	520	694	665	326	220	-174	28	339	42.33%	-25.02%	4.27%	104.04%	1.69%	1.18%	1.55%	1.63%
Transfers In	1,840	2,140	561	132	45	-300	1,579	429	87	-14.02%	281.46%	324.94%	193.37%	4.21%	4.84%	1.26%	0.32%
TOTAL OTHER REVENUE, EXCLUDING COVID REIMBURSEMENTS	**19,940**	**20,509**	**18,601**	**20,246**	**20,317**	**-569**	**1,908**	**-1,645**	**-71**	**-2.78%**	**10.26%**	**-8.13%**	**-0.35%**	**45.59%**	**46.38%**	**41.69%**	**49.73%**
Intergovernmental--COVID Reimbursements	100	975	5,118	0	0	-875	-4,143	5,118	0	-89.74%	-80.95%	-	-	0.23%	2.21%	11.47%	0.00%
TOTAL REVENUE--GENERAL FUND	**43,733**	**44,216**	**44,618**	**40,712**	**39,305**	**-483**	**-402**	**3,906**	**1,407**	**-1.09%**	**-0.90%**	**9.59%**	**3.58%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Four Year Comparison of Major Budget Items - Proposed Budget

Budget Years	2022	2021	2020	2019
Taxes				
Real and Personal Property Taxes	11,561,000	11,251,500	11,000,000	11,000,000
Juvenile Correction Sales and Use Tax	1,832,000	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	8,635,000	6,738,000	6,750,000	6,050,000
Leasehold Excise Tax	52,450	74,350	73,350	73,350
Local Criminal Justice/Public Safety	1,238,000	990,000	990,000	949,000
Total Taxes	**23,693,450**	**20,883,850**	**20,723,350**	**19,742,350**
% increase year over year	13.453%	0.774%	4.969%	7.247%
General Fund Major Sources of Budgeted Revenue				
Grants	2,262,468	2,728,087	2,262,282	2,198,044
Sale of County Timber	740,100	625,100	600,100	600,100
Taxes	23,693,450	20,883,850	20,723,350	19,742,350
Licenses and Permits	1,000,400	1,050,173	1,150,092	1,127,092
Intergovernmental	3,236,200	3,129,600	3,024,070	3,174,513
Charges for Goods and Services	8,275,377	7,845,437	9,695,209	9,081,694
Fines and Forfeits	833,378	908,285	968,942	953,950
Other	1,851,622	2,112,275	2,648,852	2,468,536
Total	41,892,995	39,282,807	41,072,897	39,346,279
Transfers	1,840,000	1,840,000	1,790,000	2,120,000
Total Budgeted Revenue	**43,732,995**	**41,122,807**	**42,862,897**	**41,466,279**
Plus General Fund Reserves	15,953,000	13,880,000	14,352,000	12,600,000
Total Funds Available	**59,685,995**	**55,002,807**	**57,214,897**	**54,066,279**
% increase year over year	8.514%	-3.866%	5.824%	7.846%
General Fund Budgeted Expenditures				
Salaries	23,633,154	22,537,254	21,820,814	20,744,952
Benefits	9,707,040	9,543,856	9,086,752	8,808,628
Supplies	1,235,682	1,242,488	1,369,708	1,265,824
Services	8,333,372	7,763,740	9,886,119	8,629,377
Intergovernmental	0	0	0	547,368
Capital	0	184,425	279,830	444,900
Subtotal	42,909,248	41,271,763	42,443,223	40,441,049
Transfers Used	2,681,364	3,377,857	3,491,200	2,106,200
Interfund Payments Used	0	0	0	0
Total Budgeted Expenditures	**45,590,612**	**44,649,620**	**45,934,423**	**42,547,249**
% increase year over year	2.108%	-2.797%	7.961%	6.604%
General Fund Budgeted Expenditures by Program				
General Government	7,463,602	7,190,582	7,076,124	6,603,406
Law and Justice	26,039,582	25,343,359	24,951,422	24,030,736
Public Works	0	0	0	0
Internal Services	2,877,200	2,738,288	2,586,847	2,579,536
Public Health	2,010,129	1,870,422	1,820,417	1,666,308
Land Use and Development	2,744,637	2,502,693	2,636,980	2,481,879
Other Services	3,497,356	3,342,397	3,371,433	3,079,184
Subtotal	44,632,506	42,987,741	42,443,223	40,441,049
Plus Transfers	2,681,364	3,377,857	3,491,200	2,106,200
Minus Indirect Costs Reimbursement	-1,723,258	-1,715,978		
Total	**45,590,612**	**44,649,620**	**45,934,423**	**42,547,249**
% increase year over year	2.108%	-2.797%	7.961%	6.604%
General Fund Staffing by Program				
General Government	46.66	46.21	44.90	43.65
Law and Justice	190.45	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	18.58	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	**320.71**	**316.89**	**317.39**	**310.32**
% increase year over year	1.205%	-0.158%	2.278%	1.813%

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

		NOTES
TOTAL PRELIMINARY GENERAL FUND OPERATING SURPLUS/(DEFICIT)--2022 BUDGET	**-1,858**	
TOTAL FORECASTED GENERAL FUND OPERATING SURPLUS/(DEFICIT)--2021 PROJECTED	**1,429**	
NET CHANGE IN GENERAL FUND OPERATING SURPLUS/(DEFICIT)--2022 BUDGET VS 2021 PROJECTED	**-3,287**	

