



WORK SESSION AGENDA

BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street Room 160

Port Angeles, Washington

Monday, August 9, 2021 – 8:00 a.m.

****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.

Administration – 9 a.m.

1. Calendar/Correspondence
2. Conservation Futures discussion

Discussion 

3. Agreement with Clallam County Economic Development Council for American Rescue Plan Act funds (2c)*

Agreement

4. Resolution closing the Treasurer's Office Petty Cash Fund

Resolution

5. Agreement with Washington State Department of Commerce – Office of Crime Victims Advocacy Community Services and Housing Division for Victim Witness Assistance Grant Program

Agreement

6. Notice of call for bids to be received no later than 10 a.m., Tuesday, September 7, 2021 for Carpet Replacement - Superior Court II Courtroom and Hallway Project

Notice

7. Agreement amendment 22 with Department of Health for Shellfish Program, Group A water system testing and mosquito trapping testing

Agreement amendment 22

8. Request for proposals to be received no later than 3 p.m., Monday, October 4, 2021 for Behavioral Health Proposals 2022

Notice RFP

Public Works

9. Land purchase agreement with PCC Farmland Trust dba Washington Farmland Trust to purchase right of way for the Towne Road Dike Relocation Project

Land purchase agreement

Board of Commissioners

10. Charter Review Recommendations response discussion

CRC Recommendations

Budget

11. Notice the Preliminary 2022 Clallam County Budget will be available September 7, 2021

Notice

Board of Commissioners

10. **Charter Review Recommendations response discussion**

General Discussion/Items for Future Agendas

- A. Department of Natural Resources Meeting (August 23 – 1 p.m.)
- B. Commissioners Conversation Meeting – TBD Topic (September 13 – 7:30 a.m.)
- C. Continued Work Session Meeting – TBD Topic (September 13 – 1 p.m.)

D. Olympic National Forest update (October TBD)

E. Noise Ordinance (TBD)

EXECUTIVE SESSION

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

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



AGENDA ITEM SUMMARY

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

Department: BOCC – Conservation Futures Board

WORK SESSION ☒ Meeting Date: 8-9-21

Item summary:

- | | | |
|---|--|---|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU - Contract # | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other – Discussion and next steps |

Executive summary:

CF Criteria for Evaluation of Applications:

Approach to Evaluation:

Make the process as simple and quantifiable as possible

Evaluate each application according to the "Viability of the Site" making sure it is a long term quality farmland worthy of conservation, and by the "Viability of the Proposal" in which we will stress the opportunity at hand and the "bang for the buck" to enhance the effectiveness of CF resources.

Next steps if approved by the BOCC:

- Create Operational Policies in which certain limitations and guidelines will be set.
Ex: Only Conservation Easements in perpetuity should be considered
That funding is not used as a means for "tax breaks/loopholes"
Consider or not whether to accept acquisitions from individuals, which could imply ownership of farmland by the county.
Allow for Reimbursement of Funding in certain situations.
- Create an application packet online that is simple, supported by an Application Guide, and timeline for applications.
- Inform the county's farming Community, the Conservation entities and the State of the Clallam County Conservation Futures Program.

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?)
Review and approve process.

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

Name of Employee/Stakeholder attending meeting: Ricardo Fleischfresser – Conservation Futures Chair, Board of Commissioners, Prosecuting Attorney's Office

Relevant Departments: Board of Commissioners, Prosecuting Attorney's Office

Date submitted: July 26, 2021

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Conservation Futures 8-9-21.docx
Revised: 3-04-2019



AGENDA ITEM SUMMARY

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

Department: Finance

WORK SESSION ☒ Meeting Date: 08/09/2021

REGULAR AGENDA ☒ Meeting Date: 08/10/2021

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

Item summary:

- | | | |
|---|--|--|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # 19961.21.002 | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☒ Other Monthly Review |

Documents exempt from public disclosure attached: ☐

ARPA SUBRECIPIENT AGREEMENT—CLALLAM COUNTY ECONOMIC DEVELOPMENT COUNCIL FOR PROVISION OF SMALL BUSINESS AND NON PROFIT ECONOMIC ASSISTANCE GRANTS:

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.

At the June 14, 2021 BOCC Work Session, Clallam Economic Development Council ("EDC") presented an overview of the American Rescue Plan Act Funding provided across all segments of Clallam County, as well as identified preliminary gaps in that funding where certain sectors were not allocated ARPA funding where needs existed. In a follow up presentation held during the July 6, 2021 Continued Work Session with BOCC, the EDC provided a presentation entitled "Clallam County Business Funding Gaps" which provided a deeper dive of the identified small business and nonprofit segments within Clallam County which were significantly negatively impacted during the COVID-19 public health emergency which received little to no funding from federal CARES or state aid made available during the pandemic. Segments of the small business and non-profit community that were adversely impacted by COVID but who received inadequate or no COVID aid last year included:

- Over 700 small businesses who previously applied and qualified for Working Washington or prior CARES-funded Lifeboat grants that did not receive funding;
- Child Care Providers;

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Revised: 3-04-2019

- Small businesses who qualified for 2nd PPP rounds of funding due to incurring a 25% reduction in revenues but did not receive a 2nd PPP loan;
- Startup small businesses who commenced operations in 2019 or 2020 who Clallam County
- Fishing guides that did not qualify for any state or federal assistance programs during the pandemic;
- Event Planners & Festival Operators that did not qualify SVOG or other state assistance programs;
- Restaurants (40 had applied for prior funding, but received nothing due to inadequate funding); and
- Ship to Shore Businesses that transported crews testing positive for COVID-19 for transport to the hospital, that incurred significant unreimbursed COVID mitigation related costs;

During this conversation, 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, the BOCC approved the granting of \$3,000,000 of ARPA-funded small business and nonprofit economic assistance, with \$500,000 directed specifically to small businesses and non-profits that provide child care services to be administered by Clallam County EDC.

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

As provided under FAQs 2.5, 2.9 and 2.17 of US Treasury's Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions, the eligible types of assistance that may be provided to address the negative economic impacts of the pandemic, assistance in forms of loans or grants may be provided to small businesses and nonprofits, as well as aid to COVID impacted industries such as hospitality, tourism and travel. As a result, we believe the provision of small business and nonprofit

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economic support grants to those small businesses and nonprofits located and operating in Clallam County that were adversely economically impacted during the COVID public health emergency represents an eligible and proper use of ARPA funds to address the negative economic impacts of the COVID-19 pandemic.

CLALLAM COUNTY EDC SUBRECIPIENT AGREEMENT

Using a ARPA Subrecipient Agreement template developed based on the previous CARES Subrecipient Agreement executed with Clallam County EDC in 2020, as modified for the requirements governing the usage of ARPA funds, we have prepared the attached subrecipient agreement to engage Clallam County EDC as a subrecipient of County ARPA funding to administer the disbursement of the \$3,000,000 allotted for small business and nonprofit economic support grants it will be awarding on behalf of eligible small businesses and nonprofits who meet the eligibility criteria established in Attachment D of the Agreement.

Eligible recipients must:

- Be a Washington licensed business or non-profit organization active in the state of Washington, physically located and doing business in Clallam County;
- All business and non-profit types are eligible, however additional consideration will be given to the following:
 - Small businesses who previously applied and qualified for funding through Working Washington grants or prior Lifeboat grants that received no funding;
 - Small businesses who qualified for the 2nd PPP round of funding due to incurring a 25% or more reduction in revenues in a quarter, but did not receive a 2nd PPP loan;
 - Startup businesses that commenced operations in 2019 or 2020 that were negatively impacted by the COVID public health emergency through additional costs associated with COVID-19 mitigating tactics or incurred higher operating costs due to the pandemic, whose business is in an industry specifically impacted by COVID-19, that experience a loss of expected startup capital due to the economic impacts and uncertainty of the pandemic, or due to other similar circumstances;
 - Fishing guides that did not qualify for any state or federal assistance programs during the pandemic;
 - Small businesses banking through large national banks that had limited funding made available through PPP loans;
 - Restaurants;
 - Non-profits whose revenue declined significantly due to cancellation of events due to COVID;
 - Small businesses that were required to handle COVID patients but did not receive funding to cover related expenses;
 - Event planner and festival operators negatively impacted by the COVID pandemic who did not qualify for any local, state or federal assistance programs;
 - Businesses that changed their business type in 2019 or 2020 who meet all other criteria are eligible;
- Have an active business license and UBI in Washington State;
- Have a physical business or non-profit address in Clallam County;
- Have been in operation since December 2020 or earlier;
- Have not been debarred by the Federal Government;

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- Not have any delinquent L&I tax debts, or any license violations at the time of award of Lifeboat3 funding;
- Receipt of Paycheck Protection Program (PPP) funds, EIDL Loan grants or funds, or CARES funding does not disqualify applicants, however applicants must include this information to ensure we do not reimburse a business for funds that the federal government already provided funds to support so as to avoid duplication of reimbursement of eligible expenses;
- Must certify that they have been negatively impacted by the COVID-related emergency public health protections that were or are in place and/or been subject to mandatory full or partial business closure any time after March 1, 2020 due to the COVID-19 public health emergency and/or the Governor's-related executive orders;
- Must certify that grant funds received will only be used for eligible operating expenses connected to the COVID-19 emergency and not be spent on an expense that has been funded by any other funder (whether private, Local, State or Federal);
- Applicants must return an IRS form W-9 before they can receive any Lifeboat3 awarded funding.
- Grant limitations: one Lifeboat3 Small Business Grant per owner/business/non-profit entity or franchise holder; and
- Meet other criteria as outlined in Attachment D of the Agreement.

Grant award payments will be made by Clallam EDC upon submission of A-19 equivalent reimbursement request submitted to the County for approval of all proposed grant awards based on applications reviewed and scored by the Clallam County Lifeboat3 Selection Committee, a nine member group representing the following groups:

- Port Angeles Regional Chamber of Commerce
- Sequim Dungeness Chamber of Commerce
- Forks Chamber of Commerce
- City of Port Angeles
- City of Sequim
- City of Forks
- United Way
- Center For Inclusive Entrepreneurship
- Dr. Lynn Keenan (representing all Child Care Providers in Clallam County).

Grant awards will range from \$5,000 up to a maximum of \$20,000. However, the Agreement allows the EDC to seek approval from the County for awards greater than \$20,000 if it believes an award in excess of \$20,000 is warranted based on the demonstrated severity of the negative economic impact sustained by the applicant due to the COVID public health emergency, the importance of the applicant's business/organization to the local economy of the County, the significance of mitigation actions taken by the applicant during the COVID pandemic for which no prior reimbursement funding was provided, and other relevant factors. Such a request would have to be accompanied by sufficient additional justification and documentation to be provided by the CCEDC to the County that supports the higher requested grant amount to be awarded.

Disbursement of funds to Clallam County EDC by the County will be made following receipt and approval of monthly A-19 equivalent reimbursement requests submitted by EDC detailing the small business and nonprofit economic support grants to be disbursed by EDC based on eligible applications received, reviewed and certified by the EDC as meeting the eligibility requirements outlined in the agreement.

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Consistent with the CARES EDC Subrecipient agreement, the EDC will be allowed to charge an indirect rate of 10% up to a maximum of \$300,000 to cover its administrative costs for this program. However, in an effort to maximize the amount of ARPA funds that will be available for small business and nonprofit grants under Lifeboat3 while leveraging available County funding existing within the Opportunity Fund, this administrative fee is structured to be paid as follows:

- 7.67%, or up to \$230,000, shall be paid from the County's Opportunity Fund, with the stipulation that such funds must be applied entirely toward financing the costs of personnel utilized by CCEDC in support of its operations including performance of its duties under this Agreement ; and
- 2.33%, or up to \$70,000, shall be paid from the ARPA funds paid to the Subrecipient by the County under this Agreement.

Finally, as outlined in Section 4 of Attachment D, the EDC will proactively market the Lifeboat3 program through social media accounts (Facebook, Instagram), the ChooseClallamFirst.com website, its weekly newsletter, and through community outreach efforts and leveraging its relationships with its city and local partners, including the various Chambers of Commerce, United Way, Food Banks, the Center for Inclusive Entrepreneurship) to promote the Lifeboat3 program to as many small businesses and nonprofits in the County as possible. EDC will also take proactive steps to insure equitable outcomes are achieved by placing emphasis on reaching out to historically underserved populations and QCTs within the County.

Lifeboat3 is scheduled to officially launch on Tuesday, August 17, 2021 at 4pm at which time an application link on ChooseClallamFirst.com will open. The window to apply will remain open for 90 days (through 4pm Monday, November 15, 2021).

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 \$3,000,000 of ARPA funds from the American Rescue Plan Act special revenue fund to EDC upon presentation to the County of valid A-19 reimbursement requests detailed grant awards eligible applicants. A debatable emergency from the Opportunity Fund for \$230,000 to fund a portion of EDC's indirect administration costs would also need to be approved.

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

In an effort to support the official launch of the Lifeboat3 program on Tuesday, August 17, 2021, we request the Commissioner's feedback and approval to proceed in submitting this agreement for approval during the next BOCC meeting.

County Official signature & print name:  Mark Lane_____

Name of Employee/Stakeholder attending meeting: _____Mark Lane_____

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Relevant Departments: ____Finance, BOCC____

Date submitted:

August 4, 2021

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Revised: 3-04-2019

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

ARPA SUBRECIPIENT AGREEMENT

This ARPA Subrecipient Agreement ("Agreement") is dated as of the ____ day of _____, 2021, by and between Clallam County, a Washington political subdivision ("County"), and Clallam County Economic Development Council (Federal Tax ID 91-1167253, DUNS #151519105), an Associate Economic Development Organization ("ADO") within Clallam County ("Subrecipient").

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 (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 to small businesses and nonprofits located in Clallam County whose operations and financial condition were adversely impacted by the COVID-19 public health emergency, whether through a reduction in revenues, increase in operating costs related to implementing COVID-19 prevention or mitigation tactics or other higher operating costs experienced during the pandemic, business disruption or closure, event cancellation, and/or other similar circumstances during the

pandemic that created a financial hardship, with such allocation of funds to be consistent with the Eligible Uses of ARPA Funds outlined above.

WHEREAS, the County and Subrecipient desire to enter into this Agreement so that the County may provide ARPA Funds for appropriate and qualifying expenditures of grant funds advanced to the Subrecipient by the County for provision of small business and non-profit economic support grants to be made by the Subrecipient to eligible small businesses and nonprofits as allowed under the IGA and Interim Final Rule, and for reimbursement of its administrative costs as specified in Attachment E.

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 Subrecipient a total sum not to exceed \$3,000,000 to be used for provision of small business and non-profit economic support grants, with \$500,000 to be specifically allocated for small businesses and nonprofits that provide child care services, and for reimbursement of the Subrecipient's indirect administrative costs as specified in Attachment E, conditioned on the requirement that such funds will be disbursed by the Subrecipient to eligible small businesses and non-profit organizations no later than December 31, 2024 based on eligibility criteria outlined in Attachment D.
3. Subrecipient's Use of ARPA Funds. The Subrecipient shall ensure that the ARPA Funds requests are necessary Eligible Uses under one of the following cost categories: a) 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, 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.
4. Ineligible Uses. Non-allowable uses of ARPA Funds include, without limitation, the following: a) usage of funds to either directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation or administrative interpretation during the covered period that reduces any tax or delays the imposition of any tax or tax increase; b) damages covered by insurance; c) usage of funds as a deposit into any pension fund; d) expenses that have been or will be reimbursed under any federal program; e) debt service costs; f) contributions to a "rainy day" fund; and d) legal settlements.

5. Reimbursement Request & Reporting Requirements. To facilitate the release of ARPA Funds by the County to the Subrecipient and the County's compliance with reporting requirements for usage of ARPA funding under the IGA and Attachment D, the Subrecipient may submit one A-19 equivalent request schedule per month to the County on or before the 10th day following the end of each calendar month during the term of the Agreement, detailing the small business and non-profit economic support grants to be disbursed by the Subrecipient based on eligible applications received, reviewed and approved by the Subrecipient with an attestation by the Subrecipient that such grants are eligible in accordance with the eligibility requirements outlined in Attachment D. The County shall then distribute ARPA Funds, as requested by the Subrecipient, to the Subrecipient to fund the small business and non-profit economic support grants approved by the County subject to availability of funds ("Reimbursement Request Funds"). Such schedule may be modified with the prior approval of the County. Failure to provide any of the required documentation may result in the withholding and/or nonpayment of all or a portion of the request, and termination of the Agreement. Following receipt of the Reimbursement Request Funds from the County and signed award contracts and W-9s from the approved recipients of the small business and non-profit economic support grants, the Subrecipient will disburse the Reimbursement Request Funds to the approved recipients within 10 business days, and provide on a monthly basis an A-19 equivalent report to the County detailing the grant awards disbursed by the Subrecipient as provided for in Attachment D.
6. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the Subrecipient.
7. Independent Contractor. Each party under the Agreement shall be for all purposes an Independent Contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Subrecipient shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of the County for any purpose.
8. Indemnification. The Subrecipient 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 Subrecipient, its officers, directors, employees, and/or agents relating to the Subrecipient's performance or failure to perform under this Agreement. The section shall survive the expiration or termination of this Agreement.
9. Compliance with Laws, Guidelines. The Subrecipient shall comply with all federal, state, and local laws and all requirements (including debarment and other required certifications and audits) of the IGA, Interim Final Rule, and Compliance & Reporting Guidelines to the extent applicable, when disbursing ARPA Funds to recipients or when seeking Reimbursement from the County.

10. Maintenance and Audit of Records. The Subrecipient 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 Subrecipient was reimbursed for unallowable costs under this Agreement, the Subrecipient agrees to promptly reimburse the County for such payments upon request.
11. Notices. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received three (3) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:
- Subrecipient
Clallam County Economic Development Council
Attn: Colleen McAleer, Executive Director
PO Box 1085
338 W. First Street, Suite 105
Port Angeles, WA 98362
- Clallam County
Attn: Mark Lane, Chief Financial Officer
223 E 4th St, Suite 4
Port Angeles, WA 98362-3015
12. Improper Influence. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.
13. Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.
14. Time. Time is of the essence in this Agreement.
15. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include without limitation Indemnification and Maintenance and Audit of Records.
16. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.

17. Governing Law; Venue. The Agreement will be governed in all respects by the laws of the 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 waiver 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 Subrecipient 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 Subrecipient 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.

SUBRECIPIENT

By: 

Print Name: Colleen McAleer

Its: Executive Director

DATED this 4th day of August, 2021.

APPROVED AS TO FORM by DPA Stanley

**BOARD OF COUNTY COMMISSIONERS
CLALLAM COUNTY, WASHINGTON**

MARK OZIAS, Chair

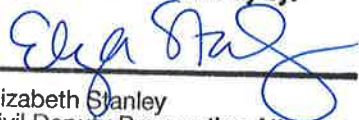
RANDY JOHNSON, Commissioner

BILL PEACH, Commissioner

ATTEST:

L. Gores, Clerk of the Board

Approved as to form only by:


Elizabeth Stanley
Civil Deputy Prosecuting Attorney
Clallam County

ATTACHMENT A

INTERAGENCY AGREEMENT BETWEEN
THE U.S. DEPARTMENT OF TREASURY AND
CLALLAM COUNTY

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
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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.

DocuSigned by:
Recipient: **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:

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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.

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.

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>.

OMB Approved No. 1505-0271

Expiration Date: November 30, 2021

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

OMB Approved No. 1505-0271

Expiration Date: November 30, 2021

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 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

5/19/2021

Recipient

Date

DocuSigned by:
MARK OZIAS
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Signature of Authorized Official

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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

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.CensusBureau,HouseholdPulseSurvey:MeasuringSocialandEconomicImpactsduringtheCoronavirusPandemic,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/>.

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

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 Act¹⁷ (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

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>.

¹³ 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 COVID-19 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).

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[ing] 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.upa.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*

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

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

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 E. 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/vsr/drug-overdose-data.htm> (last visited May 8, 2021).

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

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/doi/10.1377/hblog20200319.757883/full>.

³⁹ See, e.g., Centers for Disease Control and Prevention, *supra* note 34; Benfer & Wiley, *supra*

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

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. Mort. 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

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

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

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).

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

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).

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

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](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 points⁵⁸ during the pandemic as compared to 1.0 percentage points for Black men⁵⁹ 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 scores⁶² and reduced familial and childhood wellbeing.⁶³

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).

⁵¹ Women have carried a larger share of childcare responsibilities than men during the COVID-19 crisis. See, e.g., Gema Zamarró & 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>.

⁵² 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).

⁵³ 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).

⁵⁴ 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).

⁵⁵ 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/>.

⁵⁶ 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.

⁵⁷ Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., *Children of the Great Recession*,

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 employment⁶⁴ 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

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>.

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/empst.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/empst/cpseaa04.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/empst/cpseaa05.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

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 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/>.

⁷³ 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.

⁷⁴ 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).

⁷⁵ See, e.g., Bacher-Hicks, *supra* note 14.

⁷⁶ 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).

⁷⁷ HHS, *supra* note 79.

⁷⁸ 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](https://www.jpeds.com/article/S0022-3476(20)30606-5/abstract).

⁷⁹ Based on calculations conducted by the Minneapolis Fed's Center for Indian Country Development using Flood et al. (2020)'s 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>.

⁸⁰ Moreno & Sobrepena, *supra* note 73.

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/>.

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->

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.

⁹⁴ See *supra* notes 52 and 84.

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/neighborhoods/>.

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

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\(20\)28200-9/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)28200-9/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/>.

⁹⁵ Sections 602(c)(1)(B), 603(c)(1)(B) of the Act.

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

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.

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. 8800, 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/oesrcst.htm> (last visited May 1, 2021); U.S. Bureau

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

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 & Sobrepenna, *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],

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

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.

¹⁰⁸ ARPA, *supra* note 16.

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* * $[(1 + \text{growth adjustment})^n]$, 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

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.

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.