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

INCREASE IN TAX REVENUE (SALES & USE, JUVENILE SERVICES, ETC)	961	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 +17%. Property Taxes projected to grow 2.75% 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.
DECLINE IN INTERGOVERNMENTAL REVENUE	-592	Mainly due to $595k 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, Superior Court, and other areas, as offset by a 3.3% increase in PILT, Criminal Justice and other intergovernmental excise taxes
INCREASE IN GOODS & SERVICES REVENUE	689	Mainly due to recovery of certain COVID impacted revenue streams, including Sheriff Jail's resumption of jail excess bed usage with DOC(+$300k over forecast 2021), the resumption of County Fair ($205k), and the commencement of a Mental Health Court within District Court 1 which will be funded through Hargrove funds transferred from the HHS Chemical Dependency/Mental Health fund.
DECREASE IN MISC REVENUE	-260	Decrease mainly due to a $376k 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, 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.

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

		NOTES
DECREASE IN TRANSFERS IN	-300	Primarily due to decrease in Transfer In from HHS relating to the Serenity House building expansion/bathroom construction project under which the General Fund would recover funds transferred for this project in the event SH is awarded grant funds.
INCREASE IN PAYROLL	-2,271	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 $1.1 million, or 5%, from 2021 to 2022 which reflects increases due to 1% COLAs in July 2021, 2.5%-3% 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, and step increases, as partially offset by savings due to turnover that occurred in 2021.
INCREASE IN BENEFITS	-943	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.
DECREASE IN TRANSFERS OUT	402	Primarily due to $370k decrease in HHS Transfers relating to HHS' support of Serenity House building expansion in 2021.
INCREASE IN SERVICES	-861	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 creation and operation of a Mental Health Court in District Court 1 ($200k placeholder), the resumption of Assessor PACs software costs being paid by the General Fund in 2022 ($67k), 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.
REMAINING PROJECTED OPERATING DEFICIT--EXCLUDING CAPITAL TRANSFERS/PROPOSED DEPT REQUESTS	-331	Mainly due to increase in Supplies ($73k), decrease in License & Permits (down $175k--mainly due to lower building permits from the 30%+ growth seen in 2021), and Fines & Penalties (down $134k--due to lower penalties relating to property taxes and indigent fines assessed due to recent RCW changes).
TOTAL CHANGE IN GENERAL FUND OPERATING DEFICIT--PRELIMINARY 2022 BUDGET VS 2021 PROJECTED	**-3,287**	

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

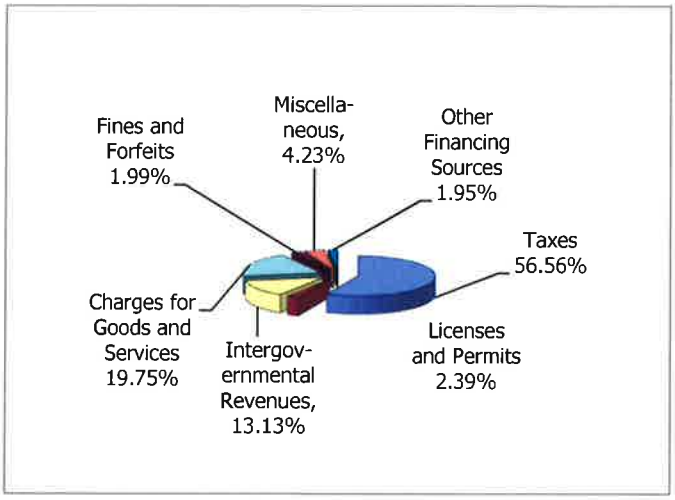
			NOTES
PROJECTED GENERAL FUND OPERATING DEFICIT--ADJUSTED FOR AVG COMP UNDERSPEND			
TOTAL PRELIMINARY GENERAL FUND OPERATING SURPLUS/(DEFICIT)--2022 BUDGET		**-1,858**	
LESS: HISTORICAL AVERAGE BUDGET UNDERSPEND--SALARY AND BENEFITS	1,667		Historically, the general fund has underspent its salary/benefits 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		**-191**	
PLUS: PRELIMINARY GENERAL FUND CAPITAL CONTRIBUTIONS TO CAPITAL PROJECT FUNDS TO FUND 2021 PRELIMINARY CAPITAL OUTLAYS	0		To be Determined Pending Completion of 5 Year Capital Plan Updated Currently Underway
PROJECTED 2022 GENERAL FUND OPERATING DEFICIT--INCLUDING CAPITAL CONTRIBUTIONS		**-191**	

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

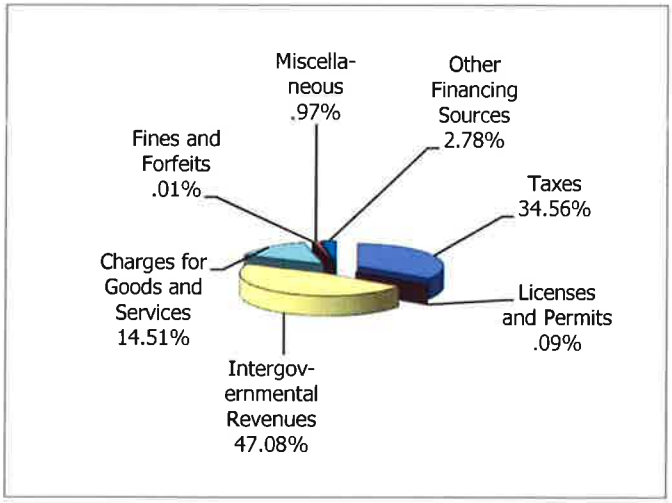
		NOTES
PROJECTED 2022 GENERAL FUND BALANCE--BASED ON PRELIMINARY BUDGET AS ADJUSTED		
PROJECTED FUND BALANCE--BEGINNING	15,953	
PROJECTED 2021 GENERAL FUND OPERATING DEFICIT	-191	
PROJECTED FUND BALANCE--ENDING	15,763	

2022 Budgeted Revenue Charts

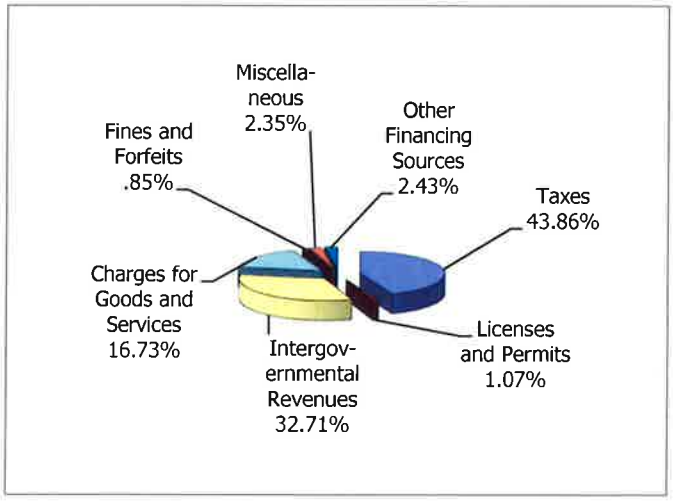
General Fund Budgeted Revenue	
Taxes	23,693,450
Licenses and Permits	1,000,400
Intergovernmental Revenues	5,498,668
Charges for Goods and Services	8,275,377
Fines and Forfeits	833,378
Miscellaneous	1,773,607
Other Financing Sources	818,115
Subtotal	41,892,995
Plus Transfers	1,840,000
Total Revenue	43,732,995
Reserves Available	15,953,000
Total Funds Available	59,685,995



Other Fund Budgeted Revenue	
Taxes	19,720,002
Licenses and Permits	53,620
Intergovernmental Revenues	26,872,249
Charges for Goods and Services	8,280,427
Fines and Forfeits	3,600
Miscellaneous	555,662
Other Financing Sources	1,586,660
Subtotal	57,072,220
Plus Transfers	3,388,814
Total Revenue	60,461,034
Reserves Available	31,037,455
Total Funds Available	91,498,489



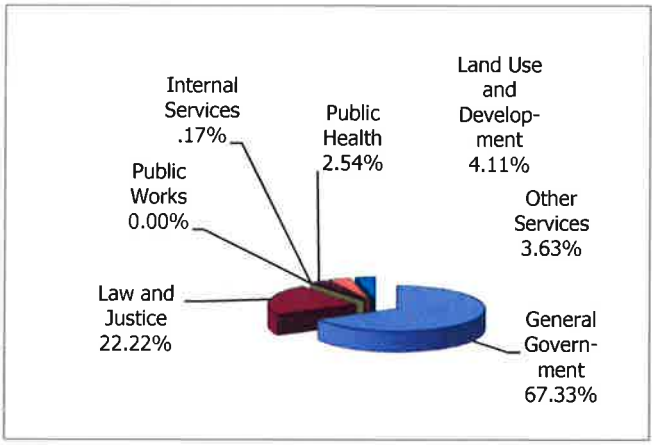
Total General and Other Fund Budgeted Revenue	
Taxes	43,413,452
Licenses and Permits	1,054,020
Intergovernmental Revenues	32,370,917
Charges for Goods and Services	16,555,804
Fines and Forfeits	836,978
Miscellaneous	2,329,269
Other Financing Sources	2,404,775
Subtotal	98,965,215
Plus Transfers	5,228,814
Total Revenue	104,194,029
Reserves Available	46,990,455
Total Funds Available	151,184,484



2022 Budgeted Revenue by Program

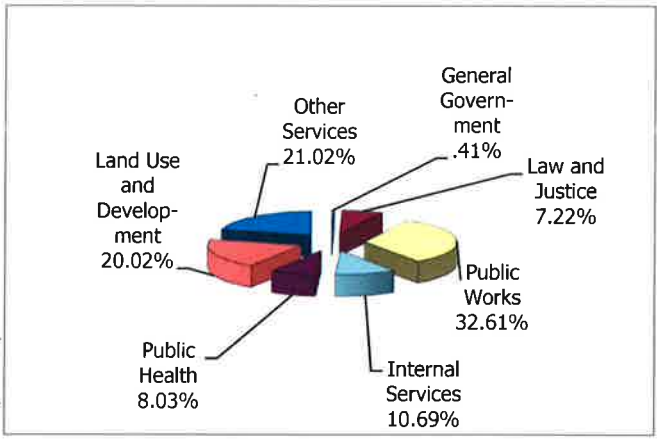
General Fund Budgeted Revenue by Program