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*

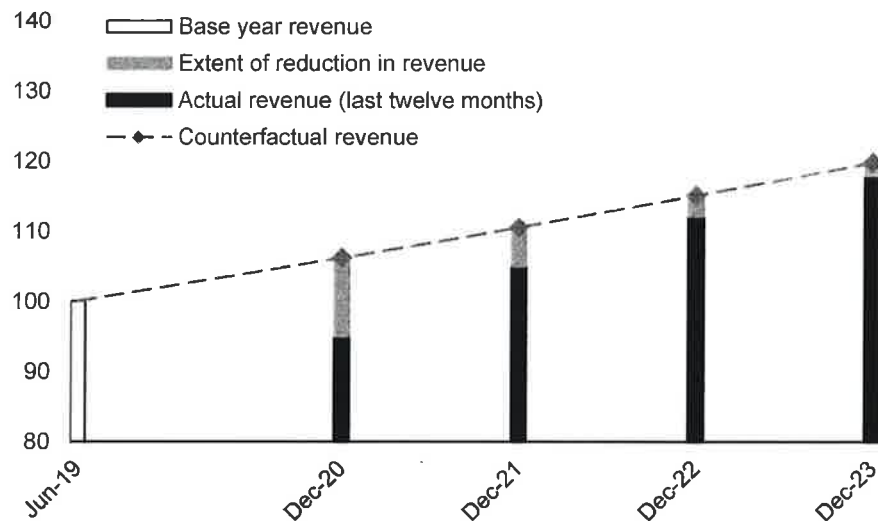
revenue less *actual revenue*. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

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
<i>n</i> (months elapsed)	18	30	42	54
<i>Counterfactual revenue:</i>	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 building¹²³ 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 do to 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 amendments¹²⁷ 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,

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*

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).

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 be 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, underserved, or rural communities? How do these projects differ from DWSRF 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 2017¹⁴⁶ 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/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](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://ecsapi.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

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-15-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, 2021), 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-Speed-Tiers-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 BBIP 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.

¹⁴⁸ *Id.*

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

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).

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 governments¹⁶⁰), 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 interpretation¹⁶¹ 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

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).

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).

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

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

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-

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>.

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

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 2021¹⁷⁹) 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/lous.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.

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.

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

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 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:

$$\text{Max} \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{\left(\frac{n_t}{12}\right)}] - \text{Actual General Revenue}_t; 0 \}$$

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 \(2 CFR Part 200\)](#). Please see the [Assistance Listing](#) in SAM.gov under assistance listing number (formerly known as CFDA number), 21.027 for more information.

Please Note: This guidance document applies to the SLFRF program only and does not change nor impact reporting and compliance requirements for the Coronavirus Relief Fund ("CRF") established by the CARES Act.

This guidance includes two parts:

Part 1: General Guidance

This section provides an orientation to recipients' compliance responsibilities and the U.S. Department of the Treasury's ("Treasury") expectations and recommends best practices where appropriate under the SLFRF Program.

A. Key Principles.....	P. 3
B. Statutory Eligible Uses.....	P. 3
C. Treasury's Rulemaking.....	P. 4
D. Uniform Guidance (2 CFR Part 200).....	P. 6
E. Award Terms and Conditions.....	P. 10

Part 2: Reporting Requirements

This section provides information on the reporting requirements for the SLFRF program.

A. Interim Report.....	P. 13
B. Project and Expenditure Report.....	P. 15
C. Recovery Plan Performance Report.....	P. 23
Appendix 1: Expenditure Categories.....	P. 31
Appendix 2: Evidenced-Based Intervention Additional Information.....	P. 33



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.⁴⁵ 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 of 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 expenditures¹² by Expenditure Category from the date of award to July 31, 2021. The recipient will be required to enter obligations¹³ 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.

- Revenue replacement (EC 6.1¹⁴):** 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:

- 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).

- 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 projects¹⁵ 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 "A" 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's¹⁸ 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.¹⁹Recipients 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 interventions²⁰ 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.

²⁰As 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 models²⁴ 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 programs²⁵
- 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: Infrastructure²⁷	
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.



ATTACHMENT D

SCOPE OF WORK

The Board of Commissioners is directing up to \$3,000,000 to small business relief using federal ARPA funding, of which \$500,000 is to be allocated specifically to businesses and nonprofits that provide child care services in Clallam County, with the remaining \$2,500,000 allocated to other eligible small businesses and nonprofits located in Clallam County whose operations and financial condition were adversely impacted by the COVID-19 public health emergency, including a reduction in revenues, increase in operating costs related to implementing COVID-19 prevention or mitigation tactics or due to other operating cost increases experienced during the pandemic, business disruption or closure, event cancellation, and/or other similar circumstances during the pandemic that created a financial hardship. These funds must be fully distributed by December 31, 2024. The intent of this grant is to provide economic support grants through the Lifeboat3 Program based on applicants meeting the eligible businesses and non-profit criteria outlined in Item 1 below.

The Clallam County Economic Development Council (“CCEDC”) will be responsible for overseeing the program based upon the eligibility criteria, funding uses and process and deadline for distribution outlined below. All funds outlined above must be fully distributed no later than December 31, 2024

1. Eligible Businesses and Non-Profit Organizations

Businesses and Non-Profit Organizations seeking ARPA funding through this program must:

- Be a Washington licensed business or non-profit organization active in the state of Washington, physically located and doing business in Clallam County;
- All business and non-profit types are eligible, however additional consideration will be given to the following:
 - a. Small businesses who previously applied and qualified for funding through Working Washington grants or prior Lifeboat grants that received no funding;
 - b. Small businesses who qualified for the 2nd PPP round of funding due to incurring a 25% or more reduction in revenues in a quarter, but did not receive a 2nd PPP loan;
 - c. Startup businesses that commenced operations in 2019 or 2020 that were negatively impacted by the COVID public health emergency through additional costs associated with COVID-19 mitigating tactics or incurred higher operating costs due to the pandemic, whose business is in an industry specifically impacted by COVID-19, that experience a loss of expected startup capital due to the economic impacts and uncertainty of the pandemic, or due to other similar circumstances;

- d. Fishing guides that did not qualify for any state or federal assistance programs during the pandemic;
 - e. Small businesses banking through large national banks that had limited funding made available through PPP loans;
 - f. Restaurants;
 - g. Non-profits whose revenue declined significantly due to cancellation of events due to COVID;
 - h. Small businesses that were required to handle COVID patients but did not receive funding to cover related expenses;
 - i. Event planner and festival operators negatively impacted by the COVID pandemic who did not qualify for any local, state or federal assistance programs;
 - j. Businesses that changed their business type in 2019 or 2020 who meet all other criteria are eligible;
- Have an active business license and UBI in Washington State;
 - Have a physical business or non-profit address in Clallam County;
 - Have been in operation since December 2020 or earlier;
 - Have not been debarred by the Federal Government;
 - Not have any delinquent L&I tax debts, or any license violations at the time of award of Lifeboat3 funding;
 - Receipt of Paycheck Protection Program (PPP) funds, EIDL Loan grants or funds, or CARES funding does not disqualify applicants, however applicants must include this information to ensure we do not reimburse a business for funds that the federal government already provided funds to support so as to avoid duplication of reimbursement of eligible expenses;
 - Must certify that they have been negatively impacted by the COVID-related emergency public health protections that were or are in place and/or been subject to mandatory full or partial business closure any time after March 1, 2020 due to the COVID-19 public health emergency and/or the Governor's-related executive orders;
 - Must certify that grant funds received will only be used for eligible operating expenses connected to the COVID-19 emergency and not be spent on an expense that has been funded by any other funder (whether private, Local, State or Federal);
 - Applicants must return an IRS form W-9 before they can receive any Lifeboat3 awarded funding.

- Grant limitations: one Lifeboat3 Small Business Grant per owner/business/non-profit entity or franchise holder.

2. Eligible Operating Costs

Funds are available to reimburse eligible business-related operating expenses incurred from March 1, 2020 thru December 31, 2024.

Businesses MAY NOT use the funding for the following activities:

- Any expense that would not be considered an eligible business expense by IRS rules;
- Any expense incurred prior to March 1, 2020;
- Political contributions;
- Bonuses to owners or employees;
- Charitable contributions;
- Gifts or parties;
- Draw or salary to owner that exceeded the amount that they were paid on a weekly or monthly basis for the same period in 2019 (excluding startup businesses that commenced operations in 2019 or 2020);
- Pay down or pay off debt;
- Any expense paid for through PPP loan funds, EIDL Loan or EIDL target or supplemental grant funds or other CARES funds;
- Legal settlements;
- Damages covered by insurance; and
- Capital Expenditures (outside of capital expenditures made to physical plant to enable social distancing, enhanced cleaning efforts, barriers or partitions, or other similar COVID mitigation improvements which are eligible).

3. Program Funding and Award Amount

The County shall make \$3,000,000 of ARPA funds available to the Lifeboat3 program that will be paid to CCEDC following receipt and approval of monthly A-19 equivalent reimbursement requests submitted by CCEDC detailing the small business and non-profit economic support grants to be disbursed by CCEDC based on eligible applications received, reviewed and certified by the Subrecipient as meeting the eligibility requirements herein until such ARPA funds are depleted. The amount of each small business and non-profit economic support grant under the Lifeboat3 program shall range from \$5,000 up to a maximum of \$20,000. In the event that CCEDC identifies an applicant for which it believes an award in excess of \$20,000 is warranted based on the demonstrated severity of the negative economic impact sustained by the applicant due to the COVID public health emergency, the importance of the applicant's business/organization to the local economy of the County, the significance of mitigation actions taken by the applicant during the COVID pandemic for which no prior reimbursement funding was provided, and other relevant factors, the CCEDC may request approval of an award amount higher than the \$20,000 maximum from the County. Approval

of such a request will be subject to the County receiving, reviewing and approving of sufficient additional justification and documentation to be provided by the CCEDC that supports the higher requested grant amount to be awarded.

All funds are to be disbursed no later than December 31, 2024.

4. Promotion of Equitable Outcomes & Planned Program Awareness Outreach Efforts

Clallam County is a geographically large, rural county which has historically been an economically distressed by federal and state standards. The entire county is considered a Difficult Development Area according to HUD's 2021 maps.

Based on the underinvestment of the County relative to populous thriving locations to east of the County, much of the County could also be considered underserved from an equity standpoint.

The County has three Qualified Census Tracts in Clallam County. One is the census tract enveloping the City of Forks and the other two are within the City of Port Angeles. In promoting the Lifeboat3 program, CCEDC will place special emphasis on outreach to businesses operating within these three census tract areas.

Clallam County also has a large Hispanic and Guatemalan population in the western side of the County and in the City of Forks. Additionally, the County has four tribes residing within it. One of those tribes has thrived economically and is one of the County's largest employers, while the other, very remote tribes, have not. As part of its program outreach efforts, CCEDC will reach out to tribal representatives to ensure they are aware of the Lifeboat3 grant program.

The CCEDC will measure equity to ensure businesses within hard-to-reach populations in the more remote western area of the county are made aware of the program, with outreach goals including:

- Reaching out to four west end community and religious organizations where minorities are members (First Baptist Church of Forks, Queen of Angeles in PA , St. Joes in Sequim);
- Having flyers available and asking to speak during their service announcements (if COVID protocols allow);
- Coordinating with the Center for Inclusive Entrepreneurship to ensure one-on-one counseling is available; and
- Having the Lifeboat3 application translated to Spanish and Nam (Guatemalan language spoken in Forks) and having a translator available if needed.

Building Program Awareness, Access and Distribution:

- With over 6,000 businesses in Clallam County, the goal of reaching every small business owner will be a challenge. CCEDC's will leverage its relationships with its city and local partners (Chambers of Commerce, United Way, Food Banks and the

Center for Inclusive Entrepreneurship) which it has utilized in the past in promoting similar programs as part of its planned outreach and marketing efforts to reach as many small business owners as possible, including those who were unable to access earlier CARES Act funds.

- To provide adequate time for the CCEDC and its partners to reach as many small businesses in the County as possible, CCEDC will keep the Lifeboat3 application window open for 90 days.
- CCEDC will also use its weekly newsletters to promote the Lifeboat3 program to the newsletter's over 10,000 subscribers.
- CCEDC will also promote the program through its ChooseClallamFirst.com business resource website, as well through its Facebook and Instagram Accounts which generate tens of thousands of social media views.

5. Application Submission and Award Determination Timeline & Process:

The first window to apply for Lifeboat3 grants will open on Tuesday, August 17, 2021 at 4 pm at which time the application portal link on ChooseClallamFirst.com will open.

Clallam businesses and non-profit organizations will have a 90-day window to apply. Applicants can apply at any time in the 90 day window.

The first application window will close at 4pm on Monday, November 15, 2021.

Applications will be reviewed by the Clallam County EDC team to verify the application requirements.

Complete and eligible applications will be forwarded to the Clallam County Lifeboat3 Selection Committee for their grading and review.

The Lifeboat3 Grant Selection Committee is comprised of nine members representing the following groups:

- Port Angeles Regional Chamber of Commerce
- Sequim Dungeness Chamber of Commerce
- Forks Chamber of Commerce
- City of Port Angeles
- City of Sequim
- City of Forks
- United Way
- Center For Inclusive Entrepreneurship
- Dr. Lynn Keenan (representing all Child Care Providers in Clallam County).

The Lifeboat3 Grant Selection Committee will review all qualified applications for the Lifeboat3 program. Grant selection will occur on a points-based system. Utilizing a complete list of all Clallam County businesses which have previously received CARES Act Grants, points will be deducted from an applicant's score to the extent the applicant has previously received a CARES Act-funded grant. If any member of the Clallam County

Lifeboat3 Selection Committee has a conflict of interest in regard to an application that committee member will not grade the application and instead the average score from other committee members will be used.

Once it is determined all eligibility criteria outlined in “Item 1. Eligible Businesses and Non-Profit Organizations” above have been met and award amounts are determined by the Clallam County Lifeboat3 Selection Committee following conclusion of their application grading and review process, CCEDC will prepare and submit an A-19 equivalent reimbursement request to the County for approval.

Once approval of the related A-19 reimbursement request for such applications has been received from the County, approved applicants will enter into a contract with CCEDC.

6. Disbursement of Funds to Businesses and Non-Profit Recipients

For Lifeboat3 grants to small businesses and non-profit organizations, funding will be disbursed by CCEDC to applicants within 10 business days following CCEDC’s receipt of (1) a signed contract from the approved applicant, (2) a completed W-9 from the applicant, and (3) the ARPA Reimbursement Request Funds covering such grants from the County.

7. Reporting

CCEDC shall submit a monthly report on applications received, and provide an A-19 equivalent report and signed certification detailing funds disbursed to each business and non-profit.

CCEDC shall maintain all documentation regarding the grants awarded and disbursed through the contract period and will provide those materials to Clallam County electronically for future audit or other use.

ATTACHMENT E

COMPENSATION

To achieve the elements outlined in Exhibit A: Scope of Work, CCEDC's compensation for its indirect administrative costs of the program during the contract period shall not exceed 10% of the ARPA funding provided to the Subrecipient and disbursed under the program, or up to \$300,000, with such compensation to be paid to the Subrecipient by the County as follows:

- 7.67%, or up to \$230,000, shall be paid from the County's Opportunity Fund, with the stipulation that such funds must be applied entirely toward financing the costs of personnel utilized by CCEDC in support of its operations including performance of its duties under this Agreement ; and
- 2.33%, or up to \$70,000, shall be paid from the ARPA funds paid to the Subrecipient by the County under this Agreement.



AGENDA ITEM SUMMARY

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

4
8/9/21

Department: Treasurer

WORK SESSION ☒ Meeting Date: 8/9/2021

REGULAR AGENDA ☒ Meeting Date: 8/17/2021

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:

Resolution closing the Treasurer's Office petty cash imprest fund of \$100.00 The Treasurer has determined that this fund is unused and no longer necessary. It is requesting to have this fund terminated.

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, money to be returned to the Treasurer's Office.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve the resolution to close the Treasurer's Petty Cash Imprest Fund.

County Official signature & print name: Teresa Marchi Teresa Marchi

Name of Employee/Stakeholder attending meeting: Teresa Marchi

Relevant Departments: Treasurer/Auditor

Date submitted: Aug 2, 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)



RESOLUTION _____, 2021

CLOSING THE TREASURER'S OFFICE PETTY CASH FUND

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Treasurer's Office has a petty cash fund in the amount of \$100 that is no longer necessary and requests to have this fund terminated.

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

1. Close the Treasurer's petty cash fund with the \$100 balance to be returned to the Treasurer.

PASSED AND ADOPTED this _____ day of August, 2021.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

Randy Johnson

ATTEST:

Loni Gores, Clerk of the Board

Bill Peach



AGENDA ITEM SUMMARY

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

5
9/12/21

Department: Prosecuting Attorney's Office

WORK SESSION ☒ **Meeting Date: 08/09/2021**

REGULAR AGENDA ☒ **Meeting Date: 08/17/2021**

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

Item summary:

- | | | |
|---|--|--------------------------------------|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # 117.21.001 | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

Signature requested on the grant agreement with the Office of Crime Victim Advocacy for funding provided through the Victim/Witness Assistance Grant Program. This grant will fund about 65% of the salary and benefits of one of our Victim Witness Coordinator and is an invaluable resource for our office. There are no match requirements and funds must be used to maintain and enhance the service our office provides to victims and witnesses of crimes.

****PLEASE NOTE FINAL SIGNATURE WILL BE FILED ELECTRONICALLY****

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?** ☐

Revenues and expenditures have already been factored into the 2021 budget, so no changes are expected.

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

Approve and sign the face sheet. Return to the Prosecuting Attorney's Office to my attention.

County Official signature & print name: Mark Nichols 

Name of Employee/Stakeholder attending meeting: Christi Wojnowski

Relevant Departments: Prosecuting Attorney's Office

Date submitted: August 4, 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)

Agenda Item Summary - VW Grant
Revised: 3-04-2019



Grant Agreement with

Clallam County Prosecuting Attorney's Office

through

Office of Crime Victims Advocacy
Community Services and Housing Division

For

SFY 2022 Victim/Witness Assistance Grant

Start date: 07/01/2021

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TABLE OF CONTENTS

Face Sheet	1
Special Terms and Conditions	2
1. Acknowledgement of Federal Funding	2
2. All subawards ("subgrants") must have specific federal authorization	2
3. Applicability of Part 200 Uniform Requirements	2
4. Billing Procedures and Payment.....	3
5. Compensation	3
6. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees).....	4
7. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events	4
8. Compliance with DOJ Grants Financial Guide.....	5
9. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 385	
10. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 425	
11. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 545	
12. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2019).....	5
13. Computer Networks	6
14. Determination of suitability to interact with participating minors	6
15. Discrimination Findings	6
16. Effect of failure to address audit issues	6
17. Employment eligibility verification for hiring under the award.....	6
18. Encouragement of policies to ban text messaging while driving	7
19. Examination of Records	7
20. FFATA reporting: Subawards and executive compensation.....	8
21. Grant Management	8
22. Grant Modification	8
23. Insurance.....	8
24. National VOCA Training	9
25. OJP Training Guiding Principles	9
26. Non-supplanting certification.....	9
27. Potential Imposition of Additional Requirements	10
28. Providing Services to Limited English Proficiency (LEP) Individuals.....	10
29. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS	10
30. Reclassification of various statutory provisions to a new Title 34 of the United States Code	10
31. Reporting.....	11
32. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct	11
33. Requirements of the award; remedies for non-compliance or for materially false statements.....	11
34. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)	12
35. Required training for Point of Contact and all Financial Points of Contact	12
36. Requirements related to "de minimis" indirect cost rate	12
37. Requirement for data on performance and effectiveness under the award.....	13
38. Requirements related to System for Award Management and Universal Identifier Requirements	13
39. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ	13
40. Requirement to report potentially duplicative funding	13
41. Requirement to report actual or imminent breach of personally identifiable information (PII)	14
42. Restrictions on "lobbying"	14
43. Restrictions and certifications regarding non-disclosure agreements and related matters	14
44. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000	15
45. Subcontractor Data Collection	15
46. Unreasonable restrictions on competition under the award; association with federal government....	16
47. VOCA Funds	16

48. VOCA Requirements	16
49. Order of Precedence	17
General Terms and Conditions	18
1. Definitions	18
2. Access to Data	18
3. Advance Payments Prohibited	18
4. All Writing Contained Herein	19
5. Amendments	19
6. Americans With Disabilities Act (Ada)	19
7. Assignment	19
8. Attorneys' Fees	19
9. Audit	19
10. Certification Regarding Debarment, Suspension or Ineligibility and Voluntary Exclusion	19
11. Confidentiality/Safeguarding Of Information	20
12. Conflict Of Interest	21
13. Copyright Provisions	21
14. Disputes	22
15. Duplicate Payment	22
16. Governing Law And Venue	22
17. Indemnification	22
18. Independent Capacity Of The Grantee	23
19. Indirect Costs	23
20. Industrial Insurance Coverage	23
21. Laws	23
22. Licensing, Accreditation And Registration	23
23. Limitation Of Authority	23
24. Noncompliance With Nondiscrimination Laws	23
25. Pay Equity	24
26. Political Activities	24
27. Procurement Standards For Federally Funded Programs	24
28. Publicity	25
29. Recapture	25
30. Records Maintenance	25
31. Registration With Department Of Revenue	26
32. Right Of Inspection	26
33. Savings	26
34. Severability	26
35. Site Security	26
36. Subgranting/Subcontracting	26
37. Survival	27
38. Taxes	27
39. Termination For Cause	27
40. Termination For Convenience	27
41. Termination Procedures	27
42. Treatment Of Assets	28
43. Waiver	29

Attachment A - Scope of Work

Attachment B - Budget

Attachment C - Equal Employment Opportunity Plan Certification

Attachment D - Victims of Crime Act (VOCA) Program Rule ([available here](#)).

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FACE SHEET

Grant Number: 22-31101-504

Washington State Department of Commerce
Community Services and Housing Division
Office of Crime Victims Advocacy
SFY 2022 Victim/Witness Assistance Grant

1. Grantee Clallam, County Of 223 E 4TH ST STE 3 PORT ANGELES WA 98362		2. Grantee Doing Business As (optional) Clallam County Prosecuting Attorney's Office	
3. Grantee Representative Christi Wojnowski Manager of Administration & Support cwojnowski@co.clallam.wa.us (360) 417-2297		4. COMMERCE Representative Susanne Guinn Program Coordinator Phone: (360) 725-2894 Fax: (360) 586-7176 susanne.guinn@commerce.wa.gov	
5. Grant Amount \$62,230.00		6. Funding Source Federal: ☒ State: ☒ Other: ☐ N/A: ☐	
7. Start Date 07/01/2021		8. End Date 06/30/2022	
9. Federal Funds (as applicable) \$21131.00		Federal Agency: Department of Justice, Office for Victims of Crime	
CFDA Number: 16.575		Indirect Rate (if applicable):	
10. SWV # SWV0000200-12		11. UBI # 601639015	
12. DUNS # 075739235			
13. Grant Purpose To provide funding that strengthens Victim/Witness Assistance program activities.			
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 –Equal Employment Opportunity Plan Certification; Attachment D - Victims of Crime Act (VOCA) Program Rule; and Grantee's Application for funding.			
FOR GRANTEE Signature _____ Name _____ Title _____ Date _____		FOR COMMERCE Diane Klontz, Assistant Director _____ Date _____ APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE	

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

1. ACKNOWLEDGEMENT OF FEDERAL FUNDING

Federal Award Date: 9/17/2020

Federal Award Period: 10/1/2019 – 9/30/2023

Federal Award Identification Number (FAIN): 2020-V2-GX-0022

Total Amount of the Federal Award: \$38,159,052

Awarding Official: Department of Justice, Office of Justice Programs, Office for Victims of Crime

Amount obligated by this action: \$21131.00

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

"This project was supported by Grant No. 2020-V2-GX-0022 awarded by Office for Victims of Crime, US Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the Office for Victims of Crime, US Department of Justice. Grant funds are administered by the Office of Crime Victims Advocacy, Washington State Department of COMMERCE."