General Government	28,206,173
Law and Justice	9,309,967
Public Works	0
Internal Services	70,801
Public Health	1,062,067
Land Use and Development	1,722,662
Other Services	1,521,325
Subtotal on Chart	41,892,995
Plus Transfers	1,840,000
Total	43,732,995



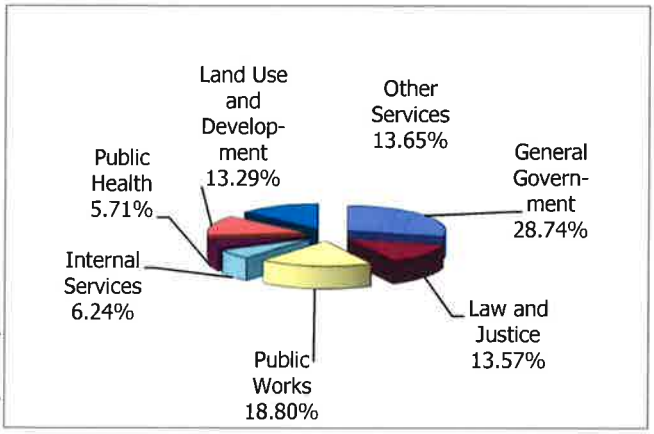
Other Funds Budgeted Revenue by Program

General Government	234,848
Law and Justice	4,118,004
Public Works	18,608,653
Internal Services	6,102,863
Public Health	4,585,177
Land Use and Development	11,427,491
Other Services	11,995,184
Subtotal on Chart	57,072,220
Plus Transfers	3,388,814
Total	60,461,034



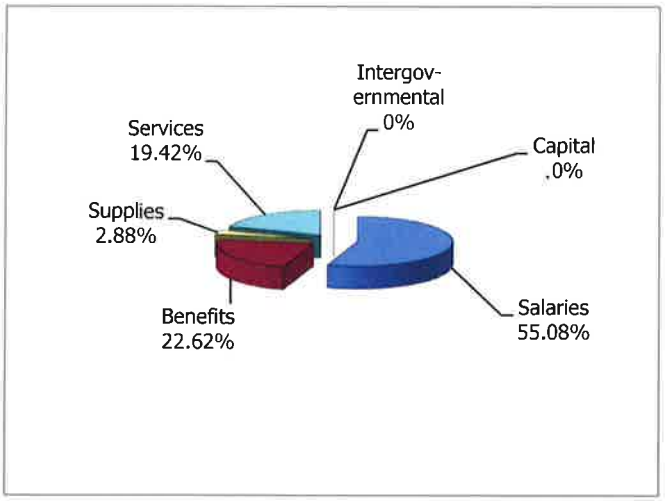
Total General and Other Fund Budgeted Revenue by Program

General Government	28,441,021
Law and Justice	13,427,971
Public Works	18,608,653
Internal Services	6,173,664
Public Health	5,647,244
Land Use and Development	13,150,153
Other Services	13,516,509
Subtotal on Chart	98,965,215
Plus Transfers	5,228,814
Total Revenue	104,194,029

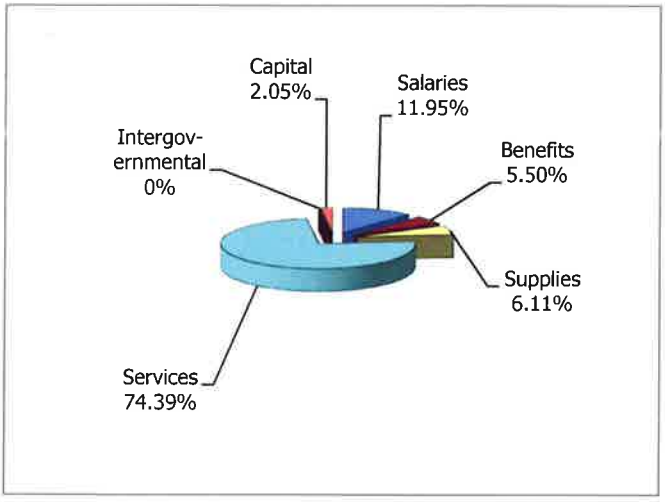


2022 Budgeted Expenditure Charts

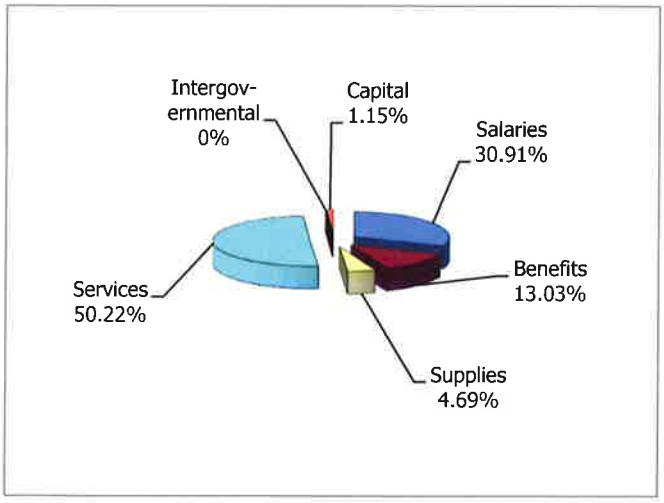
General Fund Budgeted Expenditures	
Salaries	23,633,154
Benefits	9,707,040
Supplies	1,235,682
Services	8,333,372
Intergovernmental	0
Capital	0
Subtotal	42,909,248
Transfers Used	2,681,364
Interfund Payments Used	0
Total Budgeted Expenditures	45,590,612