In the event a correction is required to the Acknowledgement of Federal Funding, an administrative change will be processed. A change to the Acknowledgement of Federal Funding will not affect your budget or scope of work and notice will be provided.

This subaward may not be used for research and development purposes.

2. ALL SUBAWARDS ("SUBGRANTS") MUST HAVE SPECIFIC FEDERAL AUTHORIZATION

As applicable. The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that - for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

3. APPLICABILITY OF PART 200 UNIFORM REQUIREMENTS

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2019 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2019 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2019 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF425), unless a different retention period applies -- and to which the

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

4. 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 at least quarterly, but not more often than monthly.

The Grantee shall submit all requests for reimbursement via COMMERCE's online invoicing system. The invoice shall include the Invoice Documentation Form.

COMMERCE will pay Grantee upon acceptance of program activities provided and receipt of properly completed invoices.

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 Grant 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 Grant, and COMMERCE shall not pay the Grantee, if the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

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

5. COMPENSATION

COMMERCE shall pay an amount not to exceed (\$62,230.00) for the performance of all things necessary for or incidental to the performance of work as set forth in Attachment A - Scope of Work. Grantee's compensation for services rendered shall be based on the following rates or in accordance with Attachment B – Budget.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

The Grantee shall provide a non-federal match for the Victims of Crime Act portion of this Grant. The total match to be provided shall be at least \$5,283.00. All funds designated as match are restricted to the same uses as VOCA federal funds. Match funds may be expended in a greater proportion to grant funds, however, all match funds must be expended prior to the close of this Grant. Expenditures of match funds must be identified on the invoice voucher form.

Transfer of funds between line item budget categories must be approved by the Office of Crime Victims Advocacy (OCVA) program staff. A cumulative amount of these transfers exceeding ten (10) percent of the total program budget shall be subject to justification and negotiation between the Grantee and OCVA, including approval from the Grantee's signature authority and the relevant OCVA Section Manager.

Payment will be on a reimbursement basis only.

Consultant fees may not exceed \$650 per day or \$81.25 per hour for the Victims of Crime Act portion of this Grant (excluding travel and subsistence costs).

Travel expenses incurred or paid by Grantee shall be reimbursed at a rate not to exceed the current state rate and in accordance with the State of Washington Office of Financial Management Travel Regulations. Current travel rates may be accessed at <https://ofm.wa.gov/sites/default/files/public/resources/travel/colormap.pdf>.

The Grantee agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs Financial Guide, which can be found at https://ojp.gov/financialguide/doj/pdfs/DOJ_FinancialGuide.pdf.

Funds payable under this Grant include federal Victims of Crime Act (VOCA) victim assistance grant funds (CFDA Number 16.575).

In performance of the services, requirements, and activities set forth herein, the Grantee shall comply with all applicable federal requirements of the Victims of Crime Act Rule <https://www.federalregister.gov/documents/2016/07/08/2016-16085/victims-of-crime-act-victim-assistance-program>.

6. COMPLIANCE WITH 41 U.S.C. 4712 (INCLUDING PROHIBITIONS ON REPRISAL; NOTICE TO EMPLOYEES)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the Grantee shall contact COMMERCE; COMMERCE is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

7. COMPLIANCE WITH APPLICABLE RULES REGARDING APPROVAL, PLANNING, AND REPORTING OF CONFERENCES, MEETINGS, TRAININGS, AND OTHER EVENTS

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

8. COMPLIANCE WITH DOJ GRANTS FINANCIAL GUIDE

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

9. COMPLIANCE WITH DOJ REGULATIONS PERTAINING TO CIVIL RIGHTS AND NONDISCRIMINATION - 28 C.F.R. PART 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice.

Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

10. COMPLIANCE WITH DOJ REGULATIONS PERTAINING TO CIVIL RIGHTS AND NONDISCRIMINATION - 28 C.F.R. PART 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

11. COMPLIANCE WITH DOJ REGULATIONS PERTAINING TO CIVIL RIGHTS AND NONDISCRIMINATION - 28 C.F.R. PART 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

12. COMPLIANCE WITH GENERAL APPROPRIATIONS-LAW RESTRICTIONS ON THE USE OF FEDERAL FUNDS (FY 2020)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions may be set out in applicable appropriations acts are indicated at <http://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm>, and are incorporated by reference here.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

13. COMPUTER NETWORKS

Grantee understands and agrees that it cannot use any federal funds to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

14. DETERMINATION OF SUITABILITY TO INTERACT WITH PARTICIPATING MINORS

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ) (or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

15. DISCRIMINATION FINDINGS

The recipient assures that in the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the ground of race, religion, national origin, sex, or disability against a recipient of victim assistance formula funds under this award, the recipient will forward a copy of the findings to the Office for Civil Rights of OJP.

16. EFFECT OF FAILURE TO ADDRESS AUDIT ISSUES

The recipient understands and agrees that the DOJ awarding agency (OJP or OWW, as appropriate) and COMMERCE may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

17. EMPLOYMENT ELIGIBILITY VERIFICATION FOR HIRING UNDER THE AWARD

As applicable. The recipient (and any subrecipient at any tier) must—

1. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).
2. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both—
 1. (1) this award requirement for verification of employment eligibility, and
 2. (2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

3. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).
4. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.everify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

"United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to COMMERCE, before award acceptance.

18. ENCOURAGEMENT OF POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

19. EXAMINATION OF RECORDS

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

The Grantee authorizes Office for Victims of Crime (OVC) and/or the Office of the Chief Financial Officer (OCFO), and its representatives, access to and the right to examine all records, books, paper or documents related to the VOCA grant.

The State will further ensure that all VOCA subgrantees will authorize representatives of OVC and OCFO access to and the right to examine all records, books, paper or documents related to the VOCA grant.

20. FFATA REPORTING: SUBAWARDS AND EXECUTIVE COMPENSATION

As applicable. The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://oip.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

COMMERCE submits FFATA information on behalf of all Grantees.

21. 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.

22. GRANT MODIFICATION

Notwithstanding any provision of this grant to the contrary, at any time during the grant period, COMMERCE may, by written notification to the Grantee and without notice to any known guarantor or surety, make changes within the general scope of the program activities to be performed under this Grant. All other modifications shall not be valid unless made in writing and signed by the parties. Any oral understandings and agreements not incorporated herein, unless made in writing and signed by the parties hereto, shall not be binding.

Notwithstanding any provision of this grant to the contrary, at any time during the grant period, COMMERCE may analyze grant expenditures as a proportion of the grant budget. If COMMERCE determines, in its sole discretion, that the grant funding is underutilized, COMMERCE, in its sole discretion, may unilaterally modify the grant to reduce the balance of the grant budget. Funds de-obligated by COMMERCE as a result of a budget reduction may be made available to other grantees for the provision of eligible program activities.

23. 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.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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 a written request by COMMERCE, 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:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than \$1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Subgrantee/subcontractor provide adequate insurance coverage for the activities arising out of subgrants/subcontracts.

Automobile Liability. In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Subgrantee/subcontractor, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance. The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under contract to the Grantee. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

24. NATIONAL VOCA TRAINING

As applicable. The recipient agrees to ensure that at least one key grantee official attends the annual VOCA National Training Conference. Any recipient unable to attend must get prior approval by OVC in writing.

COMMERCE attends this training to meet this federal requirement; Grantees should not plan to attend the training event, attendance is not eligible.

25. OJP TRAINING GUIDING PRINCIPLES

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.

26. NON-SUPPLANTING CERTIFICATION

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

No VOCA Grant funds will be used to supplant existing state, local, or other non-federal funding already in place to support current services. VOCA Grant funds will be used to increase the total amount of funds used for crime victim assistance. Violation of the non-supplanting requirement can result in a range of penalties, including suspension of future funds under this grant, recoupment of monies provided under this grant, and civil and/or criminal penalties.

27. POTENTIAL IMPOSITION OF ADDITIONAL REQUIREMENTS

As applicable. The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high risk" for purposes of the DOJ high-risk grantee list.

DOJ monitors and evaluates risk for COMMERCE, and COMMERCE monitors and evaluates risk for Grantees. Grantee agrees to comply with any additional requirements that may be imposed if COMMERCE has designated the Grantee as "high risk" via risk assessment and monitoring procedures.

28. PROVIDING SERVICES TO LIMITED ENGLISH PROFICIENCY (LEP) INDIVIDUALS

In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website <https://www.lep.gov>.

29. RECIPIENT INTEGRITY AND PERFORMANCE MATTERS: REQUIREMENT TO REPORT INFORMATION ON CERTAIN CIVIL, CRIMINAL, AND ADMINISTRATIVE PROCEEDINGS TO SAM AND FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

30. RECLASSIFICATION OF VARIOUS STATUTORY PROVISIONS TO A NEW TITLE 34 OF THE UNITED STATES CODE

As applicable. On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

31. REPORTING

Grantees will submit quarterly reports on SFY 2022 Victim/Witness Assistance Grant activities via InfoNet. Grantees must collect and maintain data that measure the performance and effectiveness of work done under this grant.

If providing direct services or outreach, the Grantee shall submit data quarterly in the InfoNet data collection system, relative to the provision of SFY 2022 Victim/Witness Assistance Grant services. Report data will be due in InfoNet no later than the fifteenth day following the end of each quarter.

The Grantee shall submit non-personally identifying demographic, service and compliance data required by state funding sources in the InfoNet data collection system. The Grantee shall maintain documentation and records that support the data reported in InfoNet.

The Grantee shall establish and maintain written procedures for the security of InfoNet use at its site. Procedures shall include:

- Only authorized staff are provided access to the InfoNet data and files;
- Staff are informed of the need for security and confidentiality of data and files maintained in or available through the InfoNet system; and
- That the Grantee shall notify the Department Program Coordinator for this grant when an employee is no longer authorized to access the InfoNet system.

This information on the activities supported by the grant funding will assist in assessing the effects that the VOCA Victim Assistance funds have had on services to crime victims within the jurisdiction.

32. REPORTING POTENTIAL FRAUD, WASTE, AND ABUSE, AND SIMILAR MISCONDUCT

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.

33. REQUIREMENTS OF THE AWARD; REMEDIES FOR NON-COMPLIANCE OR FOR MATERIALLY FALSE STATEMENTS

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

34. REQUIREMENTS PERTAINING TO PROHIBITED CONDUCT RELATED TO TRAFFICKING IN PERSONS (INCLUDING REPORTING REQUIREMENTS AND OJP AUTHORITY TO TERMINATE AWARD)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

35. REQUIRED TRAINING FOR POINT OF CONTACT AND ALL FINANCIAL POINTS OF CONTACT

As applicable. The State Administering Agency (COMMERCE) fulfills the requirements in this section. Grantees should not anticipate completing the OJP financial management and grant administration training.

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2017, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2017, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

36. REQUIREMENTS RELATED TO "DE MINIMIS" INDIRECT COST RATE

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

As applicable. A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

Recipient requirement to notify OJP is for COMMERCE. Grantees must work with their COMMERCE grant manager regarding requirements related to "de minimis" indirect cost rate.

37. REQUIREMENT FOR DATA ON PERFORMANCE AND EFFECTIVENESS UNDER THE AWARD

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award.

The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

Grantees report data to their COMMERCE grant manager at susanne.guinn@commerce.wa.gov. See "Reporting" Special Term and Condition. COMMERCE will report this data to OJP.

38. REQUIREMENTS RELATED TO SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

39. REQUIREMENT TO DISCLOSE WHETHER RECIPIENT IS DESIGNATED "HIGH RISK" BY A FEDERAL GRANT-MAKING AGENCY OUTSIDE OF DOJ

As applicable. If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

40. REQUIREMENT TO REPORT POTENTIALLY DUPLICATIVE FUNDING

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

As applicable. If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly contact their COMMERCE grant manager at susanne.guinn@commerce.wa.gov.

COMMERCE must notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

41. REQUIREMENT TO REPORT ACTUAL OR IMMINENT BREACH OF PERSONALLY IDENTIFIABLE INFORMATION (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient)-- 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or 2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach. Grantees reports this information to COMMERCE, COMMERCE reports to OJP.

42. RESTRICTIONS ON "LOBBYING"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a Grantee (or Subgrantee) would or might fall within the scope of these prohibitions, the Grantee is to contact COMMERCE for guidance, and may not proceed without the express prior written approval of COMMERCE.

43. RESTRICTIONS AND CERTIFICATIONS REGARDING NON-DISCLOSURE AGREEMENTS AND RELATED MATTERS

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information),

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--
 - a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both—
 - a. it represents that—
 - i. it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - ii. it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
 - b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

44. SPECIFIC POST-AWARD APPROVAL REQUIRED TO USE A NONCOMPETITIVE APPROACH IN ANY PROCUREMENT CONTRACT THAT WOULD EXCEED \$250,000

As applicable. The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.

45. 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

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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.

46. UNREASONABLE RESTRICTIONS ON COMPETITION UNDER THE AWARD; ASSOCIATION WITH FEDERAL GOVERNMENT

As applicable. SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

47. VOCA FUNDS

As applicable. The Victims of Crime Act (VOCA) of 1984 states that VOCA funds are available during the federal fiscal year of the award, plus the following three fiscal years. At the end of this period, VOCA funds will be deobligated. OVC has no discretion to permit extensions beyond the statutory period. (E.g., VOCA funds awarded in FY 2017, are available until the end of FY 2020).

COMMERCE manages this funding period requirement, Grantees must adhere to the grant period on the Grant Face Sheet.

48. VOCA REQUIREMENTS

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

As applicable. The recipient assures that the State and its subrecipients will comply with the conditions of the Victims of Crime Act (VOCA) of 1984, sections 1404(a)(2), and 1404(b)(1) and (2), 34 U.S.C. 20103(a)(2) and (b)(1) and (2) (and the applicable program guidelines and regulations), as required. Specifically, the State certifies that funds under this award will:

- a) be awarded only to eligible victim assistance organizations, 34 U.S.C. 20103(a)(2);
- b) not be used to supplant State and local public funds that would otherwise be available for crime victim assistance, 34 U.S.C. 20103(a)(2); and
- c) be allocated in accordance with program guidelines or regulations implementing 34 U.S.C. 20103(a)(2)(A) and 34 U.S.C. 20103(a)(2)(B) to, at a minimum, assist victims in the following categories: sexual assault, child abuse, domestic violence, and underserved victims of violent crimes as identified by the State.

49. ORDER OF PRECEDENCE

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

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C – Equal Employment Opportunity Plan Certification
- Attachment D - Victims of Crime Act (VOCA) Program Rule
- SFY 2022 Victim/Witness Assistance Grant Application for Funding as submitted and approved by COMMERCE

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

1. DEFINITIONS

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

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of Commerce.
- C. "Grant" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any 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. "Modified Total Direct Costs (MTDC)" shall mean all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.
- F. "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.
- G. "State" shall mean the state of Washington.
- H. "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.
- I. "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.
- J. "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.

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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.

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. AUDIT

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

- A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
- B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

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

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

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION—PRIMARY AND LOWER TIER COVERED TRANSACTIONS

- A. Grantee, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
 - 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - 2. Have not within a three-year period preceding this Grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
 4. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.
- C. The Grantee agrees by signing this Grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.
- D. The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- a) The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - b) Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such contractor shall attach an explanation to this Grant.
- E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

11. 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

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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.

12. 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 Grantee 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 program subject to this Agreement including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding and/or 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 grant 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 grant.

13. COPYRIGHT PROVISIONS

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.

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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.

14. 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.

15. 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.

16. 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.

17. 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 attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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.

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.

18. 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.

19. INDIRECT COSTS

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

20. 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.

21. 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.

22. 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.

23. LIMITATION OF AUTHORITY

Only the Authorized Representative or the 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 Agent

24. 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

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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.

25. 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 Contractor is not in compliance with this provision.

26. POLITICAL ACTIVITIES

Political activity of Grantee's 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.

27. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

A Grantee which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with 2 CFR Part 200, for all purchases funded by this Grant.

A Grantee which is a nonprofit organization shall establish procurement policies in accordance with 2 CFR Part 200, for all purchases funded by this Contract.

The Grantee's procurement system should include at least the following:

- A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

C. Minimum procedural requirements, as follows:

- i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
- ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
- iii. Positive efforts shall be made to use small and minority-owned businesses.
- iv. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Contractor, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
- v. Contracts shall be made only with reasonable subgrantees/subcontractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
- vi. Some form of price or cost analysis should be performed in connection with every procurement action.
- vii. Procurement records and files for purchases shall include all of the following:
 - 1) Contractor selection or rejection.
 - 2) The basis for the cost or price.
 - 3) Justification for lack of competitive bids if offers are not obtained.
- viii. A system for contract administration to ensure Contractor conformance with terms, conditions and specifications of this Contract, and to ensure adequate and timely follow-up of all purchases.

D. Contractor and Subgrantee/subcontractor must receive prior approval from COMMERCE for using funds from this Contract to enter into a sole source contract or a contract where only one bid or proposal is received when value of this Contract is expected to exceed \$5,000.

Prior approval requests shall include a copy of proposed contracts and any related procurement documents and justification for non-competitive procurement, if applicable.

28. 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.

29. 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.

30. RECORDS MAINTENANCE

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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.

31. REGISTRATION WITH DEPARTMENT OF REVENUE

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

32. 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.

33. 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 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.

34. SEVERABILITY

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.

35. 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.

36. 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

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

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:

1. Stop work under the Grant on the date, and to the extent specified, in the notice;
2. 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;
3. 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;
4. 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;
5. 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;
6. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
7. 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.

42. 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 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.

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS**

- 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.

43. 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
SFY 2022 Victim/Witness Assistance Grant
07/01/2021 through 06/30/2022

Clallam County Prosecuting Attorney's Office shall furnish goods and services necessary to accomplish the activities under the SFY 2022 Victim/Witness Assistance Grant grant funding during the grant period.

This Grant is not a benefit or entitlement to the Grantee. It is not to be used to acquire property or services for the federal government's direct benefit. The principle purpose of this Grant is to provide funding for Clallam County Prosecuting Attorney's Office to accomplish a public purpose.

Funding from this Grant must be used to support the services outlined and approved in the SFY 2022 Victim/Witness Assistance Grant funding application.

DATA REQUIREMENTS

Grantees will submit quarterly reports on SFY 2022 Victim/Witness Assistance Grant activities to their grant manager.

Report data will be due in InfoNet no later than the fifteenth day following the end of each quarter.

DELIVERABLES

1. Reports – As described in Special Terms and Conditions
2. Audit – If required, audit must be received no later than nine (9) months after the end of the Grantee's fiscal year
3. Vouchers – Must be submitted at least quarterly

PERFORMANCE MEASURES

Provision of the deliverables listed above will be measured using the following performance measures:

1. 90% of required reports will be submitted on time
2. 100% of required audits will be completed on time

BUDGET

Budget	Total
Salaries	\$43,680.00
Benefits	\$18,550.00
Goods and Services	\$0.00
Indirect	\$0.00
Total	\$62,230.00

Transfer of funds between line item budget categories must be approved by the Office of Crime Victims Advocacy (OCVA) program staff. A cumulative amount of these transfers exceeding ten (10) percent of the total program budget shall be subject to justification and negotiation between the Grantee and OCVA, including approval from the Grantee's signature authority and the relevant OCVA Section Manager.

Travel expenses incurred or paid by Grantee shall be reimbursed at a rate not to exceed the current state rate and in accordance with the State of Washington Office of Financial Management Travel Regulations. Current rates for travel may be accessed at <https://ofm.wa.gov/sites/default/files/public/resources/travel/colormap.pdf>.

Any purchase over \$5,000 must be pre-approved by COMMERCE.

CERTIFICATION FORM**Compliance with the Equal Employment Opportunity Plan (EEOP) Requirements**

Please read carefully the Instructions (see below) and then complete Section A or Section B or Section C, not all three.

Recipient's Name: Clallam, County Of

Address: 223 E 4TH ST STE 3 PORT ANGELES, WA 98362

Is **agency** a ☐ Direct or ☒ Sub recipient of OJP, OVW or COPS funding?

Law Enforcement Agency? ☐ Yes ☒ No

DUNS Number: 075739235

Vendor Number (only if direct recipient): N/A

Name and Title of Contact Person: Christi Wojnowski, Manager of Administration & Support

Telephone Number: (360) 417 2297

E Mail Address: cwojnowski@co.clallam.wa.us

Section A—Declaration Claiming Complete Exemption from the EEOP Requirement

Please check all the following boxes that apply:

☐ Less than fifty employees.

☐ Indian tribe

☐ Medical Institution.

☐ Nonprofit Organization.

☐ Educational Institution.

☐ Receiving an award less than \$25,000

I, _____ [responsible official], certify that [recipient] is not required to prepare an EEOP for the reason(s) checked above, pursuant to 28 C.F.R. § 42.302.

I further certify that _____ [recipient] will comply with all applicable federal civil rights laws that prohibit discrimination in employment and in the delivery of services.

Print or Type Name and Title

Signature

Date

Section B—Declaration Claiming Exemption from EEOP Submission Requirement and Certifying That an EEOP Is on File for Review

If a recipient has fifty or more employees and is receiving a single award or, subaward of \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEOP to the OCR for review as long as it certifies the following (42 C.F.R. § 42.305):

I, Tammy Sullenger [responsible official],
certify that Clallam County [recipient]

Which has fifty or more employees and is receiving a single award for \$25,000 or more, but less than \$500,000, has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E. I further certify that within the last twenty-four months, the proper authority has formulated and signed into effect the EEOP and, as required by applicable federal law, it is available for review by the public, employees, the appropriate state planning agency, and the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice. The EEOP is on file at the following office:

Clallam County

[organization].

223 E 4th Street, Suite 16, Port Angeles, WA 98362

[address].

Tammy Sullenger, HR Analyst Tammy Sullenger 8/4/2024
Print or Type Name and Title Signature Date

Section C—Declaration Stating that an EEOP Short Form Has Been Submitted to the Office for Civil Rights for Review

If a recipient agency has fifty or more employees and is receiving a single award or subaward of \$500,000 or more, then the recipient agency must send an EEOP Short Form to the OCR for review.

_____ [responsible official].

certify that _____

_____ [recipient].

which has fifty or more employees and is receiving a single award of \$500,000 or more, has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E, and sent it for review on _____

_____ [date] to the

Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.

Print or Type Name and Title

Signature

Date

Certification of Federal Award Requirements

Funding for this grant is comprised of Federal Victims of Crime Act (VOCA) funds. Applicants must meet the following conditions in order to receive grant funding:

1. Data Universal Numbering System (DUNS)

In general, the Office of Management and Budget requires that all applicants (other than individuals) for federal funds include a DUNS number in their application for a new award or a supplement to an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and differentiating entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Call Dun and Bradstreet at 866-705-5711 to obtain a DUNS number or apply online at www.dnb.com. A DUNS number is usually received within 1-2 business days.

Agency's federal DUNS Number:	075739235
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2. System for Award Management (SAM) Registration

The applicant organization must acquire or renew registration with the System for Award Management (SAM). SAM is the repository for standard information about federal financial assistance applicants, recipients, and subrecipients. OJP requires that all applicants (other than individuals) for federal financial assistance maintain current registrations in the SAM database. Applicants must update or renew their SAM registration annually to maintain an active status. Information about SAM registration procedures can be accessed at www.sam.gov.

Applicant is certifying registration in the System for Award Management (SAM) is complete and up to date.

3. Audit Requirements

Federal Grant Funds Subrecipients expending \$750,000 or more in federal grant funds annually are required to secure an audit pursuant to OMB Uniform Guidance 2 CFR Part 200, Subpart F and are allowed to utilize federal grant funds to budget for the audit costs. See Section 8000 of the Subrecipient Handbook for more detail.

Applicant is certifying it will comply with this audit requirement.

4. Executive Compensation Data

In certain circumstances recipients of federal funds must report the names and total compensation of their five most highly compensated executives. Answer the following questions to determine if you have to submit this information.

In the agency's preceding fiscal year, did the organization

- a) receive 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements:
Yes or No? Respond in text box below:

No

- b) and \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?:
Yes or No? Respond in text box below:

No

If you answered "yes" to both 4.a) and 4.b), please provide the names/compensation of five (5) most highly compensated executives of the recipient of award funds:

1.
2.
3.
4.
5.

5. Internal Revenue Service (IRS) 501(c)(3) Determination Letter

VOCA funding requires that nonprofit organizations verify their nonprofit status by providing a copy of their Internal Revenue Service (IRS) 501(c)(3) determination letter. A nonprofit organization is as described in section 501 (c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code. See 42 U.S.C § 13925(b)(16)(B).

Unless submitted previously, nonprofit organizations applying for funding must submit a copy of Internal Revenue Service to OCVA with this application.

6. Computer Networks

The applicant understands and agrees that it cannot use VOCA Grant funds to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

7. Non-Supplanting Certification

The applicant understands and agrees that no VOCA Grant funds will be used to supplant existing state, local, or other non-federal funding already in place to support current services. VOCA Grant funds will be used to increase the total amount of funds used for crime victim assistance. Violation of the non-supplanting requirement can result in a range of penalties, including suspension of future funds under this grant, recoupment of monies provided under this grant, and civil and/or criminal penalties.

8. ADA Requirement (FOR NON-TRIBAL GRANTEE ONLY)

Does the location where services are primarily provided comply with ADA requirements for accessibility?

Yes or No? Respond in text box below. If no, provide information on how this is addressed:

Yes

By signing this document below, the applicant certifies that that agency is qualified to receive the funds. As the duly authorized representative of the applicant, I hereby acknowledge that the applicant will comply with the above requirements. This acknowledgement shall be treated as a material representation of fact upon which the Department of Commerce, Office of Crime Victims Advocacy will rely if a grant is issued.

Christi Wojnowski
Signature

8/3/2021
Date

Christi Wojnowski Manager of Administration & Support
Typed Name and Title of Authorized Representative

Civil Rights Certifications

The applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, requirements, and any conditions of the recipient's grant. If a grant is made, the grantee and subgrantees, if any, will be subject to statutory prohibitions on discrimination.

1. Discrimination on the Basis of National Origin – Limited English Proficient (LEP) Individuals

To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, applicants must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to services and legal protections. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Assistance in understanding grant recipient's obligations under the law may be found in the Department of Justice's *Guidance to Federal Financial Assistance Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons* (LEP Guidance), which can be found at 67 Fed. Reg. 41455 (June 18, 2002). Additional assistance regarding LEP obligations and information may be found at www.lep.gov.

2. Federal Non-Discrimination Requirements

The applicant will comply with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control Act and Safe Streets Act of 1968 (42 U.S.C. § 3789d);
- the Victims of Crime Act (42 U.S.C. § 10604(e));
- the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b));
- the Civil Rights Act of 1964 (42 U.S.C. § 2000(d));
- the Rehabilitation Act of 1973 (29 U.S.C. § 794);
- the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34);
- the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86);
- the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07);
- 28 C.F.R. Part 42 (U.S. Department of Justice Regulations – Nondiscrimination, Equal Employment Opportunity, Policies and Procedures);
- Executive Order 13279 (equal protection of the law for-faith based and community organizations); and
- 28 C.F.R. Part 38 ((U.S. Department of Justice Regulations – Equal Treatment for Faith Based Organizations).

The applicant shall further comply with federal law prohibiting grant recipients from retaliating against individuals taking action or participating in action to secure rights protected by federal law.

3. Civil Rights Provision - Prohibition of Discrimination for Recipients of Federal Funds

The applicant assures compliance of all applicable nondiscrimination requirements of the Victims of Crime Act. No person in any state shall, on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity receiving federal financial assistance, pursuant to the following statutes and regulations: Section 809(c), Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789d, and Department of Justice Nondiscrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Subtitle A, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq. and Department of Justice regulations on disability

discrimination, 28 CFR Part 35 and Part 39; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681-1683; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, et seq.

4. Federal Civil Rights Training

Recipients of financial assistance from the Department of Justice, such as Victims of Crime Act (VOCA) funds, either awarded directly or through another recipient, must comply with the federal statutes and regulations that prohibit discrimination based on race, color, national origin, sex, religion, age, and disability in VOCA-funded programs or activities.

As part of its training efforts, the Office for Civil Rights at the Office of Justice Programs has developed an online civil rights training curriculum for recipients. This training, which consists of six segments and accompanying self-tests, is designed to provide recipients with an overview of applicable nondiscrimination laws and the general civil rights obligations that are tied to grants awarded by the Department of Justice. The OCR offers this online version of its training program to ensure that recipients who are unable to participate in an in-person training session can still receive valuable technical assistance.

All six Civil Rights training programs are available at <http://ojp.gov/about/ocr/ocr-training-videos/video-ocr-training.htm>

The recipient must view the online training at least once every two years. By signing this certification, the applicant acknowledges the viewing of OJP Civil Rights Non-Discrimination training.

5. Notification of Findings of Discrimination or Non-Compliance

In the event a state or federal court or a state or federal administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, age, disability, or sex against the Grantee or a program partner or participant receiving grant funds, the Grantee will forward a copy of the finding to the U.S. Department of Justice, Office of Justice Programs, Office of Civil Rights (OCR), and the Department of Commerce (COMMERCE).

The Grantee shall include a statement clearly stating whether or not the finding is related to any grant activity supported with a grant in which U.S. Department of Justice funds are involved, and identify all open grants utilizing U.S. Department of Justice funding by grant number and program title.

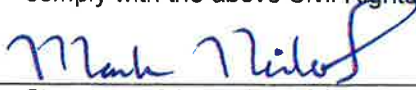
6. Equal Employment Opportunity Program (EEOP)

The Grantee will determine whether it is required to formulate an Equal Employment Opportunity Program (EEOP), in accordance with 28 C.F.R. 42.301 et. seq. If the Grantee is not required to formulate an EEOP, it will submit a certificate form to the Washington State Department of Commerce (COMMERCE) indicating that it is not required to develop an EEOP. If the Grantee is required to develop an EEOP but not required to submit the EEOP to the OCR, the Grantee will submit a certification to COMMERCE certifying that it has an EEOP on file which meets the applicable requirements. If the Grantee is awarded a grant of \$500,000 or more and has 50 or more employees, it will submit a copy of its EEOP to the OCR and COMMERCE. Non-profit organizations, federally recognized Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to COMMERCE to claim the exemption. Information about civil rights obligations of Grantees can be found at <http://www.ojp.usdoj.gov/ocr/>.

7. Grantee Duty to Ensure Subcontractor Compliance

The Grantee is required to ensure compliance with these requirements by any program partner or participant receiving funding under this grant.

As the duly authorized representative of the grantee, I hereby certify that the Grantee will comply with the above Civil Rights requirements specified in this Certification



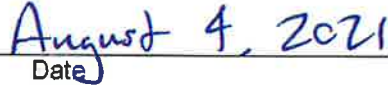
Signature of Authorized Official

Prosecuting Attorney

Title of Authorized Official

Clallam County Prosecuting Attorney's
Office

Name of Agency



Date

Jillian Munger Victim Witness Coordinator

Name and Title of Person who completed OJP Civil Rights Non-Discrimination Training (see #4)

10/1/2019

Most Recent Date Online Training was completed

Recipients must view the online training at a minimum of every two years for the duration
VOCA funding is received.

Certification Regarding Debarment, Suspension, Ineligibility, And Voluntary Exclusion

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Christi Wojnowski Manager of Administration & Support

Name and Title of Authorized Representative

Christi Wojnowski

Signature

8/3/2021

Date

Clallam County Prosecuting Attorney's Office

Name of Organization

223 E 4TH ST STE 3 PORT ANGELES WA 98362

Address of Organization

CERTIFICATION REGARDING DUNS AND COMPLIANCE IN REGISTERING
(Sub-Recipient)

I certify that Clallam County Prosecuting Attorney's Office has DUNS# 075739235.

And I agree to comply with registration in the System for Award Management (SAM).

Christi Wojnowski Manager of Administration & Support

Name and Title of Authorized Representative

Christi Wojnowski

Signature

8/3/2021

Date

Clallam County Prosecuting Attorney's Office

Name of Organization

223 E 4TH ST STE 3 PORT ANGELES WA 98362

Address of Organization

Certification Regarding Lobbying

Each person shall file the most current edition of this certification and disclosure form, if applicable, with each submission that initiates agency consideration of such person for an award of a federal contract, grant, or cooperative agreement of \$100,000 or more; or Federal loan of \$150,000 or more.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 or not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that;

- A. No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- B. If any non-Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall initial here _____ and complete and submit "Disclosure of Lobbying Activities", in accordance with its instructions. OCVA will provide this form, if needed.
- C. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers and that all sub-recipients shall certify and disclose accordingly.

Christi Wojnowski Manager of Administration & Support

Name and Title of Authorized Representative

Christi Wojnowski

Signature

8/3/2021

Date

Clallam County Prosecuting Attorney's Office

Name of Organization

223 E 4TH ST STE 3 PORT ANGELES WA 98362

Address of Organization

Certification of Suitability to Interact with Participating Minors

To assist OCVA in monitoring new grant requirements for federal funds, please complete this form to certify that your organization has completed the required background checks for all covered individuals that interact with any minor in the course of activities under your grant (employees paid by the grant, volunteers used as match under the grant, and volunteers supporting grant-covered activities).

Grantees are required to have documentation that the search was conducted, and this should be maintained in accordance with your document retention policies.

Grantee Name: Clallam County Prosecuting Attorney's Office

Grant Number: 22-31101-504

For full list of requirements, Click [Here](#) | [OCVA FAQ is here](#)

Background checks must include:

- Public sex offender and child abuse websites/registries
- Criminal history registries and similar repositories of criminal history records
- An eligible fingerprint search/background check has been completed

If the applicant determines that no minors will be served by staff being directly charged or staff/volunteers used as match for this federally funded grant, the search is not required.

Applicant hereby certifies that the recipient (and any subrecipients) have complied with the above regulations, as applicable.

Signature of Authorized Official



Printed Name of Authorized Official Mark Nichols Prosecuting Attorney

Date

August 4, 2021

Request for Volunteer Requirement Waiver

Current VOCA program guidelines requires that grant recipients must use volunteers as a condition of receiving funds unless the state administrator determines there is a compelling reason to waive this requirement. A "compelling reason" may be a statutory or contractual provision concerning liability or confidentiality of counselor/victim information, which bars using volunteers for certain positions, or the inability to recruit and maintain volunteers after a sustained and aggressive effort.

If an applicant requests a waiver of the volunteer requirement, the section below must be completed providing a compelling reason why the use of volunteers is not feasible for the agency.

I am requesting a waiver for the use of volunteers for my VOCA project/program.

Yes or No? Respond in text box below:

Yes

If you are requesting a volunteer waiver, provide detailed explanation for your request in the following section. Waivers may only be requested in the following situations:

1. In the case of statutory or contractual provisions that prohibits the use of volunteers. (Attach a copy of the applicable statute or contract.)
2. In the case of a lack of volunteers. If you list this as a reason for the waiver request, you must document the efforts made to recruit volunteers.

Our agency is requesting a waiver for the following reason/s:

The volunteer requirement would place an undue burden on our program due to:

- *Lack of staff time to screen, interview, and train volunteers.
- *Lack of staff time to supervise volunteers.
- *Limited volunteer opportunities within the Clallam County Prosecuting Attorney's Office due to:
 - *High caseloads,
 - *Limited staff time to guide and supervise volunteers,
 - *Costs due to on-line systems of cases that would require offices to secure a workspace and purchase a license and computer for volunteers.

Subgrant Award Report (SAR)

Complete the information below, this will be used by OCVA to complete the federal Subgrant Award Report (SAR) which collects basic information on subgrant recipients and program activities that will be implemented with VOCA plus match funds.

How to video is here: <https://vimeo.com/365156967>

1. Organization Name: **Attorney's Office** **Clallam County Prosecuting**
2. VOCA Crime Victim Assistance Funds Awarded in this grant: **\$21131.00**
3. Sub-Grant Number (number assigned to your contract): **22-31101-504**

4. Budget and Staffing

Indicate below the requested information based on the subrecipient's current fiscal year. Report the total budget available to the victim services program, by source of funding. Do not report the entire agency budget, unless the entire budget is devoted to victim services programs. For example, if VOCA funds are awarded to support a victim advocate unit in a prosecutor's office, only report the budget for the victim advocate unit.

Information Requested	Response	Explanation (as required)
A. Total budget for all victimization programs and services.	\$ 214,770	<i>The amount reported is for the current fiscal year. Include the subaward amount for this contract/grant..</i>
B. Annual funding amounts allocated to all victimization programs and/or services for the current fiscal year.	State funds:\$41,099 Local funds:\$136,123 Other federal funds:\$16,417 Other non-federal:\$	<i>Identify by source the amount of funds allocated to the victimization programs/services budget of the subgrantee agency.</i> DO NOT COUNT FUNDS IN MORE THAN ONE CATEGORY <i>OTHER FEDERAL includes all federal funding except the subaward amount reported in Question 2.</i>
C. Total <u>number of paid staff</u> for all subgrantee victimization program and/or services	Total Paid Staff: 2 <i>Enter Whole Number</i>	Count each staff member once. Both full and part time staff should be counted as one staff member. DO NOT prorate based on FTE.
D. Number of <u>staff hours</u> funded through this VOCA award (plus match) for subgrantee's victimization programs and/or services	Number of Hours: 1560	<i>Total COUNT of hours to work by all staff supporting the work of this VOCA subaward plus match.</i>
E. Number of <u>volunteer staff</u> supporting the work of this VOCA award (plus match) for subgrantee's victimization programs and/or services	Volunteer Staff <i>Enter Whole Number</i>	<i>COUNT each volunteer staff once. DO NOT prorate based on FTE.</i>
F. Number of <u>volunteer hours</u> supporting the work of this VOCA award (plus match) for subgrantee's victimization programs	Number of Hours	<i>Total count of hours to work by all volunteers supporting the work of this VOCA subaward plus match.</i>



AGENDA ITEM SUMMARY

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

6
8/9/21

Department: Parks, Fair & Facilities

WORK SESSION ☒ **Meeting Date:** 08.09.2021

REGULAR AGENDA ☒ **Meeting Date:** 08.17.2021

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 | ☒ Notice of Call For Bids |

Documents exempt from public disclosure attached: ☐

Executive summary:

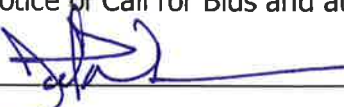
This is a Notice of Call for Bids for the Carpet Replacement in Superior Court II Courtroom and Hallway Project.

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. 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 approve the attached Notice of Call for Bids 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: Superior Court II/Parks, Fair & Facilities

Date submitted: 07.23.2021

* 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)

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 REPLACEMENT
-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:**

ATTEST:

Mark Ozias, Chair

Loni Gores, Clerk of the Board

Publish: **August 22 & 29, 2021 (PDN)**

END OF SECTION 00100

Bill: Parks, Fair & Facilities



AGENDA ITEM SUMMARY

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

7
8/9/21

Department: Health and Human Services

WORK SESSION ☒ **Meeting Date:** August 9, 2021

REGULAR AGENDA ☒ **Meeting Date:** August 17, 2021

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

Item summary:

- | | | |
|---|--|--------------------------------------|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # 11301-18-CONCON, Amendment #22 | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

Attached is Consolidated Contract Amendment #22 between Department of Health and Clallam County Health and Human Services, which adds supplemental funding to the HHS 2021 budget for the following:

- Shellfish program to provide testing and sampling of recreational shellfish areas, in the amount of \$4,000.
- Group A water system testing, in the amount of \$4,000.
- Mosquito trapping to test for the West Nile Virus, in the amount of \$3,000.

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 LoPiccolo

Name of Employee/Stakeholder attending meeting: Kevin LoPiccolo

Relevant Departments: Health and Human Services

Date submitted: August 4, 2021

* Work Session Meeting - Submit 1 single sided/not stapled copy 11301-18-CONCON, Amendment #22 Agenda Item Summary
** Regular Meeting - Submit 1 single sided/not stapled copy and originals (1 or 3 copies) Revised: 3-04-2019

**CLALLAM COUNTY HEALTH & HUMAN SERVICES
2018 – 2021 CONSOLIDATED CONTRACT**

CONTRACT NUMBER: CLH18239

AMENDMENT NUMBER: 22

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:
 - Recreational Shellfish Activities - Effective July 1, 2021
 - Zoonotic Disease Program-WNV Mosquito Surveillance - Effective July 1, 2021
- ☒ Amends Statements of Work for the following programs:
 - COVID-19 Coordinated Response - Effective July 1, 2020
 - Emergency Preparedness & Response COVID-19 Local CARES - Effective March 1, 2020
 - Office of Drinking Water Group A Program - Effective January 1, 2018
 - Recreational Shellfish Activities - Effective July 1, 2019
- ☐ Deletes Statements of Work for the following programs:

2. Exhibit B-22 Allocations, attached and incorporated by this reference, amends and replaces Exhibit B-21 Allocations as follows:

- ☒ Increase of \$11,000 for a revised maximum consideration of \$7,291,448.
- ☐ 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-21 Schedule of Federal Awards, attached and incorporated by this reference, amends and replaces Exhibit C-20.

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

STATE OF WASHINGTON
DEPARTMENT OF HEALTH

Date

Date

APPROVED AS TO FORM ONLY
Assistant Attorney General

**2018-2021 CONSOLIDATED CONTRACT
EXHIBIT A
STATEMENTS OF WORK
TABLE OF CONTENTS**

DOH Program Name or Title: COVID-19 Coordinated Response - Effective July 1, 2020.....	3
DOH Program Name or Title: Emergency Preparedness & Response COVID-19 Local CARES - Effective March 1 2020	16
DOH Program Name or Title: Office of Drinking Water Group A Program - Effective January 1, 2018	19
DOH Program Name or Title: Recreational Shellfish Activities - Effective July 1, 2019.....	24
DOH Program Name or Title: Recreational Shellfish Activities - Effective July 1, 2021	26
DOH Program Name or Title: Zoonotic Disease Program—WNV Mosquito Surveillance - Effective June 1, 2021	28

**Exhibit A
Statement of Work
Contract Term: 2018-2021**

DOH Program Name or Title: COVID-19 Coordinated Response - Effective July 1, 2020

Local Health Jurisdiction Name: Clallam County Health & Human Services

Contract Number: CLH18239

SOW Type: Revision **Revision # (for this SOW)** 3

Period of Performance: July 1, 2020 through December 31, 2021

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

Statement of Work Purpose: The purpose of this statement of work is to provide supplemental funding for the LHJ to ensure adequate culturally and linguistically responsive testing, investigation and contact tracing resources to limit the spread of COVID-19

NOTE: Pending execution of a new consolidated contract term or an extension to the 2018-2021 consolidated contracts which currently end December 31, 2021, DOH plans to continue the task activities and funding as noted in the task(s) below in a new or revised statement of work effective January 1, 2022.

Revision Purpose: The purpose of this revision is to revise deliverable due dates, correct the BARS Revenue Code, move a portion of the funding to COVID-19 VACCINES, add a link for allowable activities under Program Specific Requirements, and update DOH Program Contact information for COVID-19 Vaccine Services-Task 3; update DOH Fiscal Contact information and add special language for DCHS COVID-19 Response-Task 1 and 2; and extend the funding period from April 20, 2021 to July 20, 2021 for MASS VACCINATION FEMA 100%-Task 4. This revision also includes a task funding guide for all tasks under Program Specific Requirements.