Other Fund Budgeted Expenditures	
Salaries	6,537,852
Benefits	3,009,633
Supplies	3,339,838
Services	40,686,339
Intergovernmental	0
Capital	1,121,871
Subtotal	54,695,533
Transfers Used	2,547,450
Interfund Payments Used	2,142,108
Total Budgeted Expenditures	59,385,091



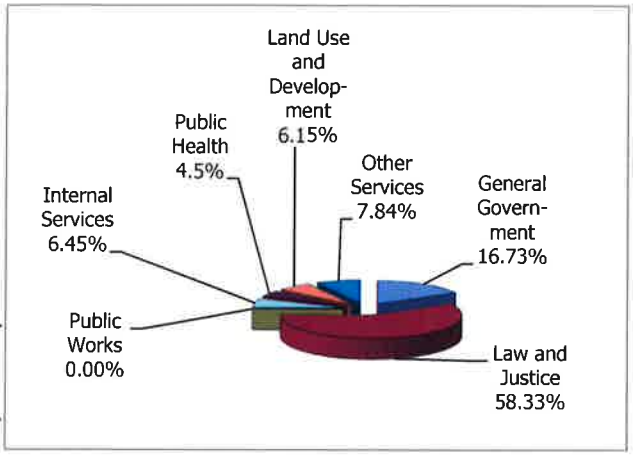
Total General and Other Fund Budgeted Expenditures	
Salaries	30,171,006
Benefits	12,716,673
Supplies	4,575,520
Services	49,019,711
Intergovernmental	0
Capital	1,121,871
Subtotal	97,604,781
Transfers Used	5,228,814
Interfund Payments Used	2,142,108
Total Budgeted Expenditures	104,975,703



2022 Budgeted Expenditures by Program

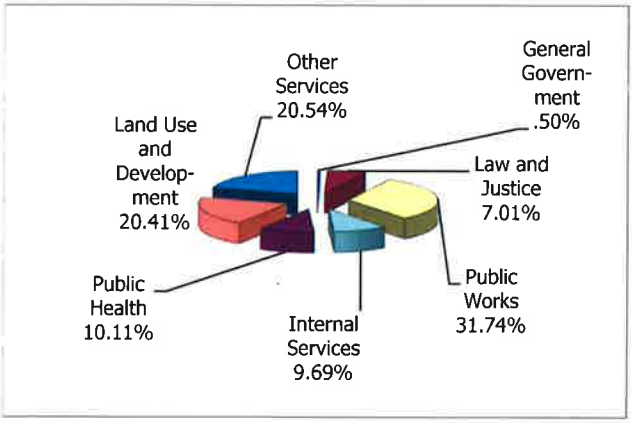
General Fund Budgeted Expenditures by Program

General Government	7,463,602
Law and Justice	26,039,582
Public Works	0
Internal Services	2,877,200
Public Health	2,010,129
Land Use and Development	2,744,637
Other Services	3,497,356
Subtotal on Chart	44,632,506
Plus Transfers	2,681,364
Minus Indirect Costs Reimb.	-1,723,258
Total	45,590,612



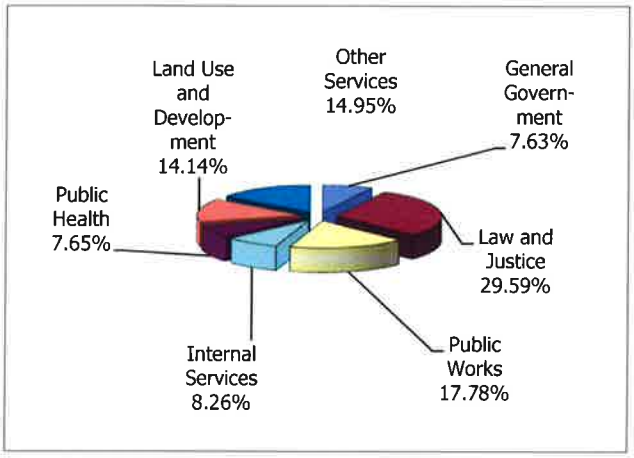
Other Funds Budgeted Expenditures by Program

General Government	284,226
Law and Justice	3,984,562
Public Works	18,040,656
Internal Services	5,507,143
Public Health	5,748,799
Land Use and Development	11,599,964
Other Services	11,672,291
Subtotal on Chart	56,837,641
Plus Transfers	2,547,450
Total	59,385,091