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding Period (LHJ Use Only)	Current Consideration	Change None	Total Consideration
BITV-COVID ED LHJ ALLOCATION-CARES	21.019	333.21.01	1897129V	07/01/20 12/31/21	411,368	0	411,368
FEMA-75 COVID LHJ ALLOCATION	97.036	333.97.03	1897129W	07/01/20 12/30/20	0	0	0
FFY21 COVID19 VACCINE SERVICES-CARES	93.268	333.93.26	74310209	07/01/20 12/31/21	369,385	-354,803	14,582
FFY20 ELC EDE LHJ ALLOCATION	93.323	333.93.32	1987120D	01/15/21 12/30/21	782,083	0	782,083
FFY19 ELC COVID ED LHJ ALLOCATION	93.323	333.93.32	1987129G	01/01/21 12/31/21	349,731	0	349,731
*MASS VACCINATION FEMA 100%	97.036	333.97.03	934V0200	01/21/21 07/20/21	0	0	0
COVID 19 VACCINES	93.268	333.93.26	74310229	07/01/20 12/31/21	0	354,803	354,803
TOTALS					1,912,567	0	1,912,567

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	Participate in public health emergency preparedness and response activities for COVID-19. This may include surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications and or other preparedness and response activities for COVID-19.				
	Examples of key activities include:				
	- Incident management for the response - Testing				

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	• Case Investigation/Contact Tracing • Sustainable isolation and quarantine • Care coordination • Surge management • Data reporting <i>Previous funding provided by DOH for COVID response (Federal Crisis Cooperative Agreement funding, state Disaster Recovery Account funding) must be fully utilized before these funds can be accessed. The total state funding consideration is for the period of December 31, 2020 through June 30, 2021.</i> NOTE: The purpose of this agreement is to supplement existing funds for local health jurisdictions to carry out surveillance, epidemiology, case investigations and contact tracing, laboratory capacity, infection control, mitigation, communications, community engagement, and other public health preparedness and response activities for COVID-19. DCHS COVID-19 Response - Tasks 1 and 2 – Unspent ELC funding can be carried forward into new contract term effective January 1, 2022.				
1	Establish a budget plan and narrative to be submitted to the Department of Health (DOH) Contract Manager. DOH will send the "Budget narrative Template", "Budget Guidance" and any other applicable documents that may be identified. DOH does recognize the public health response goes beyond December 2021 and authorizes local health jurisdictions the ability to maximize funding streams available to them by using short term funding first to have longer term funding available to continue to support the local health jurisdiction response activities beyond December 2021 as applicable.		Submit the budget plan and narrative using the template provided.	Within 30 days of receiving any new award for DCHS COVID-19 Response tasks.	Reimbursement of actual costs incurred, not to exceed \$1,240,866 total. \$411,368 BITV-COVID ED LHJ ALLOCATION-CARES Funding (MI 1897129V)
2	1) LHJ Active monitoring activities. In partnership with WA DOH and neighboring Tribes, the LHJ must ensure adequate culturally and linguistically responsive testing, investigation and contact tracing resources to limit the spread disease. LHJs must conduct the following activities in accordance with the guidance to be provided by DOH. a. Allocate enough funding to ensure the following Contact Tracing and Case Investigation Support: Hire a minimum of 1.0 data entry FTE to assure system requirements for task 2.1.a. i. Contact tracing 1. Strive to maintain the capacity to surge a minimum of five (5) contact tracers for every 100,000 people in the jurisdiction, as		Data collected and reported into DOH systems daily. Enter all contact tracing data in CREST following guidance from-DOH.	Enter performance metrics daily into DOH identified systems Quarterly performance reporting updates	\$782,083 FFY20 ELC EDE LHJ ALLOCATION Funding (MI 1897120D) <i>Funding end date 7/31/2023</i> \$349,731 FFY19 ELC COVID ED LHJ ALLOCATION Funding (MI 1897129G) <i>Funding end date 10/18/2022</i>

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	needed, based on disease rates. DOH Have staff that reflect the demographic makeup of the jurisdiction and who can provide culturally and linguistically competent and responsive services. In addition, or alternatively, enter into an agreement(s) with Tribal, community-based and/or culturally-specific organizations to provide such services. DOH centralized investigations will count towards this minimum. 2. Ensure all contact tracing staff are trained in accordance with DOH investigative guidelines and data entry protocols. 3. Coordinate with Tribal partners in conducting contact tracing for Tribal members. 4. Ensure contact tracing and case investigations activities meet DOH case and Contact Tracing Metrics. (Metrics to be determined collaboratively by DOH, LHJs and Tribes.) Work with DOH to develop a corrective action plan if unable to meet metrics. 5. Perform daily monitoring for symptoms during quarantine period of contacts ii. Case investigation 1. Strive to maintain the capacity to surge a minimum of five (5) case investigators and contact tracers for every 100,000 people in the jurisdiction, as needed, based on disease rates. DOH centralized investigation will count toward this minimum. 2. Enter all case investigation and outbreak data in WDRS following DOH guidance. a) Strive to enter all case investigation and outbreak data into <i>CREST</i> as directed by DOH.		Enter all case investigation data in WDRS-following guidance from-DOH.		

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	b) Ensure all staff designated to utilize WDRS have access and are trained in the system. c) Include if new positive cases are tied to a known existing positive case or indicate community spread. d) Conduct case investigation and monitor outbreaks. e) Coordinate with Tribal partners in conducting case investigations for tribal members. 3. Ensure contact tracing and case investigation activities meet DOH Case and Contact Tracing Metrics. (Metrics to be determined collaboratively by DOH, LHJs, and Tribes.) Work with DOH to develop a corrective action plan if unable to meet metrics. b. Testing i. Work with partners and Tribes to ensure testing is available to every person within the jurisdiction meeting current DOH criteria for testing and other local testing needs. ii. Work with partners and Tribes to ensure testing is provided in a culturally and linguistically responsive manner with an emphasis on making testing available to disproportionately impacted communities and as a part of the jurisdiction's contact tracing strategy. iii. Maintain a current list of entities providing COVID-19 testing and at what volume. Provide reports to DOH on testing locations and volume as requested. c. Surveillance FTE support at a minimum of .5 FTE Epidemiologist to support daily reporting needs below. i. Ensure all COVID positive lab test results from LHJ are entered in to WDRS by 1) entering data directly in to WDRS, 2) sending test results to DOH to enter, or 3) working with DOH and		Maintain a current list of entities providing COVID-19 testing and at what volume. Provide reports to DOH Contract manager on testing locations and volume as requested.		

Task Number	Task/Activity/Description	*May Support PIAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	entities conducting tests to implement an electronic method for test result submission. ii. Maintain records of all COVID negative lab test results from the LHJ and enter into WDRS when resources permit or send test results to DOH. iii. Collaborate with Tribes to ensure Tribal entities with appropriate public health authority have read/write access to WDRS and CREST to ensure that all COVID lab results from their jurisdictions are entered in WDRS or shared with the LHJ or DOH for entry. d. Tribal Support. Ensure alignment of contact tracing and support for patients and family by coordinating with local tribes if a patient identified as American Indian/Alaska Native and/or a member of a WA tribe. e. Support Infection Prevention and control for high-risk populations i. Migrant and seasonal farmworker support. Partner with farmers, agriculture sector and farmworker service organizations to develop and execute plans for testing, quarantine and isolation, and social service needs for migrant and seasonal farmworkers. ii. Congregate care facilities: In collaboration with the state licensing agency (DSHS), support infection prevention assessments, testing, infection control and isolation and quarantine protocols in congregate care facilities. iii. High risk businesses or community-based operations. In collaboration with state licensing agencies and Labor and Industries, partner with food processing and manufacturing businesses to ensure adequate practices to prevent COVID-19 exposure, conduct testing and respond to outbreaks. iv. Healthcare. Support infection prevention and control assessments, testing, cohorting, and isolation procedures. Provide educational resources to a variety of healthcare settings.		Quarterly performance updates related to culturally and linguistic competency and responsiveness, tribal support, infection prevention and control for high-risk populations, community education and regional active monitoring activities. Performance update should include status of all projects listed.		

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	types (e.g., nursing homes, hospitals, dental, dialysis). v. Non-healthcare settings that house vulnerable populations: In collaboration with state corrections agency (DOC) and other state partners, support testing, infection control, isolation and quarantine and social services and wraparound supports for individuals living or temporarily residing in congregate living settings, including detention centers, prisons, jails, transition housing, homeless shelters, and other vulnerable populations. vi. Schools: In collaboration with OSPI and local health jurisdictions, support infection prevention and control and outbreak response in K-12 and university school settings. f. Ensure adequate resources are directed towards #28 <i>H2A</i> housing facilities within communities, fishing industries and long-term care facilities to prevent and control disease transmission. Funds can be used to hire support staff, provide incentives or facility-based funding for onsite infection prevention efforts, etc. g. Community education. Work with Tribes and partners to provide culturally and linguistically community outreach and education related to COVID-19. h. Establish sustainable isolation and quarantine measures. i. Have at least one (1) location identified and confirmed through contract/formal agreement that can support isolation and quarantine adequate to the population for your jurisdiction with the ability to expand; alternatively, establish with an adjacent jurisdiction a formal agreement to provide the isolation and quarantine capacity adequate to the population for your jurisdiction with the ability to expand.		Quarterly performance updates to include name, address and capacity of identified location that can support isolation and quarantine, date of exercise to be conducted and confirmation of appropriate planning and coordination as required.		

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	ii. Conduct at least one (1) exercise per year with the identified isolation and quarantine site to include a minimum of: confirmation of wrap around services (food service/delivery, laundry service, water/septic, garbage, ambulance service, cleaning/sanitation), facility intake and discharge procedures, transport procedures, and staffing. iii. Planning must incorporate transfer or receipt of isolation and quarantine patients to from adjacent jurisdictions or state facilities in the event of localized increased need. iv. Planning must incorporate triggers and coordination to request state isolation and quarantine support either through mobile teams or the state facility to include site identification and access), facility intake and discharge procedures, transport procedures, and staffing. v. Planning must incorporate transfer or receipt of isolation and quarantine patients to from adjacent jurisdictions or state facilities in the event of localized increased need. vi. Planning must incorporate triggers and coordination to request state isolation and quarantine support either through mobile teams or the state facility to include site identification and access				
COVID-19 Vaccine Services - Task 3 – will be extended through June 30, 2022 in new contract term effective January 1, 2022. Any unspent funds may be carried forward.					
3.A	Identify activity/activities to support COVID vaccine response in your community, using the examples below as a guideline. Example 1: Develop and implement communication strategies with health care providers, community, and/or other partners to help build vaccine confidence broadly and among groups anticipated to receive early vaccination, as well as dispel vaccine misinformation. Document and provide a plan that shows the communication strategies used with health care providers and other partners and the locally identified population anticipated to reach.		Summary of the engagement strategies to be used with health care providers and other partners, and the locally identified population to be reached.	January 31, Annually	Reimbursement of actual costs incurred, not to exceed: \$14,582 \$369,383 FFY21 COVID19 VACCINE SERVICES-CARES Funding (MI 74310209)

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	Example 2: Engage in other vaccination planning activities such as partnership development, provider education, vaccination point of dispensing (POD) planning, tabletop exercises, engagement with communities, leaders, non-traditional provider, or vulnerable populations to develop strategies to ensure equitable access to vaccination services				S354,803 COVID 19 VACCINES Funding (MI 74310229)
3.B	Implement the communication strategies or other activities, working with health care providers and other partners to reach the locally identified population, support providers in vaccination plans, and support equitable access to vaccination services.		Mid-term written report describing activity/activities and progress made to-date and strategies used (template to be provided)	March 31 June 30, Annually	
3.C	Catalog activities and conduct an evaluation of the strategies used		Final written report, showing the strategies used and the final progress of the reach (template to be provided)	June 30 December 31, Annually	
Regional Incident Management Team (IMT) Mass Vaccination Clinics – Task 4					
	*NOTE: Task 4 activities for Mass Vaccination Clinics in this statement of work are NOT CONSIDERED SUBRECIPIENT but are as a CONTRACTOR of DOH. DOH reimbursement provided for local mass vaccination clinic (see definition below) planning, implementation and operations in coordination between Unified Command and the Regional IMT to administer the vaccine as efficiently, quickly, equitably, and safely in all regions of Washington State. State Supported, Regionally Coordinated, Locally Implemented. Definition: Mass vaccination clinics defined as those outside of the usual healthcare delivery method such as pop-up clinics, mobile clinics, non-clinical facility (fairgrounds, arenas, etc.). Leaders Intent about this work from DOH is included as an attachment. Guidance on vaccination protocols must be followed as provided by DOH and CDC.				*Reimbursement of eligible costs. MASS VACCINATION FEMA 100% Funding (MI 934V0200) (See Program Specific Requirements for Mass Vaccination Task 4 below)

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
4.A	Local health jurisdiction (LHJ) will coordinate planning and implementation of mass vaccination clinics/sites provided within the county(s) with a regional incident management team/organization as approved by DOH. Request for regional IMT should be submitted through the normal process through WebEOC. Local health jurisdiction is the coordinating agency for the mass vaccination plan within the county. Regional IMT will be under the delegation authority of DOH and they are to provide support and coordination for all efforts around vaccine planning, resource support and general guidance and information sharing in order to regionally coordinate efforts. Local jurisdictions will maintain all decisional authority around vaccination planning and execution within their jurisdiction/district. Provide any information as requested by the regional IMT.		Submit to DOH a mass vaccination plan including: • type of site, • site locations, • throughput, • considerations made to ensure equity to historically marginalized populations, • and to the extent possible a regional map of sites/locations.	Within 30 days of contract amendment execution.	
4.B	Funding for eligible Mass Vaccination activities are reimbursed on actual costs as outlined in the DOH guidance to provide the services and to carry out the mission. Funding will be dependent on full participation in the LHJ and IMT processes and all documentation will be required to be provided to fully close out funding requests by the end of the mission period of performance. Allowable costs include expenses such as facility rentals, staff to conduct planning, management, support and operation of the site, medical personnel for vaccinations, site security personnel, wrap around services for staff (meals, travel, lodging), equipment (which must be pre-approved by IMT/DOH if it exceeds \$5,000 each), supplies for vaccinations and site operation. LHJs should provide narratives to help assist IMT and DOH finance know what expenditures were necessary to carry out the mission.		Submit estimated budget for the mass vaccination plan. Monthly Cost Summary Spreadsheet to the IMT/IMO by the fifth of the following month.	Within 30 days of contract amendment execution. Monthly	

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
4.C	Vaccination data – will be maintained according to current state and federal requirements. Vaccine Registration Systems – If a local jurisdiction or region does not have a registration system(s) the include internet based, phone option and other methods to ensure equitable registration, the state PrepMod system and tools will be available for use.		Submission of vaccine use into WA IIS database within 24hrs of use. Jurisdiction/Regions will ensure a fair and equitable process for registration of eligible Washingtonians across all available modalities.	Daily	
4.D	Regularly report on vaccinations sites and operational activities (number of vaccinations, personnel to operate the site, challenges, successes to share for learning across the public health system).		Provide monthly situation report to IMT/IMO on status of implementation of mass vaccination plan, or more frequently if that is the LHJ procedure. Sites operating for the time period, vaccines administered by site for the time period, estimated costs for the time period, any challenges/successes of note, including assistance requested.	Monthly	

***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>

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 Specific Requirements/Narrative

<i>DCHS COVID-19 Response - Tasks 1 and 2</i>	BITT-COVID ED LHJ ALLOCATION-CARES FFY19 ELC COVID ED LHJ ALLOCATION FFY20 ELC EDE LHJ ALLOCATION*
<i>COVID-19 Vaccine Services - Task 3</i>	FFY21 COVID 19 VACCINE SERVICES-CARES COVID 19 VACCINES
<i>Regional Incident Management Team (IMT) Mass Vaccination Clinics – Task 4</i>	MASS VACCINATION FEMA 100%

DCHS COVID-19 Response - Tasks 1 and 2

Restrictions on Funds: Indirects are NOT allowable for CARES funding from September 2, 2020 forward – LHH can charge administrative activities as direct costs but not incur indirects from September 2, 2020 through December 30, 2020 for activities funded with CARES funds (COVID LOCAL CARES - COVID LHH OFM ALLOCATION-CARES, BITV-COVID ED LHH ALLOCATION-CARES, FEMA-75 COVID LHH ALLOCATION)

- o Since the federal guidance was not updated until September 2, 2020, DOH understands that indirects could be charged from March–August 2020.

Payment: Upon approval of deliverables and receipt of an invoice voucher, DOH will reimburse for actual allowable costs incurred. Billings for services on a monthly fraction of the budget will not be accepted or approved.

Submission of Invoice Vouchers: The LHI shall submit correct monthly A19-1A invoice vouchers for amounts billable under this statement of work to DOH by the 25th of the following month or on a frequency no less often than quarterly.

COVID-19 Vaccine Services - Task 3 – allowable activities <https://www.doh.wa.gov/Portals/1/Documents/9240/Allowable%20Opst%20funds.pdf>

Mass Vaccination – Task 4

Program Manual, Handbook, Policy References

Emergency Response Plan (or equivalent)

Medical Countermeasure/Mass Vaccination Plan

Restrictions on Funds (what funds can be used for which activities, not direct payments, etc.):

Non-mass vaccination efforts are not allowable through this funding stream.

Duplication of billing (sending request for reimbursement) to entities outside of this agreement is prohibited.

Indirect rates are not applicable to these funds.

Special References (RCWs, WACs, etc.)

County Health Emergency Documentation if applicable

Monitoring Visits (frequency, type):

Occasional visits from DOH or IMT/IMO personnel for the purpose of monitoring and surveillance of mass vaccination activities may be expected.

AMENDMENT #22

Definitions

Mass vaccination clinic are those outside of the usual healthcare delivery methods such as pop-up clinics, mobile clinics, non-clinical facility clinics (i.e., fairgrounds, arenas, etc.).

Special Billing Requirements:

Monthly invoices must be submitted timely to the regional IMT/Organization for review/approval prior to submission to DOH for reimbursement.

Contract (MI) Code: 934V0200 General Mass Vaccination

BARS Revenue Code: 333.97.03 Mass Vaccination Reimbursement

Special Instructions:

The LHI is considered a CONTRACTOR of DOH not a subrecipient for this portion of the statement of work. An allocation of funds is not provided as these FEMA funds are only available as reimbursement of costs associated with implementation of the mass vaccination plan.

Detailed documentation must be maintained as directed by the regional IMT/Organization and DOH to substantiate costs associated with these activities for submission to FEMA upon request by DOH.

Eligible costs from the timeframe of January 21, 2021 through ~~April 20, 2021~~ July 20, 2021 include facility rentals, medical and support staff for planning, management, support, and operations; as well as wrap-around services for staff (i.e., meals, travel, lodging). Regular and overtime pay associated with this project is allowable for all staff working under this project and must be billed as a direct charge; timesheets are required documentation and must be available upon request by DOH. Indirect rates are not applicable to these funds. Eligible equipment includes facility infection control measures, personal protective equipment (PPE), storage equipment, coolers, freezers, temperature monitoring devices, portable vaccine units for transportation, supplies such as emergency medical supplies (for emergency medical care needs that may arise in the administration of the vaccine), containers for medical waste, as well as proper storage as needed for canisters of liquid nitrogen or dry ice. Eligible equipment purchase costs should not exceed \$5,000 per piece. Equipment over \$5,000 a piece must be preapproved by the IMT and should be leased rather than purchased. Any diversion from the list of pre-approved expenses will require a narrative on the purchase rationale and will be subject to IMT approval prior to reimbursement. Timesheets are required documentation for all activities related to this project. Staff time-in / time-out must be recorded, as well as a brief description of their activities. A general description of activities is acceptable for those working at the vaccine site; more detailed/specific description is required for those not working at the vaccine site.

DOH Program Contact

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DOH BITV-COVID ED LHI Allocation-CARES and DOH ELC Allocation Fiscal Contact (Tasks 1 and 2)

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AMENDMENT #22

DOH COVID19 Vaccine Services Program Contacts (Task 3)

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DOH General Mass Vaccination Program and Fiscal Contact (Task 4)

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**Exhibit A
Statement of Work
Contract Term: 2018-2021**

DOH Program Name or Title: Emergency Preparedness & Response COVID-19 Local CARES - Effective March 1 2020

Local Health Jurisdiction Name: Clallam County Health & Human Services

Contract Number: CLH18239

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

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

Period of Performance: March 1, 2020 through December 31, 2021

Statement of Work Purpose: The purpose of this statement of work is to provide additional funding to supplement existing funds for LHJs to prevent, prepare for, and respond to the COVID-19 disease outbreak.

Revision Purpose: The purpose of this revision is to extend the period of performance from July 31, 2021 to December 31, 2021, extend the end of the funding period from June 30, 2021 to December 31, 2021, and add report (deliverables) due dates.

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding Period (LHJ Use Only) Start Date End Date	Current Consideration	Change None	Total Consideration
COVID LHJ OFM Allocation-CARES	21.019	333.21.01	934E0200	03/01/20 12/31/21	1,520,200	0	1,520,200
TOTALS					1,520,200	0	1,520,200

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
1	Federal Funds Participate in public health emergency preparedness and response activities for COVID-19. This may include surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and or other preparedness and response activities for COVID-19. The CARES Act (Coronavirus Relief Fund) provides that payments from the Fund may only be used to cover costs that: Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19).		Complete Federal Funding Certification (provided by DOH). Activity report(s) on template to be provided DOH.	September 30, 2020 September 30, 2020 October 31, 2020 November 30, 2020 December 31, 2020 January 30, 2021 February 28, 2021 March 31, 2021 April 30, 2021 May 31, 2021 June 30, 2021 July 31, 2021 August 31, 2021	Reimbursement for actual costs not to exceed total funding consideration amount.

	2. Were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and; Were incurred during the period that begins on March 1, 2020 and ends on June 30, 2021 <i>December 31, 2021.</i> The guidance on the Department of the Treasury's interpretation of these limitations on the permissible use of Fund payments can be found at this link: https://home.treasury.gov/policy-issues/care-state-and-local-governments <i>Coronavirus Relief Fund - U.S. Department of the Treasury</i> DOH will provide additional guidance and technical assistance. Note: The purpose of this agreement is to supplement existing funds for local health jurisdictions to carry out surveillance, epidemiology, case investigations and contact tracing, laboratory capacity, infection control, mitigation, communications, community engagement, and other public health preparedness and response activities for COVID-19. Existing funds for COVID-19 public health response activities may not be displaced by these funds and reallocated for other organizational expenses. No funds from this agreement shall be used to supplant existing federal, state or local funds nor any funding allocations or commitments made before August 31, 2020. DOH does recognize the public health response goes beyond December 2020 and authorizes local health jurisdictions the ability to maximize funding streams available to them by using short term funding first to have longer term funding available to continue to support the local health jurisdiction response activities beyond December 2020 as applicable.			<i>September 30, 2021 October 31, 2021 November 30, 2021 December 31, 2021</i> Final Report: <i>July 30, 2021</i> <i>January 31, 2022.</i> <i>This report will reflect costs incurred through December 31, 2021. No billable costs are allowed after December 31, 2021.</i> Frequency and due dates of reports may change based on federal requirements. DOH will notify LHJ of any changes via email. A final activity report is required prior to DOH releasing the final amount of funding.	
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***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

Deliverables are to be submitted to the ConCon deliverables mailbox at concondeliverables@doh.wa.gov

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.

Restrictions on Funds (what funds can be used for which activities, not direct payments, etc)

Please reference the Code of Federal Regulations:

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=58ffddb5363a27f26e9d12cccc462549&ty=HTML&h=L&mc=true&r=PART&n=pt2.1.200#se2.1.200_1439

Allowable Activities -

See information about allowable activities at US Department of the Treasury – ~~CARES Act Provides Assistance for State, Local, and Tribal Governments~~ *Coronavirus Relief Fund*:

<https://home.treasury.gov/policy-issues/cures-state-and-local-governments>
Coronavirus Relief Fund – U.S. Department of the Treasury

DOH Program Contact

Tory Henderson, Contracts & Finance Specialist
Department of Health
P O Box 47960, Olympia, WA 98504-7960
Mobile 360-789-7262/ tory.henderson@doh.wa.gov

AMENDMENT #22

**Exhibit A
Statement of Work
Contract Term: 2018-2021**

DOH Program Name or Title: Office of Drinking Water Group A Program - Effective January 1, 2018

Local Health Jurisdiction Name: Clallam County Health & Human Services

Contract Number: CLH18239

SOW Type: Revision **Revision # (for this SOW)** 8

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

Period of Performance: January 1, 2018 through December 31, 2021

Statement of Work Purpose: The purpose of this statement of work is to provide funding to the LHJ for conducting sanitary surveys and providing technical assistance to small community and non-community Group A water systems.

Revision Purpose: The purpose of this revision is to move unspent funding for Sanitary Survey and Technical Assistance from Yr 22 to Yr 23; to provide additional Sanitary Survey and Technical Assistance funding in Year 23; revise previous Amendment distribution between Yr 23 SS and SS State; revise Special Billing Requirements and Special Instructions.

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding (LHJ Use)	Period Only	Current Consideration	Change Increase (+)	Total Consideration
Yr 20 SRF - Local Asst (15%) (FS) SS	N/A	346.26.64	24139220	01/01/18	12/31/18	0	0	0
Sanitary Survey Fees (FO-SW) SS-State	N/A	346.26.65	24232522	01/01/18	12/31/21	9,400	2,000	11,400
Yr 20 SRF - Local Asst (15%) (FS) TA	N/A	346.26.66	24139220	01/01/18	12/31/18	0	0	0
Yr 21 SRF - Local Asst (15%) (FS) SS	N/A	346.26.64	24139221	01/01/18	06/30/19	4,200	0	4,200
Yr 21 SRF - Local Asst (15%) (FS) TA	N/A	346.26.66	24139221	01/01/18	06/30/19	652	0	652
Yr 22 SRF - Local Asst (15%) (FO-SW) SS	N/A	346.26.64	24239222	01/01/19	12/31/20	5,200	-329	4,871
Yr 22 SRF - Local Asst (15%) (FO-SW) TA	N/A	346.26.66	24239222	01/01/19	12/31/20	2,642	-1,392	1,250
Yr 23 SRF - Local Asst (15%) (FO-SW) SS	N/A	346.26.64	24239223	01/01/21	12/31/21	5,600	2,329	7,929
Yr 23 SRF - Local Asst (15%) (FO-SW) TA	N/A	346.26.66	24239223	01/01/21	12/31/21	1,000	1,392	2,392
TOTALS						28,694	4,000	32,694

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
1	Trained LHJ staff will conduct sanitary surveys of small community and non-community Group A water systems identified by the DOH Office of Drinking Water (ODW) Regional Office.		Provide Final* Sanitary Survey Reports to ODW Regional Office. Complete Sanitary Survey Reports shall include:	Final Sanitary Survey Reports must be received by the ODW Regional Office within 30 calendar days of	Upon ODW acceptance of the Final Sanitary Survey Report, the LHJ shall be paid \$400 for each sanitary survey of a non-community system with three or fewer connections.

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
	See Special Instructions for task activity.		1. Cover letter identifying significant deficiencies, significant findings, observations, recommendations, and referrals for further ODW follow-up. 2. Completed Small Water System checklist. 3. Updated Water Facilities Inventory (WFI). 4. Photos of water system with text identifying features 5. Any other supporting documents. *Final Reports reviewed and accepted by the ODW Regional Office.	conducting the sanitary survey.	Upon ODW acceptance of the Final Sanitary Survey Report, the LHJ shall be paid \$800 for each sanitary survey of a non-community system with four or more connections and each community system. Payment is inclusive of all associated costs such as travel, lodging, per diem. Payment is authorized upon receipt and acceptance of the Final Sanitary Survey Report within the 30-day deadline. Late or incomplete reports may not be accepted for payment.
2	Trained LHJ staff will conduct Special Purpose Investigations (SPI) of small community and non-community Group A water systems identified by the ODW Regional Office. See Special Instructions for task activity.		Provide completed SPI Report and any supporting documents and photos to ODW Regional Office.	Completed SPI Reports must be received by the ODW Regional Office within 2 working days of the service request.	Upon acceptance of the completed SPI Report, the LHJ shall be paid \$800 for each SPI. Payment is inclusive of all associated costs such as travel, lodging, per diem. Payment is authorized upon receipt and acceptance of completed SPI Report within the 2 working day deadline. Late or incomplete reports may not be accepted for payment.

AMENDMENT #22

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
3	Trained LHJ staff will provide direct technical assistance (TA) to small community and non-community Group A water systems identified by the ODW Regional Office. See Special Instructions for task activity.		Provide completed TA Report and any supporting documents and photos to ODW Regional Office.	Completed TA Report must be received by the ODW Regional Office within 30 calendar days of providing technical assistance.	Upon acceptance of the completed TA Report, the LHJ shall be paid for each technical assistance activity as follows: • Up to 3 hours of work: \$250 • 3-6 hours of work: \$500 • More than 6 hours of work: \$750 Payment is inclusive of all associated costs such as consulting fee, travel, lodging, per diem. Payment is authorized upon receipt and acceptance of completed TA Report within the 30-day deadline. Late or incomplete reports may not be accepted for payment.
4	LHJ staff performing the activities under tasks 1, 2 and 3 must have completed the mandatory Sanitary Survey Training. See Special Instructions for task activity.		Prior to attending the training, submit an "Authorization for Travel (Non-Employee)" DOH Form 710-013 to the ODW Program Contact below for approval (to ensure that enough funds are available).	Annually	LHJ shall be paid mileage, per diem, lodging, and registration costs as approved on the pre-authorization form in accordance with the current rates listed on the OFM Website http://www.ofm.wa.gov/resources/travel.asp

***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 References (RCWs, WACs, etc)**

Chapter 246-290 WAC is the set of rules that regulate Group A water systems. By this statement of work, ODW contracts with the LHJ to conduct sanitary surveys (and SPIs, and provide technical assistance) for small community and non-community water systems with groundwater sources. ODW retains responsibility for conducting sanitary surveys (and SPIs, and provide technical assistance) for small community and non-community water systems with surface water sources, large water systems, and systems with complex treatment.

LHJ staff assigned to perform activities under tasks 1, 2, and 3 must be trained and approved by ODW prior to performing work. See special instructions under Task 4, below.

Special Billing Requirements

The LHH shall submit quarterly invoices within 30 days following the end of the quarter in which work was completed, noting on the invoice the quarter and year being billed for. Payment cannot exceed a maximum accumulative fee of ~~\$24,400~~ \$28,400 for Task 1, and \$4,294 for Task 2, Task 3 and Task 4 combined during the contracting period, to be paid at the rates specified in the Payment Method/Amount section above. When invoicing for sanitary surveys, bill half to BARS Revenue Code 346.26.64 and half to BARS Revenue Code 346.26.65.

When invoicing for Task 1, submit the list of WS Name, ID #, Amount Billed, Survey Date and Letter Date that you are requesting payment.

When invoicing for Task 2-3, submit the list of WS Name, ID #, TA Date and description of TA work performed, and Amount Billed.

When invoicing for Task 4, submit receipts and the signed pre-authorization form for non-employee travel to the ODW Program Contact below and a signed A19-1A Invoice Voucher to the DOH Grants Management, billing to BARS Revenue Code 346.26.66 under Technical Assistance (TA).

Special Instructions**Task 1**

Trained LHH staff will evaluate the water system for physical and operational deficiencies and prepare a Final Sanitary Survey Report which has been accepted by ODW. Detailed guidance is provided in the *Field Guide for Sanitary Surveys, Special Purpose Investigations and Technical Assistance* (Field Guide). The sanitary survey will include an evaluation of the following eight elements: source; treatment; distribution system; finished water storage; pumps, pump facilities and controls; monitoring, reporting and data verification; system management and operation; and certified operator compliance. If a system is more complex than anticipated or other significant issues arise, the LHH may request ODW assistance.

- No more than 1 surveys of non-community systems with three or fewer connections to be completed between January 1, 2018 and December 31, 2018.
- No more than 10 surveys of non-community systems with four or more connections and all community systems to be completed between January 1, 2018 and December 31, 2018.
- No more than 6 surveys of non-community systems with four or more connections and all community systems to be completed between January 1, 2019 and December 31, 2019.
- No more than 2 surveys of non-community systems with three or fewer connections to be completed between January 1, 2020 and December 31, 2020.
- No more than 6 surveys of non-community systems with four or more connections and all community systems to be completed between January 1, 2021 and December 31, 2021.
- No more than 0 surveys of non-community systems with three or fewer connections to be completed between January 1, 2020 and December 31, 2020.
- No more than 7 12 surveys of non-community systems with four or more connections and all community systems to be completed between January 1, 2021 and December 31, 2021.

The process for assignment of surveys to the LHH, notification of the water system, and ODW follow-up with unresponsive water systems; and other roles and responsibilities of the LHH are described in the Field Guide.

Task 2

Trained LHH staff will perform Special Purpose Investigations (SPIs) as assigned by ODW. SPIs are inspections to determine the cause of positive coliform samples or the cause of other emergency conditions. SPIs may also include sanitary surveys of newly discovered Group A water systems. Additional detail about conducting SPIs is described in the Field Guide. The ODW Regional Office must authorize in advance any SPI conducted by LHH staff.

Task 3

Trained LHH staff will conduct Technical assistance as assigned by ODW. Technical Assistance includes assisting water system personnel in completing work or verifying work has been addressed as required, requested, or advised by the ODW to meet applicable drinking water regulations. Examples of technical assistance activities are described in the Field Guide. The ODW Regional Office must authorize in advance any technical assistance provided by the LHH to a water system.

Task 4

LHJ staff assigned to perform activities under tasks 1, 2, and 3 must be trained and approved by ODW prior to performing work. LHJ staff performing the activities under tasks 1, 2 and 3 must have completed, with a passing score, the ODW Online Sanitary Survey Training and the ODW Sanitary Survey Field Training. LHJ staff performing activities under tasks 1, 2, and 3 must attend the Annual ODW Sanitary Survey Workshop, and are expected to attend the Regional ODW LHJ Drinking Water Meetings.

If required trainings, workshops or meetings are not available, not scheduled, or if the LHJ staff person is unable to attend these activities prior to conducting assigned tasks, the LHJ staff person may, with ODW approval, substitute other training activities to be determined by ODW. Such substitute activities may include one-on-one training with ODW staff, co-surveys with ODW staff, or other activities as arranged and pre-approved by ODW. LHJ staff may not perform the activities under tasks 1, 2, and 3 without completing the training that has been arranged and approved by ODW.

Program Manual, Handbook, Policy References

<http://www.doh.wa.gov/Portals/1/Documents/Pubs/331-486.pdf>

DOH Program Contact

Denise Miles
DOH Office of Drinking Water
243 Israel Rd SE
Tumwater, WA 98501
Denise.Miles@doh.wa.gov
(360) 236-3028

DOH Fiscal Contact

Marcea Kato
DOH Office of Drinking Water
243 Israel Rd SE
Tumwater, WA 98501
Marcea.Kato@doh.wa.gov
(360) 236-3094

AMENDMENT #22

**Exhibit A
Statement of Work
Contract Term: 2018-2021**

DOH Program Name or Title: Recreational Shellfish Activities - Effective July 1, 2019

Local Health Jurisdiction Name: Clallam County Health & Human Services

Contract Number: CLH18239

SOW Type: Revision Revision # (for this SOW) 3

Funding Source ☐ Federal <Select One> ☒ State ☐ Other	Federal Compliance (check if applicable) ☐ FFATA (Transparency Act) ☐ Research & Development	Type of Payment ☒ Reimbursement ☐ Fixed Price
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Period of Performance: July 1, 2019 through June 30, 2021

Statement of Work Purpose: The purpose of this statement of work is to provide funds for shellfish harvesting safety.

Revision Purpose: The revision adds \$2,000 for biotoxin monitoring activities through June 30, 2021.

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding (LHJ Use Only)	Period Only	Current Consideration	Change Increase (+)	Total Consideration
Rec. Shellfish/Biotoxin	N/A	334.04.93	26402600	Start Date	End Date	6,500	2,000	8,500
TOTALS						6,500	2,000	8,500

Task Number	Task/Activity/Description	*May Support PHAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
<u>1</u>	Biotoxin Monitoring - Collect samples on schedule according to Department of Health (DOH) Biotoxin Monitoring Plan, coordinate deviations from the schedule with DOH, notify DOH in advance if samples cannot be collected. - Post / remove recreational shellfish warning and / or classification signs on beaches and restock cages as needed. - This may also include recruiting, training, and coordination of volunteers, and fuel reimbursement funds for volunteer biotoxin monitoring.		Submit report on DOH approved format of activities for the year, including the number and names of beaches posted for classification.	Email Report to DOH by: December 31, 2020 (See Special Instructions below.)	\$5,900 \$7,900
<u>2</u>	Outreach - Staff educational booths at local events. - Distribute safe shellfish harvesting information.		Submit report including the number of events staffed, and amount of educational materials distributed.	Email Report to DOH by: December 31, 2020 (See Special Instructions below.)	\$600

***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

Program Manual, Handbook, Policy References

Department of Health's Biotxin Monitoring Plan

Special References (RCWs, WACs, etc)

Chapter 246-280 WAC

<http://www.doh.wa.gov/CommunityandEnvironment/Shellfish/RecreationalShellfish>

<http://www.doh.wa.gov/AboutUs/ProgramsandServices/EnvironmentalPublicHealth/EnvironmentalHealthandSafety/ShellfishProgram/Biotoxins>

Special Instructions

Report for work done the previous year must be submitted via email to Liz Maier by December 31, 2020.

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

DOH Program Contacts:

Liz Maier, Office of Environmental Health and Safety, PO Box 47824, Olympia WA 98504-7824; 360.236.3308; liz.maier@doh.wa.gov

Kristy Warner, Office of Environmental Health and Safety, PO Box 47824, Olympia WA 98504-7824; 360.701.7537; kristy.warner@doh.wa.gov

DOH Fiscal Contact: Taylor Warren, Office of Financial Management; PO Box 47850, Olympia, WA 98504-7850; 360.236.3348; taylor.warren@doh.wa.gov

Exhibit A
Statement of Work
Contract Term: 2018-2021

DOH Program Name or Title: Recreational Shellfish Activities - Effective July 1, 2021

Local Health Jurisdiction Name: Clallam County Health & Human Services

Contract Number: CLH18239

SOW Type: Original Revision # (for this SOW)

Funding Source ☐ Federal <Select One> ☒ State ☐ Other	Federal Compliance (check if applicable) ☐ FFATA (Transparency Act) ☐ Research & Development	Type of Payment ☒ Reimbursement ☐ Fixed Price
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Period of Performance: July 1, 2021 through December 31, 2021

Statement of Work Purpose: The purpose of this statement of work is to provide funds for shellfish harvesting safety.

Revision Purpose: N/A

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding Period (LIJ Use Only) Start Date End Date	Current Consideration	Change Increase (+)	Total Consideration
Rec. Shellfish/Biotxin	N/A	334 04 93	26402600	07/01/21 12/31/21	0	2,000	2,000
TOTALS					0	2,000	2,000

Task Number	Task/Activity/Description	*May Support PIAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
<u>1</u>	Biotxin Monitoring - Collect samples on schedule according to Department of Health (DOH) Biotxin Monitoring Plan, coordinate deviations from the schedule with DOH, notify DOH in advance if samples cannot be collected. - Post / remove recreational shellfish warning and / or classification signs on beaches and restock cages as needed. - This may also include recruiting, training, and coordination of volunteers, and fuel reimbursement funds for volunteer biotoxin monitoring.		Submit report on DOH approved format of activities for the year, including the number and names of beaches posted for classification.	Email Report to DOH by: December 31, 2021 (See Special Instructions below.)	\$1,850
<u>2</u>	Outreach - Staff educational booths at local events. - Distribute safe shellfish harvesting information.		Submit report including the number of events staffed, and amount of educational materials distributed.	Email Report to DOH by: December 31, 2021 (See Special Instructions below.)	\$150

***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

Program Manual, Handbook, Policy References

Department of Health's Biotxin Monitoring Plan

Special References (RCWs, WACs, etc)

Chapter 246-280 WAC

<http://www.doh.wa.gov/CommunityandEnvironment/Shellfish/RecreationalShellfish>

<http://www.doh.wa.gov/AboutUs/ProgramsandServices/EnvironmentalPublicHealth/EnvironmentalHealthandSafety/ShellfishProgram/Biotoxins>

Special Instructions

Report for work done the previous year must be submitted via email to Liz Maier by December 31, 2021.

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

DOH Program Contacts:

Liz Maier, Office of Environmental Health and Safety, PO Box 47824, Olympia WA 98504-7824; 360.236.3308; liz.maier@doh.wa.gov

Kristy Warner, Office of Environmental Health and Safety, PO Box 47824, Olympia WA 98504-7824; 360.701.7537; kristy.warner@doh.wa.gov

DOH Fiscal Contact: Taylor Warren, Office of Financial Management; PO Box 47850, Olympia, WA 98504-7850; 360.236.3348; taylor.warren@doh.wa.gov

**Exhibit A
Statement of Work
Contract Term: 2018-2021**

DOH Program Name or Title: Zoonotic Disease Program-WNV Mosquito Surveillance - Effective June 1, 2021

Local Health Jurisdiction Name: Clallam County Health & Human Services

Contract Number: CLH18239

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

Funding Source ☒ Federal Subrecipient ☐ State ☐ Other	Federal Compliance (check if applicable) ☒ FFATA (Transparency Act) ☐ Research & Development	Type of Payment ☒ Reimbursement ☐ Fixed Price
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Period of Performance: June 1, 2021 through December 31, 2021

Statement of Work Purpose: The purpose of this statement of work is for Clallam County Health and Human Services (CCHHS) to conduct weekly mosquito surveillance for West Nile virus (WNV) in Clallam County during mosquito season, June through September. The detection of the virus in mosquito populations serves as an early warning of disease risk in the localized area. It alerts the local health department to strengthen educational outreach and mosquito control to minimize the health impact of mosquito-borne disease on communities. In addition, data generated by surveillance advances our understanding of the emergence and spread of vector mosquitoes and pathogens in western Washington.

Revision Purpose: N/A

Chart of Accounts Program Name or Title	CFDA #	BARS Revenue Code	Master Index Code	Funding Period (LHJ Use Only)		Current Consideration	Change Increase (+)	Total Consideration
FFY20 Vector-borne T2&3 Epi ELC FPH	93 323	333 93.32	1882120B	Start Date	End Date	0	3,000	3,000
TOTALS						0	3,000	3,000

Task Number	Task/Activity/Description	*May Support PIAB Standards/Measures	Deliverables/Outcomes	Due Date/Time Frame	Payment Information and/or Amount
1.	Conduct weekly mosquito trapping at two (2) site locations in Clallam County. - Purchase of dry ice, as needed - Set and collect traps Record field data on DOH-provided reporting forms, including zero catch information		Submit weekly collection of mosquitoes along with completed corresponding data reporting forms for trapping events to DOH. Should no mosquitoes be collected during a trapping event, the data reporting form documenting the effort is to be emailed to the DOH Program contact	Weekly by Wednesday during mosquito season, June through September.	Reimbursement up to \$3,000 (including staff time, transportation, and costs related to mosquito surveillance activities)

***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>

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.