Total General Fund and Other Funds Budgeted Expenditures by Program

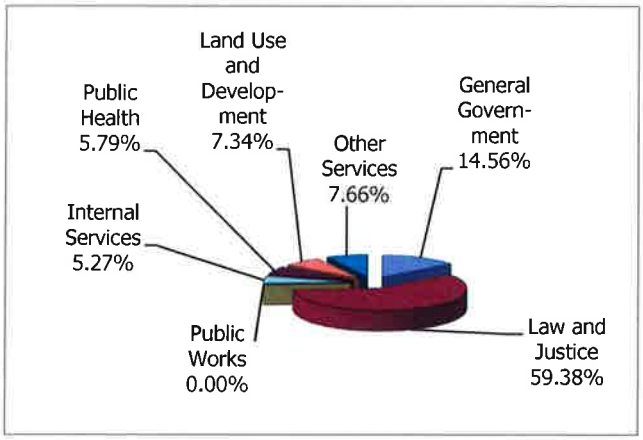
General Government	7,747,828
Law and Justice	30,024,144
Public Works	18,040,656
Internal Services	8,384,343
Public Health	7,758,928
Land Use and Development	14,344,601
Other Services	15,169,647
Subtotal on Chart	101,470,147
Plus Transfers	5,228,814
Minus Indirect Costs Reimb.	-1,723,258
Total	104,975,703



2022 Staffing (Full Time Equivalents) by Program

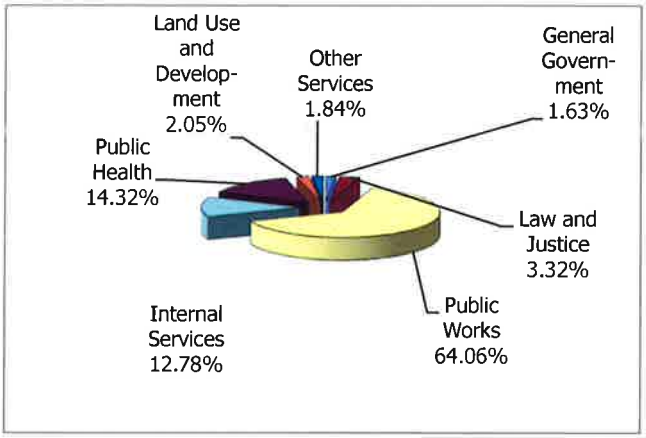
General Fund Staffing by Program

General Government	46.66
Law and Justice	190.45
Public Works	0.00
Internal Services	16.90
Public Health	18.58
Land Use and Development	23.54
Other Services	24.58
Total	320.71



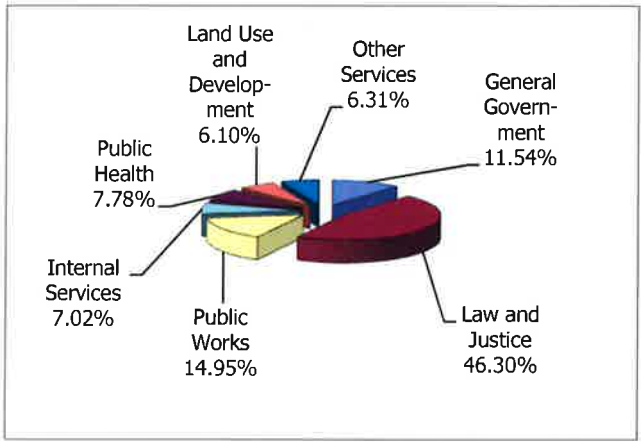
Other Funds Staffing by Program

General Government	1.60
Law and Justice	3.24
Public Works	62.55
Internal Services	12.48
Public Health	13.98
Land Use and Development	2.00
Other Services	1.80
Total	97.65



Total General Fund and Other Funds Staffing by Program

General Government	48.26
Law and Justice	193.69
Public Works	62.55
Internal Services	29.38
Public Health	32.56
Land Use and Development	25.54
Other Services	26.38
Total	418.36