DOH Program Contact

Mary Chan, MPH

Zoonotic, Vectorborne, and Cross-cutting Program Epidemiologist

Office of Communicable Disease Epidemiology

Division of Disease Control and Health Statistics

Washington State Department of Health

mary.chan@doh.wa.gov

206-418-5610 (Ph) | 564-999-1174 (Cell)

206-364-1060 (Fax) | www.doh.wa.gov

Clallam County Health & Human Services

EXHIBIT B-22
ALLOCATIONS
Contract Term 2018-2021

Contract Number: CLH18239
Date: May 14, 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		DOH Use Only Chart of Accounts Funding Period		Amount	Funding Period Sub Total	Chart of Accounts Total
					Start Date	End Date	Start Date	End Date			
FFY21 USDA WIC Program Mgmt 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 Mgmt 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 Mgmt 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 Mgmt 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 Mgmt 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 Mgmt 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 Mgmt 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 Mgmt	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 Mgmt	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 Mgmt	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 Mgmt	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 Mgmt	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 Mgmt	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 Mgmt	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 Mgmt-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
BITY-COVID Ed LHJ Allocation-CARES	NGA Not Received	Amd 19, 22	21.019	333.21.01	07/01/20	12/31/21	07/01/20	12/31/21	\$308,526	\$411,368	\$411,368
BITY-COVID Ed LHJ Allocation-CARES	NGA Not Received	Amd 17, 19, 22	21.019	333.21.01	07/01/20	12/31/21	07/01/20	12/31/21	\$102,842		
COVID LHJ OFM Allocation-CARES	NGA Not Received	Amd 17, 19, 22	21.019	333.21.01	03/01/20	12/31/21	03/01/20	12/31/21	\$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	01J18001	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	01J18001	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-22
ALLOCATIONS
Contract Term 2018-2021

Contract Number: CLH18239
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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 BPI 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 BPI 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 BPI 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 BPI 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 BPI 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	5N1123IP000762-05-00	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	5N1123IP000762-05-00	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

EXHIBIT B-22
ALLOCATIONS
Contract Term 2018-2021

Contract Number: CLH18239
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FFY21 COVID19 Vaccine Services-CARES	NH231P922619	Amd 22	93.268	333.93.26	07/01/20	12/31/21	07/01/20	12/31/21	(\$354,803)	\$14,582	\$14,582
FFY21 COVID19 Vaccine Services-CARES	NH231P922619	Amd 20	93.268	333.93.26	07/01/20	12/31/21	07/01/20	12/31/21	\$354,803		
FFY21 COVID19 Vaccine Services-CARES	NH231P922619	Amd 19, 20	93.268	333.93.26	07/01/20	12/31/21	07/01/20	12/31/21	\$14,582		
COVID19 Vaccines	NGA Not Received	Amd 22	93.268	333.93.26	07/01/20	12/31/21	07/01/20	12/31/21	\$354,803	\$354,803	\$354,803
FFY17 Increasing Immunization Rates	NH231P000762	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	NH231P922619	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	NH231P922619	Amd 9	93.268	333.93.26	07/01/19	06/30/20	07/01/19	06/30/20	\$500	\$500	
FFY17 PPHF Ops	NH231P000762	Amd 4	93.268	333.93.26	07/01/18	06/30/19	04/01/18	06/30/19	\$500	\$500	
FFY21 VFC Ops	NH231P922619	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	NH231P922619	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	5NH231P000762-05-00	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	NU50CK000515	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	NU50CK000515	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 Vector-borne T2&3 Epi ELC FPH	NGA Not Received	Amd 22	93.323	333.93.32	06/01/21	12/31/21	06/01/21	12/31/21	\$3,000	\$3,000	\$3,000
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	
FFY20/21 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

Clallam County Health & Human Services

EXHIBIT B-22
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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	
Rec Shellfish/Biototoxin		Amd 22	N/A	334.04.93	07/01/21	12/31/21	07/01/21	12/31/21	\$2,000	\$2,000	\$15,750
Rec Shellfish/Biototoxin		Amd 22	N/A	334.04.93	07/01/19	06/30/21	07/01/19	06/30/21	\$2,000	\$8,500	
Rec Shellfish/Biototoxin		Amd 19	N/A	334.04.93	07/01/19	06/30/21	07/01/19	06/30/21	\$1,500		
Rec Shellfish/Biototoxin		Amd 16, 19	N/A	334.04.93	07/01/19	06/30/21	07/01/19	06/30/21	\$2,000		
Rec Shellfish/Biototoxin		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/Biototoxin		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 22	N/A	346.26.64	01/01/19	12/31/20	01/01/19	06/30/21	(\$329)	\$4,871	\$4,871
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)		
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		

Clallam County Health & Human Services

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Chart of Accounts Program Title	Federal Award Identification #	Amend #	CFDA*	BARS Revenue Code**	Statement of Work Funding Period		DOH Use Only Chart of Accounts Funding Period		Amount	Funding Period Sub Total	Chart of Accounts Total
					Start Date	End Date	Start Date	End Date			
YR 23 SRF - Local Asst (15%) (FO-SW) SS		Amd 22	N/A	346.26.64	01/01/21	12/31/21	09/01/20	12/31/21	\$2,329	\$7,929	\$7,929
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		
Sanitary Survey Fees (FO-SW) SS-State		Amd 22	N/A	346.26.65	01/01/18	12/31/21	07/01/17	12/31/21	\$2,000	\$11,400	\$11,400
Sanitary Survey Fees (FO-SW) SS-State		Amd 15, 22	N/A	346.26.65	01/01/18	12/31/21	07/01/17	12/31/21	(\$400)		
Sanitary Survey Fees (FO-SW) SS State		Amd 12, 22	N/A	346.26.65	01/01/18	12/31/21	07/01/17	12/31/21	\$2,800		
Sanitary Survey Fees (FO-SW) SS State		Amd 6, 12, 22	N/A	346.26.65	01/01/18	12/31/21	07/01/17	12/31/21	\$4,000		
Sanitary Survey Fees (FO-SW) SS State		N/A, Amd 3, 6, 12, 22	N/A	346.26.65	01/01/18	12/31/21	07/01/17	12/31/21	\$3,000		
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 22	N/A	346.26.66	01/01/19	12/31/20	01/01/19	06/30/21	(\$1,392)	\$1,250	\$1,250
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)		
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 22	N/A	346.26.66	01/01/21	12/31/21	09/01/20	12/31/21	\$1,392	\$2,392	\$2,392
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		
TOTAL									\$7,291,448	\$7,291,448	
Total consideration:	\$7,280,448									GRAND TOTAL	\$7,291,448
	\$11,000										
GRAND TOTAL	\$7,291,448									Total Fed	\$6,668,649
										Total State	\$622,799

*Catalog of Federal Domestic Assistance

**Federal revenue codes begin with "333". State revenue codes begin with "334".

Exhibit C-21 Schedule of Federal Awards

AMENDMENT #22

Date: May 14, 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	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	\$242,380	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	\$811	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 CONTINGENCY
FFY16 CASCADES USDA WIC PROG MGMT-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	12/31/21	\$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	12/31/21	\$411,368	21 019	Coronavirus Relief Fund	Department of the Treasury	NGA Not Received	NGA Not Received

Exhibit C-21 Schedule of Federal Awards

AMENDMENT #22

Date: May 14, 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		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 Notification Program Implementation 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	12/01/18	\$91,991	03/01/19	10/31/19	\$5,400	66 472	Beach Monitoring and Notification Program Implementation 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 Notification Program Implementation 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 Emergency 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 HEALTH 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 HEALTH 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	08/30/18	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	U795M051734	SUICIDE PREVENTION WORKS

Exhibit C-21 Schedule of Federal Awards

AMENDMENT #22

Date: May 14, 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	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	\$14,582	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
COVID19 VACCINES	333 93 26	NGA Not Received	NGA Not Received	07/01/20	12/31/21	\$354,803	93 268	Immunization Cooperative Agreements	Department of Health and Human Services Centers for Disease Control and Prevention	NGA Not Received	NGA Not Received
FFY20 VECTOR-BORNE T2&J EPI ELC FPH	333 93 32	NGA Not Received	NGA Not Received	06/01/21	12/31/21	\$3,000	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
FFY20 ELC EDE LHJ ALLOCATION	333 93 32	01/14/21	#####	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	NU50CK000515	EPIDEMIOLOGY & LABORATORY CAPACITY FOR INFECTIOUS DISEASES (ELC)-BUILDING AND STRENGTHENING EPIDEMIOLOGY
FFY19 ELC COVID ED LHJ ALLOCATION	333 93 32	01/01/21	#####	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	NU50CK000515	EPIDEMIOLOGY & LABORATORY CAPACITY FOR INFECTIOUS DISEASES (ELC)-BUILDING & STRENGTHENING EPIDEMIOLOGY
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

Exhibit C-21 Schedule of Federal Awards

AMENDMENT #22

Date: May 14, 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		Contract Amt	CFDA	CFDA Program Title	Federal Agency Name	Federal Award Identification Number	Federal Grant Award Name
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
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						\$8,668,649					

CLALLAM COUNTY BUDGET CHANGE FORM

COPY

RECEIVED
CLALLAM CO. FINANCE

JUL 26 2021



Date Submitted: 7-23-21

Budget Hearing/Meeting Date: 8-31-21

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

Budget Number xxxxx.xxx.	00100.511 ✓	Budget Name	HHS – Environmental Health ✓
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REVENUE/SOURCE

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.511 ✓	HHS – Env Health ✓	33404.91.0050 ✓	DOH WNV Mosquito Testing	3,000
00100.511 ✓	HHS – Env Health ✓	33404.93.0000 ✓	Shellfish Con Con	4,000
00100.511 ✓	HHS – Env Health ✓	34626.64.0000 ✓	Group A Water Systems – Part 1	2,000
00100.511 ✓	HHS – Env Health ✓	34626.65.0000 ✓	Group A Water Systems – Part 2	2,000
Total				11,000 ✓

EXPENDITURES

BUDGET NUMBER xxxxx.xxx.	DEPT NAME	BARS NUMBER xxxxx.xx.xxxx	ACCOUNT DESCRIPTION	AMOUNT
00100.511 ✓	HHS – Env Health ✓	56252.31.0020 ✓	Operating Supplies	1,000
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	8,000
Total				11,000 ✓

Revenue/Source and Expenditure totals must agree.

REASON FOR BUDGET ACTION:

Supplemental funding is being received from the Department of Health. Consolidated Contract #22 adds \$4,000 for the shellfish program to provide testing and sampling of recreational shellfish areas; adds \$4,000 for Group A water system testing; and adds \$3,000 to perform mosquito trapping to test for the West Nile Virus.

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

8
8/9/21



AGENDA ITEM SUMMARY

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

Department: Health and Human Services

WORK SESSION ☒ **Meeting Date:** 8.9.21

REGULAR AGENDA ☒ **Meeting Date:** 8.17.21

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 RFP Release Notice |

Documents exempt from public disclosure attached: ☐

Executive summary:

Clallam County Health and Human Services will be submitting to the BOCC an RFP for Behavioral Health and related services that are responsive to the priorities listed in the RFP. Date of release for the RFP is scheduled to be August 17, 2021. The funding period will be a two year cycle of January 2022 through December 31, 2023.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
Funding for the selected proposals is in the HHS 2022 budget.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Release the RFP notice for publication.

County Official signature & print name:  KEVIN LaPacola

Name of Employee/Stakeholder attending meeting: Jenny Oppelt

Relevant Departments: Health and Human Services

Date submitted: August 4, 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)



Clallam County Behavioral Health Programs

2022 Request for Proposals

January 1, 2022 – December 31, 2023

DEADLINE: October 4, 2021

CLALLAM COUNTY BEHAVIORAL HEALTH PROGRAMS
2022 REQUEST FOR PROPOSALS (RFP)
Behavioral Health Sales Tax

TABLE OF CONTENTS

Request for Proposal Summary.....	3
Request for Proposal Timeline.....	5
I. APPLICANT ELLIGABILITY.....	6
II. AVAILABLE FUNDING.....	6
III. PERIOD OF PERFORMANCE.....	6
IV. BEHAVIORAL HEALTH SALES TAX.....	7
V. DEFINITIONS.....	8
VI. PURPOSE AND SCOPE OF PROJECT.....	10
VII. ANTICIPATED SCOPE OF WORK.....	11
VIII. MINIMAL TECHNICAL REQUIREMENTS.....	12
IX. GRANT PROPOSALS.....	12
X. REVIEW AND SELECTION CRITERIA.....	15
XI. PROPOSAL TERMS AND CONDITIONS AND INSURANCE REQUIRMENTS.....	16
XII. ATTAHMENTS.....	21
• ATTACHMENT A – Grant Summary Page.....	23
• ATTACHMENT B – Narrative Template for Grant Proposal.....	24
• ATTACHMENT C – Evaluation Worksheet.....	25
• ATTACHMENT D – Project Budget Form 2022.....	27
– Project Budget Form 2023.....	29

CLALLAM COUNTY BEHAVIORAL HEALTH REQUEST FOR PROPOSAL SUMMARY
Behavioral Health (AKA CD/MH or Hargrove) Sales Tax

The Clallam County Health and Human Services Department is requesting proposals for behavioral health programs and services for the period January 1, 2022 through December 31, 2023. The local Behavioral Health Advisory Board, appointed per Resolution 55, 2006 prioritized and selected the following service areas for 2022 - 2023 funding:

1. **Unfunded or underfunded Behavioral Health Services and Supports**
2. **Western Clallam County Behavioral Health Services**
3. **Prevention and Early Intervention for Behavioral Health.**
4. **Behavioral Health Housing & Shelter**

Funding will be available for the period January 1, 2022 through December 31, 2023 as follows:

January 1, 2022 – December 31, 2022	\$1,000,000
January 1, 2023 – December 31, 2023	\$1,000,000

Your proposal/application must have one category selected. Only one category can be selected for each application. You must submit more than one application if you are proposing multiple projects.

Voluntary Bidder's Questions and Answers will be posted to the Health and Human Services Website

All questions regarding RFP content or process must be received by Clallam County Health and Human Services in writing (joppelt@co.clallam.wa.us) no later than September 3, 2021 at 5 P.M. Written responses to questions raised by written inquiry will be posted to www.clallam.net/HHS no later than September 10, 2021 at 5pm. Responses will only be provided in written format and posted. It is solely the Bidder's responsibility to access posted questions and answers.

PROPOSAL DEADLINE: Monday October 4th, at 3:00 p.m. (See Section VIII)

PROPOSALS MUST BE RECEIVED IN THE CLALLAM COUNTY BOARD OF COMMISSIONERS' OFFICE NO LATER THAN 3:00 P.M. ON MONDAY, OCTOBER 4, 2021, WHETHER HAND DELIVERED (in accordance with current public health standards and in compliance with the Washington Ready Plan and to reduce the spread of COVID) OR BY U.S. MAIL. NO LATE PROPOSALS WILL BE ACCEPTED.

EACH PROPOSAL MUST BE:

1. IN A SEPARATE ENVELOPE
2. THREE RING HOLE PUNCHED
3. ONE (1) ORIGINAL
AND
4. EIGHT (8) COPIES
5. THE OUTSIDE OF THE ENVELOPE SHALL BE MARKED "Behavioral Health Proposal 2022"
6. AN ELECTRONIC PDF VERSION OF THE PROPOSAL MUST BE SENT TO JENNY OPPELT AT joppelt@co.clallam.wa.us

A Mandatory Virtual Interview with the RFP Review Committee will be held the week of November 1st – 5th time TBD. Bidders will be contacted to schedule a virtual interview.

BACKGROUND

In 2005, Washington State approved legislation allowing counties to raise their local sales tax by one-tenth of one percent to augment state funding of substance use disorder and mental health programs and services. In March, 2006, the Clallam County Board of Commissioners approved an ordinance authorizing a 1/10th of one percent sales and use tax for substance use, mental health, and therapeutic court programs. This sales and use tax shall be known throughout this document as “Behavioral Health Tax”. The goal of this tax is to prevent and reduce the impacts of disabling substance use and mental health disorders by creating and investing in effective services and programs. Behavioral Health Tax must be used solely for the purpose of providing for the operation or delivery of substance use or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services.

SCOPE OF WORK

Proposals for Behavioral Health Sales Tax must address one of the four priority areas of service and be a component of a coordinated substance use disorder or mental health treatment program or service.

- 1. Unfunded or underfunded Behavioral Health Services and Supports Including but not limited to:**
Treatment services, case management, recovery supports
- 2. Western Clallam County Behavioral Health Services**
- 3. Prevention and Early Intervention for Behavioral Health**
Programs must demonstrate linkages to mental health and/or substance use disorder programs
- 4. Behavioral Health Housing & Shelter**
Shelter/housing options seeking to prioritize behavioral health outcomes
For example: sober living, short-term shelter, transitional and permanent housing solutions

This Request for Proposal is available on the Internet at <http://www.clallam.net/HHS> or by contacting Jenny Oppelt at: Clallam County Health & Human Services; Phone: 360.417.2431; Email: joppelt@co.clallam.wa.us. The Clallam County Health & Human Services Department reserves the right to make unilateral modifications to this RFP to address changes on the state and/or local level.

REQUEST FOR PROPOSAL (RFP) TIMELINE

Behavioral Health Sales Tax

Date	Activity
July 13, 2021	Behavioral Health Advisory Committee Meeting – Priorities Confirmed at Retreat
3 rd Week of Aug, 2021	RFP Released
September 3, 2021	Voluntary Bidders Conference questions due to joppelt@co.clallam.wa.us by 5pm
September 10, 2021	Voluntary Bidders Conference answers posted to HHS website (http://www.clallam.net/HHS/) by 5pm
October 4, 2021	Proposals due to Board of Commissioners by 3:00 p.m.
October 5, 2021	Proposals opened and accepted at BOCC meeting
Nov 1 – 5, 2021	<u>MANDATORY</u> virtual interviews with RFP Review Committee - Rating sheets completed/finalized - Preliminary recommendations made
November 9, 2021	Behavioral Health Advisory Committee Meeting Recommended Proposals on Agenda for Approval
November 15, 2021	Work Session with BOCC for funding recommendations
December 7- 18	Contracts to County Prosecutor for approval if required
December 20, 2021	Contracts to providers and returned to HHS with signatures
December 28, 2021	BOCC regular meeting for contract final approval
January 1, 2022	Contract period begins

Note – All dates are subject to change – Updated August 2021

I. APPLICANT ELIGIBILITY

This RFP is seeking interested providers, both public and private, with applicable licensure, experience and infrastructure to provide Behavioral Health Services (formerly known as Chemical Dependency and Mental Health Services) within Clallam County.

If an organization is proposing to offer **behavioral health treatment** services, they must be authorized to provide these services, and/or subcontract with organizations authorized to provide these services.

Requirements for providing behavioral health treatment include:

An agency must be licensed through the Washington State Department of Health or Health Care Authority as directed under House Bill 1388. An agency must meet the requirements of chapter 246-341 WAC and 388-877-065 WAC through 388-877-0680 WAC, applicable local and state rules, and state and federal statutes.

Or,

An individual must be licensed through the Washington State Department of Health as an advanced social worker, a licensed independent clinical social worker, a licensed mental health counselor, or a licensed marriage and family therapist. An individual must meet the requirements of 18.225 RCW and practice within their scope of work.

All licensed individuals and/or organizations must maintain their licensure through the duration of the project.

II. AVAILABLE FUNDING

Funding will be available for the period January 1, 2022 through December 31, 2023 as follows:

January 1, 2022 – December 31, 2022	\$1,000,000
January 1, 2023 – December 31, 2023	\$1,000,000

Funding must be requested and used within each funding period. There is no carry over of unused funds into the next funding period or cycle. Each proposal requires a budget completed for EACH funding period. For example, if you have a proposal for the entire 2 years, you must submit 2 budgets (one for each period as outlined above).

III. PERIOD OF PERFORMANCE

Funding under this grant program is allocated for a 24 month fund cycle. The period of performance for services solicited under this RFP begins January 1, 2022 and ends December 31, 2023. Carryover of unspent funds into the next program year is not permissible. Similarly, unspent funds in one funding cycle will not carryover to future fund cycles. In addition, initial funding is not an assurance or guarantee of ongoing operational funding after the contract period. Proposers are cautioned not to assume a commitment to future funding based on the receipt of

funds in prior years. The funding process is competitive and funding recommendations are made based on the relative merits of all proposals received in each yearly cycle.

IV. BEHAVIORAL HEALTH SALES TAX

In 2005, Washington State approved legislation allowing counties to raise local sales tax by one-tenth of one percent to augment state funding of mental health and substance use disorder programs and services (including, but not limited to, treatment services, case management, and housing that are a component of a coordinated substance use disorder or mental health treatment program or service) and for the operation or delivery of therapeutic court programs or services.

1. Board of Commissioners Goals

In September 2013, the Clallam County Board of Commissioners passed a resolution authorizing a sales and use tax for Mental Health, Substance use Disorder, and Therapeutic Court Programs. This sales and use tax shall be known as “Behavioral Health Sales Tax”. The goal of this tax is to prevent and reduce the impacts of disabling substance use and mental disorders by creating and investing in effective, data-driven programs for a continuum system of care.

Clallam County seeks to assure that funds collected are expended in an accountable and transparent manner, and with measures to determine the effectiveness of these publicly-funded investments. The County will require appropriate oversight, accountability, and status and progress reports for programs supported with the Behavioral Health Sales Tax. Each funded project or program will be partially evaluated according to performance measures for outcomes and cost effectiveness.

Programs shall achieve the following policy goals:

- Improve the health status and wellbeing of Clallam County residents.
- Reduce the incidence and severity of behavioral health disorders in adults and youth in Clallam County.
- Reduce the number of youth and adults suffering from substance use and mental health disorders from initial involvement with the criminal justice system.
- Reduce the number of people in Clallam County who re-cycle through our criminal justice systems, including jails and prisons.
- Reduce the number of people in Clallam County who use costly interventions including hospitals, emergency rooms, and crisis services.

2. Collective Impact

The Clallam County Board of Commissioners have recognized Collective Impact as a framework for making it possible for local service providers to work together to help solve complex social problems, such as behavioral health disorders. It is an innovative and structured approach to making collaboration work across government, business, philanthropy, non-profit organizations and citizens to achieve significant and lasting social change. Collective Impact is a significant shift from the social sector’s current paradigm of

"isolated impact" because the underlying premise of Collective Impact is that no single organization can create large-scale, lasting social change alone. Systemic social problems cannot be solved by simply scaling or replicating one organization or program.

V. DEFINITIONS

Behavioral Health - Means the prevention, treatment of, and recovery from any or all of the following disorders: Substance use disorders, mental health disorders, or problem and pathological gambling disorders.

Best Practice - Method or technique that has been generally accepted as superior to any alternatives because it produces results that are superior to those achieved by other means or because it has become a standard way of doing things.

Collective Impact - Collective impact is a process that occurs when organizations from different sectors agree to solve a specific social problem using a common agenda, aligning their efforts, and using common measures of success.

Continuum of Care - The continuum of care describes the delivery of health care over a period of time. An integrated system of health care that follows a patient through time or through a range of services.

Evidence-Based Programs - Programs, services, strategies, activities, or approaches which have been shown through scientific research and evaluation to be effective at preventing and/or delaying an untoward outcome.

In-Kind Contributions - In-kind contributions include goods or services, other than cash. Examples of in-kind include:

- Goods, like computers, software, furniture, and office equipment, for use by your organization or for special event auctions
- Services, like meeting space, photocopy and mail services, and administrative/financial support
- Expertise, like legal, tax, or business advice; marketing and website development; and strategic planning
- Cash equivalents, like stocks, bonds, mutual funds

Innovative Programs – Programs that introduce new ideas, methods and concepts that have not yet been researched or have some scientific research or data showing positive outcomes.

Matching Funds – Contributions of cash or assets in the form of money.

Measurable Outcomes - Outcomes are benefits or changes for individuals or populations during or after participating in program activities. Outcomes may relate to behavior, skills, knowledge, attitude, values, condition, or other attributes. To measure outcomes, you must be able to provide evidence that the outcome was or was not achieved. Below is an example of an individual measurable outcome objective:

- 90% of participants successfully completing the program will not reoffend during the subsequent 18 months.
- 85% of participants remain substance free (for example, no positive UA results) during the current quarter.

Medicaid – The federally funded social health care program for families and individuals with limited resources. In Washington State, Medicaid is called Apple Health.