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

2022 BUDGET SALARY WORKSHEET BREAKDOWN: Preliminary

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	1,214,716	92,927	123,070	24,014	285,780	2,213	13,619		1,756,339	18.50
00100. 221	G	Auditor	842,837	64,476	84,127	16,384	201,255	1,437	4,294		1,214,810	13.50
00100. 231	G	Treasurer	400,375	30,630	40,108	7,827	81,768	593	1,533		562,834	5.40
00100. 241	G	BOCC - Operations	590,747	45,193	58,842	14,136	81,318	550	1,748		792,534	6.23
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	283,495	21,688	28,079	6,967	38,982	558	882		380,651	2.50
00100. 331	D	Comm Dev - Administration	314,117	24,473	31,680	6,171	74,460	418	3,155		454,474	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	277,239	21,209	28,158	7,618	43,904	549	812		379,489	2.90
00100. 511	H	HHS - Environmental Health	740,039	56,613	75,853	14,803	179,880	1,480	10,096		1,078,764	12.28
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	4,350,898	332,844	274,680	82,697	880,761	7,990	59,939		5,989,809	50.79
00100. 813.	L	Sheriff - Animal Control	58,052	4,441	5,951	1,101	16,140	110	1,330		87,125	1.00
00100. 815	L	Sheriff - Jail	2,585,240	197,773	266,329	49,276	636,452	5,395	68,390		3,808,855	39.00
00100. 816.	L	Sheriff - Jail Medical	221,204	16,922	15,246	2,908	30,711	437	1,859		289,287	2.25
00100. 817.	L	Sheriff - Emergency Services	113,377	8,673	11,621	2,207	29,040	221	640		165,779	2.00
00100. 841	L	Prosecuting Attorney - Operations	2,134,161	163,263	213,062	41,571	365,550	3,900	6,822		2,928,329	24.10
00100. 842	L	Prosecuting Attorney - Child Support	185,657	14,202	19,030	3,713	43,350	371	787		267,110	2.53
00100. 851	L	Juvenile Services	2,247,048	171,904	222,763	43,268	521,736	4,362	28,296		3,239,377	36.53
00100. 861	L	Superior Court	903,306	40,201	53,015	9,774	88,680	1,146	4,066		1,100,188	8.75
00100. 871	L	District Court I	733,433	48,159	68,708	13,322	132,120	1,077	2,940		999,759	9.00
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	621,033	47,509	63,238	13,330	168,876	1,234	3,220		918,440	11.50
00100. 911	O	Parks and Facilities	1,116,717	85,428	105,865	20,884	272,746	2,197	29,314	16,640	1,649,791	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	23,433,154	1,756,240	2,130,460	451,271	4,888,991	42,904	270,654	18,720	32,992,394	320.71
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	64,954	4,969	6,336	1,236	15,300	130	294		93,219	1.05
11301. 511	H	Health and Human Services - Operations	711,583	54,437	72,940	13,556	193,140	1,425	5,788		1,052,869	12.28
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	22,177	1,697	2,273	444	7,260	44	98		33,993	0.35
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	132,680	10,150	12,062	2,353	30,660	265	1,996		190,166	2.00
19914. 291	O	NonDept - Veterans Relief	101,841	7,791	10,439	2,037	29,040	203	504		151,855	1.80
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	229,001	17,518	23,410	4,397	29,040	458	4,062		307,886	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	6,537,852	500,145	655,005	127,647	1,480,153	12,902	99,437	79,344	9,492,485	97.65
		TOTAL 2020 BUDGET	29,971,006	2,256,385	2,785,465	578,918	6,369,144	55,806	370,091	98,064	42,484,879	418.36

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 - Preliminary

GENERAL FUNDS

Department	Requested Item or Program Change	Request	One Time	Ongoing	Funding Source: General Fund Reserve	Other Fund Reserves	Grant/New Funding	Comments
Assessor .00100.211	SRF: (7) iPad Pro & Peripherals	12,600	12,600		12,600			
Auditor .00100.221	Elections Extra Help	6,000		6,000	6,000			Increased cost and responsibility of Extra Help staff.
	Dept. of Licensing Extra Help	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.
DCD -Environmental Quality .00100.332	Streamkeepers: Stream Temperature & Oxygen Loggers	4,170	4,170		4,170			Equipment to evaluate stream water quality for fish habitat.
	Streamkeepers: Water Velocity Meters & Sensors	13,337	13,337		13,337			Replace old velocity meters with better technology.
	Streamkeepers: SigmaPlot Graphing & Statistical Software	870	870		870			To produce professional level statistical analysis & graphs of water quality data.
	Streamkeepers: Vehicle Rental/ Lease	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			Increased volume of external expertise: consulting, programming, electrical, web design, etc.
	High Speed Voice/Data Communications cost increase	25,500		25,500	25,500			Increased interconnectivity for: remote workforce, county departments, other agengies & the public.
	Registration for training	23,000		23,000	23,000			Staff training in new and evolving technologies, as well as, security challenges.
Human Resources .00100.461	Extra Help	20,000		20,000	20,000			Provides back-up to the Payroll/Benefits Administrator.
	Onboarding Videos/Tutorials	10,000		10,000	10,000			To utilize the NeoGov onboarding/orientation feature.
	Subscriptions	4,600		4,600	4,600			Administrator/HR Director cost of affiliated subscriptions.
	Advertising	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			
Sheriff - Operations .00100.811	Special Assistant to Command Staff position expenses	1,500		1,500	1,500			Supplies and travel expenses for the new position moved from DCD to Sheriff's department.
	SRF: (10) MDTS - Replace/Upgrade	55,000	55,000		55,000			
Sheriff - Emergency Services .00100.817	SRF: (8) Replacement Laptops & Mice	13,500	13,500		13,500			
Prosecuting Attorney .00100.841	Additional Storage Unit	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			Training for professional development and required CLE credits required for bar license.
	Cell Phone Service	13,000		13,000	13,000			Cell phones being utilized to a greater degree for prosecuting attorneys and office manager.
	SRF: Smart TV & Speakers (conference room upgrade)	6,100	6,100		6,100			
Prosecuting Attorney - Coroner .00100.843	Death Investigator Certification	3,000		3,000	3,000			Legislation at the state level will soon require Certified Death Investigators.
	Coroner Services cost increase	53,300		53,300	53,300			Deaths in the county increase and cost associated with body removal, storage & autopsy increase.
	Deputy Coroner/Death Investigator - new staff position, 1 FTE	93,500		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.
	Deputy Coroner/Death Investigator - new staff position, .5 FTE	35,150		35,150	35,150			
	Deputy Coroner/Death Investigator - new staff position, .5 FTE	32,150		32,150	32,150			
	Deputy Coroner/Death Investigator - new staff position, .5 FTE	32,150		32,150	32,150			
Juvenile Services .00100.851	SRF: (5) Smart TVs and Installation	6,500	6,500		6,500			
Superior Court .00100.861	Adult Felony cost increase	36,000		36,000	36,000			Increased cost for adult felony indigent defense.
	Civil Contemp cost increase	5,000		5,000	5,000			Increased cost for civil contemp indigent defense.
	Guardian at Litem cost increase	10,000		10,000	10,000			Increased cost for Guardian at Litem attorneys.
	Pro Tem Court Commissioners Salary Increase	44,000		44,000	44,000			Increase Pro Tem Court Commissioner hourly rate from $75 to $125.
	Administrative Specialist I - new position - 1 FTE	95,210		95,210	95,210			New position to help ease the overwhelming workload of staff.
	Office Furniture for new staff position	4,000	4,000		4,000			Workstation for new Admin Specialist position requested above.
	Baliffs increase	10,000		10,000	10,000			Conducting jury trials with COVID protocols requires an additional bailiff to be available.
	Part Time Court Facilitator - new position - .5 FTE	50,000		50,000	50,000			New position: reviews family law forms, explains court proceedures and assist with filing forms.
	SRF: Elmo - Visual Presenter/Projection Device	3,500	3,500		3,500			
	SRF: (8) Signature Pad Solutions	17,200	17,200		17,200			
	SRF: (5) Digital Information display Monitors	7,000	7,000		7,000			

District Court I .00100.871	Court Appointed Attorney	12,000		12,000	12,000			Unable to find conflict attorney for criminal cases, need increased funding incentive.
	SRF: (5) Scanners for E-Filing	2,400	2,400		2,400			
District Court II .00100.881	SRF: Copier Replacement	4,500	4,500		4,500			
	SRF: Small Printer	500	500		500			
Parks & Facilities .00100.911	Cell Phone Stipends	1,440		1,440	1,440			Cell phone stipends for parks managers & rangers.
	Repair and Maintenance Supplies	6,700		6,700	6,700			Increased cost associated with repairs & maintenance of parks and facilities.
	Building Repair and Maintenance	17,200		17,200	17,200			As facilities age, additional costs are incurred associated with upkeep and repairs.
	Maintenance Worker I (new staff position)	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.
WSU .00100.931	Animal Agriculture Staff - new position - 1 FTE	55,000		55,000	55,000			To provide assistance & leadership to the 4-H aminal clubs.
	Increase Salary for 4-H Agent	3,000		3,000	3,000			Increase MOA to cover a raise for 4-H agent.
	Increase WSU MOA	500		500	500			WSU is requesting a slight increase to the County contribution.
General Funds Transfer to Other Funds	HHS Operations - 5 new positions (see below)	440,620		440,620	440,620			
	TOTALS	1,413,064	159,377	1,253,687	1,413,064	0	0	

	Request		*Funding Source*		
	One Time	*Ongoing*	*General Fund*	*Other Fund Reserves*	*Grant/New Funding*
	159,377	**1,253,687**	**1,413,064**	**0**	**0**
Total General Fund Requests:	**1,413,064**		**1,413,064**		

OTHER FUNDS

Department	Requested Item or Program Change	Request	One Time	Ongoing	Funding Source: General Fund Reserve	Funding Source: Other Fund Reserves	Funding Source: New/Grant Funding	Comments
HHS - Operations 11301.511	Public Health Nurse II - new position - 1 FTE	91,752		91,752	91,752			This position would allow flexibiloity to meet our baseline services & reapond to communicable disease reporting & response.
	COVID-19 Contract Tracer Position #1 - 2 year position - 1 FTE	87,217		87,217	87,217			Two year position as contract tracer to provide immediate outbreak response.
	COVID-19 Contract Tracer Position #2 - 2 year position - 1 FTE	87,217		87,217	87,217			Two year position as contract tracer to provide immediate outbreak response.
	Suicide Prevention Coordinator - new position - 1 FTE	87,217		87,217	87,217			This position would coordinate suicide prevention efforts & focus on planning & policy decision to support suicide prevention.
	Public Health/Social Worker - new position - 1 FTE	87,217		87,217	87,217			Management to support all programs: syringe support services, chidren/youth health care, community health nurse and paramedic support.
HHS - Affordable Housing 11324.511	Contract Services	40,000		40,000		40,000		To have an emergency use allocation available.
Law Library 11401.821	Books	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		89,500		89,500		Needed to provide state mandated support to victims of misdemeanor/felony crimes.
Noxious Weed Control 13001.381	SRF: (2) iPad w/5G LTE	3,200	3,200			3,200		
	SRF: Arc GIS Basic License	1,500	1,500			1,500		
HR - Risk Management 50401.461	Polygraph Exams	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		Increased number of safety sensitive positions where psychological exams are required.
	TOTALS	582,820	4,700	578,120	440,620	142,200	0	

	Request: One Time	Request: Ongoing	Funding Source: General Fund	Funding Source: Other Fund Reserves	Funding Source: New/Grant Funding
Total Other Fund Requests:	**4,700**	**578,120**	**440,620**	**142,200**	**0**
	582,820		**582,820**		

TOTAL ALL	**1,995,884**	**164,077**	**1,831,807**	**1,853,684**	**142,200**	**0**