Model Fidelity - The strategies that monitor and enhance the accuracy and consistency of an intervention to ensure it is implemented as designed, and that each component is delivered in a comparable manner to all study participants over time.

Promising Programs - Programs, services, strategies, activities, or approaches that have some scientific research or data showing positive outcomes in delaying an untoward outcome, but do not have enough evidence to support generalizable conclusions.

Return on Investment (ROI) - A performance measure used to evaluate the efficiency of an investment or to compare the efficiency of several different investments. ROI measures the amount of return on an investment relative to the investment's cost. To calculate ROI, the benefit (or return) of an investment is divided by the cost of the investment, and the result is expressed as a percentage or a ratio.

Supplanting - Means to “replace” or “take the place of.” Existing funds for a project and its activities may not be displaced by Behavioral Health Sales Tax funds and reallocated for other organizational expenses. Behavioral Health Sales Tax funds must not replace those funds that have been appropriated for the same purpose.

Sustainability - Refers to the continuation of a project's goals, principles, and efforts to achieve desired outcomes. Although many grantees think that guaranteeing the sustainability of a project means finding the resources to continue it “as is” beyond the grant period, ensuring sustainability really means making sure that the goals of the project continue to be met through activities that are consistent with the current conditions and workforce development needs of the region, including the needs of both workers and industry.

Sustainability Plan – Developing an action plan to increase the likelihood of program sustainability.

Behavioral Health Sales Tax – A sales and use tax for Mental Health, Substance Use, and Therapeutic Court Programs.

VI. PURPOSE AND SCOPE OF PROJECT

The purpose of this Request for Proposals is to fund a county-wide infrastructure for behavioral health treatment programs and services that benefits Clallam County youth and adults who are impacted by substance use and mental health disorders. Approximately \$2,000,000.00 for a 24-month period will be allocated for projects or programs which address the 2022 recommendations approved by the Behavioral Health Advisory Committee. Proposals must identify one of the four priority areas recommended by the Behavioral Health Advisory Committee.

Program Evaluation, Evidence Based programs and Collective Impact have been identified as improving and increasing the quality of program delivery. Although it is not a requirement to use Evidence Based programs, it is highly desirable.

1. Program Evaluation

Funded organizations must participate in a program evaluation for Behavioral Health Sales Tax Programs in the form of a quarterly data report which will be required within 30 days of the end of each quarter. The quarterly report will be recorded on a form created by the Kitsap Public Health District contracted Epidemiologist. Grantees must have performance measures developed for each proposal. The emphasis should be on capturing data at regular intervals that can be used to determine whether Behavioral Health Sales Tax funded programs met expectations of the proposed project. Evaluation efforts must include standardized data collection and reporting processes that show outcomes of services provided.

See below for following types of information:

- Quantity of services (outputs) ***required***
- Level of change occurring among participants (outcomes) ***required***
- Return-on-investment or cost-benefit (system savings) ***required***
- Various demographics **“highly recommended”**
- Adherence to the model (fidelity) ***required if applicable***
- Common measures (to be identified by Clallam County HHS and the Behavioral Health Advisory Committee). Common measures will be identified in the provider contract.

2. Evidence-Based Programs

The Board of Commissioners' are committed to supporting programs and organizations who use Evidence-Based Programs (EBP) that have been accepted as a best practice in the field of mental health, substance use disorder, and therapeutic courts and demonstrate fidelity to evidence-based standards. Promising Programs and Best Practice Programs include services, strategies, activities, or approaches that have some scientific research or data showing positive outcomes in delaying an untoward outcome, but do not have enough evidence to support generalizable conclusions. Innovative Programs introduce new ideas, methods and concepts that have not yet been researched. Promising, Best Practice and Innovative Programs will be considered for funding, but must include a robust evaluation process. Preference will be given to evidence-based programs that maintain fidelity.

3. Collective Impact

Partnerships can be mutually beneficial and Collective Impact approach calls for multiple organizations or entities from different sectors to abandon their own agenda in favor of a common agenda, shared measurement and alignment of effort. By working together with behavioral health partners from different sectors of the community, Clallam County can transform a fragmented system of behavioral health programs into a coordinated system that is working towards improving the overall health of the community.

VII. ANTICIPATED SCOPE OF WORK

Clallam County Health and Human Services Department is requesting proposals for Behavioral Health Sales Tax programs along a continuum of care including prevention, intervention, treatment and recovery support services.

West End Behavioral Health Treatment – Group; Individual or family counseling services provided in a non-residential substance use or mental health treatment facility. Includes services associated with case planning, case consultation and referral services, and other support services for the purpose of engaging and retaining clients in treatment or maintaining clients in treatment. Proposals must show that the services cannot be paid or covered by another source and why patients do not qualify for other resources (such as Medicaid). Proposals will indicate services for individuals within the West End of the County.

Behavioral Health Housing and Shelter - Includes a focus on providing support needs of people with substance use and mental health disorders for them to access housing and shelter. Examples of Housing/Shelter Services may include:

- Subsidized housing and support services for individuals with behavioral health disorders that are homeless or at risk of homelessness.
- Establish stabilization transition housing for individuals with behavioral health disorders moving from jail to treatment.

These are only examples and not an all-inclusive list of services.

Prevention and Early Intervention - This may include evidence-based mental health and substance use early prevention and intervention parent programs; community and school-based curriculums; and coordinated outreach and education to school aged children and youth.

Programs must demonstrate linkages to mental health and/or substance use disorder programs.

Unfunded or Underfunded Behavioral Health Services - Proposals must show that the services cannot be paid or covered by another source and why patients do not qualify for other resources (such as Medicaid) or are underfunded. Group; Individual or family counseling services provided in a non-residential substance use or mental health treatment facility. Includes services associated with case planning, case consultation and referral services, and other support services for the purpose of engaging and retaining clients in treatment or maintaining clients in treatment.

VIII. MINIMAL TECHNICAL REQUIREMENTS

All responses to this Request for Proposals (RFP) must be complete and meet the following minimum technical requirements to be further reviewed. All proposals shall be on plain white bond paper (8.5 x 11 inches) using 12 font with 1 inch margins and stapled once in the upper left corner. Pages should be numbered, including all attachments. Pages may be double sided. Binder clips may be used to keep pages together. Also, an electronic PDF version of the proposal must be sent to Jenny Oppelt at joppelt@co.clallam.wa.us. **The original (1) proposal and eight (8) additional copies, including all supporting material**, must be three hole punched, sealed in an envelope or box, and submitted to:

MAILING ADDRESS:

Clallam County Board of Commissioners
Attn: Behavioral Health 2022
223 East 4th Street; Suite #4
Port Angeles, WA 98362

PHYSICAL ADDRESS:

Clallam County Board of Commissioners
Clallam County Courthouse
Attn: Behavioral Health PROPOSAL 2022
223 East 4th Street; Room 150
Port Angeles, WA 98362

Please clearly mark the mailing address on the box or envelope. Proposals must be **received BY 3:00 p.m. Monday, October 4, 2021** at the physical address (in accordance with current public health standards and in compliance with the Washington Ready Plan and to reduce the spread of COVID). Proposals not received by the deadline will not be considered for review. If a proposal is mailed to a location or office that is not designated for receipt of the proposal and, as a result, the designated office does not receive the proposal by the deadline, the proposal will be considered late and ineligible for review.

IX. GRANT PROPOSALS

All grant proposals will be screened and rated based on the following Narrative information.

Instructions for Completing the Grant Proposal Project Narrative:

Using Attachment B: Narrative Template for Grant Proposals, please provide the following information. The Narrative is limited up to 8 pages (excluding attachments).

Narrative Information

1. Organizational Capacity

20 Points

A. Organizational Governance

Provide a description of your internal governance and leadership structure. Provide a description of your basic managerial and fiscal structure including program management, accounting and internal controls. Summarize the results of your Agency's (or your unit of financial independence) most recent audit and/or administrative inspection. Include description of any disallowed costs, questioned costs and administrative findings. Explain your plan or response to any findings.

B. History of Project Management

Provide evidence and examples of similar projects implemented and managed which demonstrates the ability of the organization to successfully implement and manage publicly funded projects in a timely manner, within budget, and consistent with funding requirements.

C. Staffing Capacity

Provide a complete list of staff positions for the project, including the Project Director and other key personnel, showing the role of each and their level of effort and qualifications. Discuss how key staffs have demonstrated experience with and understand the service needs of the mentally ill or substance abusing population.

2. Community Needs and Benefit

30 Points

A. Needs Assessment and Target Population

What do you identify as the community need? How do you quantify and measure the need? The statement of need should include a clearly established baseline for the project with data and identified point in time when the data was collected (if data is available). What is the target population you intend to serve, and what is that populations' unmet need or gap in services you propose to address? How many people in Clallam County are in need of the service you propose, and what method did you use to estimate that number? How many individuals within this target population will you serve during the grant period?

B. Outreach

Describe your outreach plan for your target population and how it ensures that eligible persons learn about and have access to your program.

C. Link between Community Need and Gaps in Service

Describe how the identified need is consistent with meeting Community Need and Gaps in Service in Clallam County.

3. Project Description

40 Points

A. Project Design

Describe your project. Include what services you will provide, when you will provide them and where services will be delivered. Provide a timeline for implementation.

B. Evaluation

Describe your plan for program evaluation, including data collection, management and analysis. Use the Evaluation Worksheet (**Attachment C**) to describe: 1) Goals; 2) Activities and; 3) Objectives. Objectives must be measurable and include both outputs and outcomes. One output should be the number of individuals served. Outcomes are benefits or changes for program participants and may relate to behavior, skills, knowledge, attitude, values, conditions, or other attributes.

C. Evidence-Based, Promising, or Best Practices

What evidence-based, promising, or best practice(s) will you use to serve your target population? Please describe the practice(s) briefly and provide one or more resource that details evidence or support for the practice.

Promising and best practices will be considered for funding, but must include a robust evaluation process.

D. Innovative Practices

What innovative practice(s) will you use to serve your target population? Please describe the practice(s) briefly and provide one or more resource that details support for the practice. Robust evaluation process must be included.

E. Community Collaboration, Integration and Collective Impact

Describe any other organizations that will participate in this project and their roles and responsibilities. Describe how this project will be integrated with other programs in the community that are working to achieve the identified goals and outcomes and establish mutually beneficial programming. What kind of impact will the project have?

4. Project Financial Feasibility

10 Points

A. Budget Narrative

Provide a narrative justification of the items included in your proposed budget (**Attachment D**) and a description of existing resources and other support you expect to receive for the proposed project. Provide clear evidence that the project scope will not supplant current project funding, and confirm that other funding sources are exhausted prior to the utilization of these funds.

B. Additional Resources and Sustainability

Describe how the project leverages other federal, state, local or private financial and/or in-kind resources. Funding under this grant program is allocated for a 24-month period. Initial funding is not an assurance or guarantee of ongoing operational funding. Describe the organization's plan to sustain basic levels of service after the conclusion of the grant period. What efforts will be made to secure other funding to support services?

Copy of your most recent financial audit. Include any responses to any findings, etc.

Grant Proposal Checklist

ONE (1) ORIGINAL PROPOSAL AND EIGHT (8) COMPLETE COPIES ARE REQUIRED (all three ring hole punched).

Grant Proposals must include the following required components in the following order:

- ☐ **Attachment A – Grant Summary Page**
Directions – Complete Attachment A. Limited up to one page.
- ☐ **Attachment B – Narrative Template for Grant Proposals**
Directions – Using Attachment B: Narrative Template for Grant Proposal, provide responses to all Narrative questions including Organizational Capacity, Community Needs and Benefit, Project Description and Project Financial Feasibility. Limited up to 10 pages. Attach copy of your most recent financial audit. Include any responses to any findings, etc.
- ☐ **Attachment C – Evaluation Worksheet**
Directions – Using Attachment C, submit detailed information in response to Narrative sections: Community Needs and Benefit and Project Description.
- ☐ **Attachment D – Project Budget Form**
Directions – Project budget must include all expenses, in detail, for the proposed budget. All funds being requested need to be identified and any match or in-kind going towards the project. Staffing should include salaries and benefits separately and include titles of all staff. Indirect may be applied only to salaries in any project and cannot exceed 10% of total salaries.

No other attachments are to be submitted and will not be reviewed.

X. REVIEW AND SELECTION CRITERIA

The Clallam County Behavioral Health Advisory Committee will convene a review committee and evaluate eligible proposals and make recommendations to the Clallam County Board of Commissioners. Only individuals who do not have a conflict of interest will participate on the review committee.

Grant Proposals will be evaluated as per section IX. GRANT PROPOSAL of this RFP packet. The review committee will convene to develop written questions they have regarding each proposal. Proposers will be notified of the date and time to appear before the committee for a question and answer session. Proposers will give a 5-10 minute summary of their proposed project and then have time to address the questions from the committee. The sessions are used to further the evaluation process and clarify questions raised by the written proposals. Be prepared to respond to questions about the proposal related to project design, community collaboration and the budget. Please bring the persons within the organization that can provide a response to such questions.

All applicants will be notified in writing of the acceptance or rejection of their proposals. If a proposal is not selected for funding, the organization may resubmit a proposal at the next grant cycle.

1. Important factors include:

- a. The degree the proposal addresses gaps in services.
- b. Effectiveness of proposed services demonstrated by strategies to obtain realistic projected measurable outcomes.
- c. Proposal cost versus services provided.
- d. Efficacy of program design and the degree to which the agency demonstrates an understanding of the program/project requested by the RFP.
- e. Compliance of proposal with the requirements contained within the RFP.
- f. Evidence of successful collaboration with other organizations in the community that provide similar or complementary services that will assist in making the project a success.

In evaluating each proposal, the County reserves the right to consider past County contract performance if the provider has had a contract for services in the past.

2. Unacceptable Proposals

Some examples of what would constitute an unacceptable proposal are those which meet at least one of the following criteria:

- a. Does not address the essential requirements as part of the *Project Narrative Questions* in the RFP.
- b. Does not address the essential requirements of the particular project.
- c. Demonstrates that the applicant does not understand the requirements of the RFP or the project.
- d. Deficient in approach.
- e. Contains inappropriate or unreasonable costs.
- f. Does not meet the deadline for submittal.
- g. Does not meet the prescribed number of copies for submittal.

XI. PROPOSAL TERMS AND CONDITIONS AND INSURANCE REQUIREMENTS

A. Authorship

All proposals submitted become the property of Clallam County, and it is understood and agreed that the bidder claims no proprietary rights to the ideas contained therein.

B. Subcontracting

Proposers must include any plans for subcontracting of services or activities of the programs. It is understood that the contractor(s) is held responsible for the satisfactory accomplishment of the service or activities included in such subcontract. Clallam County reserves the right to approve all subcontractors.

C. Rejection of Proposal

No applications (Proposals) submitted under this Request for Proposals (RFP) will be returned for correction or clarification. If the application is incomplete, it will be rejected. Verbal, alternative, and late proposals will not be considered for selection. Clallam County reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with all qualified sources, or to cancel in part, or in its entirety, this RFP if it is in the best interest of Clallam County to do so.

D. Appeal Process

Any agency may appeal the selection of proposals by filing a complaint, in writing, to the Clallam County Behavioral Health Committee. The Committee will meet to review all complaints and render a decision of how to proceed. If a decision is rendered that is not agreeable to the agency, they may file a complaint with the Clallam County Board of Commissioners.

E. Cancellation of Award

Clallam County reserves the right to cancel an award immediately if new State Laws or policy determinations make it necessary to substantially change the project purpose or content, or prohibit such a project, or if the funds became unavailable.

F. Price Warranty

The proposer warrants that the rates quoted for services in response to this RFP are not unreasonably greater than the rates for the same services performed by the same individuals under any other existing contracts or grants.

G. Waivers

The right is reserved by Clallam County to waive specific terms and conditions contained in this Request for Proposals (RFP). It shall be understood that any proposal is predicated upon the acceptance of all terms and conditions in the RFP unless the proposer has obtained such a waiver.

H. Nondiscrimination in Programs and Employment

It is the policy of Clallam County to encourage and support equal opportunity in employment.

No person shall, on the grounds of race, color, religion, sex, handicap, sexual orientation, national origin, age, citizenship, political affiliation or belief, be denied employment or benefits, or be discriminated against as a participant, administrator, or staff person under any program or activity receiving funds under Clallam County.

In compliance with Department of Labor Regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended, no qualified handicapped individual shall be discriminated against in the admission, access, treatment, or employment in any program or activity.

The proposer agrees to comply with all provisions of the Americans with Disabilities Act and regulations interpreting or enforcing such Act.

The proposer agrees to provide equal opportunity in the administration of the contract, and its subcontracts, purchase orders or other agreements, and in the delivery of services to applicants/participants.

The proposer agrees to make every feasible effort to remove artificial barriers to employment, including, but not limited to, the elimination of sex stereotyping in employment and architectural barriers for the handicapped. Every effort shall be made to employ members of the eligible population in the staffing and administration of the project.

I. Addenda to the Request for Proposals

In the event it becomes necessary to revise any part of this RFP, addenda will be provided to all proposers who received the RFP.

J. Limitation

This Request for Proposals does not commit Clallam County to award a contract, to pay any costs incurred in the preparation of a proposal to this request, or to procure or contract for services or supplies.

K. Signature

The proposal shall be signed by an official authorized to bind the bidder and shall provide the following information: name, title, address, and telephone number of individual(s) with authority to negotiate and contractually bind the bidder, and who may be contacted during the period of proposal evaluation.

L. Contract Award

Clallam County may award a contract based on proposals received; therefore, each proposal should be submitted in the most favorable terms from a budgetary,

technical, and programmatic standpoint. Clallam County reserves the right to request additional data, discussion or presentation in support of written proposals.

M. Insurance Requirements

The Contractor shall purchase and maintain such insurance as will provide protection from claims set forth below which may arise out of or result from Contractor's operations under this Agreement whether such operations be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- a. Claims under Workers' Compensation, disability benefit and similar employee benefit acts which are applicable to the work to be performed.
- b. Claims for damages because of bodily injury, occupational sickness or disease, or death of employees under any applicable employer's liability law.
- c. Claims for damages because of bodily injury or death of any person other than employees.
- d. Claims for damages insured by usual personal injury liability coverage.
- e. Claims for damages because of injury to or destruction of tangible property, including loss of use therefrom.
- f. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

1. COVERAGE FORMS

- a. With respect to Workers' Compensation insurance in the state of Washington, the Contractor shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. If the Contractor is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of Washington, the Contractor shall so certify by a letter signed by a corporate officer. Such letter shall set forth the limits of any excess insurance covering its employees.

With respect to the performance of this Agreement as to claims against the County, its officers, elected and appointed officials, employees, agents, and volunteers, the Contractor expressly waives its immunity under RCW, Title 51, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to defend, indemnify and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. The County, its officers, elected and appointed officials, employees, agents and volunteers shall be named as additional insureds. As with other provisions of this

Agreement, this provision was mutually negotiated between the parties to this Agreement.

- b. General Liability insurance shall be written on an insurance industry standard Commercial General Liability Occurrence policy form, and shall provide insurance for bodily injury and property damage liability to include the following: premises and operations; blanket contractual liability insuring obligations assumed under this section; explosion, collapse and underground hazard perils; broad form property damage; and personal injury liability. In addition, the following coverage extensions shall also be included: Amendment of Contractual Liability for Personal Injury Liability, Per Project Aggregate limits, and Stop Gap Employers Liability.

The County, its officers, elected and appointed officials, employees, agents and volunteers shall be named as additional insureds with respect to work performed by or for Contractor on behalf of the County.

Contractor's General Liability insurance shall be primary with respect to the County, and any third party liability coverage maintained by the County shall be excess and non-contributory with respect to Contractor's insurance.

- c. If automobiles are used in the rendering of services, auto liability insurance shall be written on an insurance industry standard Business Auto Liability policy form or equivalent. Covered autos shall be designated as "Symbol 1" - Any Auto.

The County, its officers, elected and appointed officials, employees, agents and volunteers shall be named as additional insureds on the policy.

- d. Errors and Omissions liability insurance, providing coverage for claims for professional acts, errors or omissions arising out of services performed by Contractor, shall be written on a Professional Liability policy form appropriate to the Contractor's profession. Contractor shall maintain professional liability coverage for a period of at least thirty-six months following completion of Contractor's work.

If such policy is written on a claims made form, the retroactive date shall be prior to or coincidental with the date of this Agreement. The policy shall state that coverage is provided on a claims made coverage basis, and shall also state the retroactive date.

- 2. Contractor's liability insurance, as required by subparagraphs above shall be written for not less than the following limits of liability:

- a. Workers' Compensation
Statutory Bodily Injury including Death by Accident or Disease

- b. Stop Gap Employers' Liability
 - \$1,000,000 Bodily Injury including Death by Accident - Each Accident
 - \$1,000,000 Bodily Injury including Death by Disease - Policy Limit
 - \$1,000,000 Bodily Injury including Death by Disease – Each Employee
 - c. General Liability - Bodily Injury, Personal Injury & Property Damage
 - \$2,000,000 General Aggregate
 - \$2,000,000 Products and Completed Operations Aggregate
 - \$1,000,000 Personal Injury
 - \$1,000,000 Each Occurrence
 - d. Automobile Liability
 - \$1,000,000 Bodily Injury including Death and Property Damage - Per Accident
 - e. Professional Liability
 - \$ 2,000,000 Per Occurrence
 - \$ 2,000,000 Annual Aggregate
 - or
 - \$ 1,000,000 Per Occurrence
 - \$ 3,000,000 Annual Aggregate
3. Certificates of Insurance evidencing the above coverages that identify the County as an additional insured must be filed with the County prior to commencement of the work. Such certificates shall state that the County, its officers, elected and appointed officials, employees, agents and volunteers have been named as additional insureds on all the liability policy forms, and that the general liability policy provides primary coverage as respects the County and any third party liability coverage maintained by the County shall be excess and non-contributory with respect to Contractor's insurance. In addition, such certificates shall provide the County with 30 days prior written notice in case of cancellation or non-renewal, except 10 days for non-payment of premium.

Acceptance by the County of deficient evidence of insurance does not constitute a waiver of contract requirements as provided by the conditions of this contract Agreement.

The County may, upon the Contractor's failure to comply with all provisions of this contract relating to insurance, withhold payment or compensation that would otherwise be due to the Contractor.

If the proof of insurance or certificate indicating the County is an "additional insured" to a policy obtained by the Contractor refers to an endorsement (by number or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Contractor to obtain the full text of that endorsement and forward that full text to the County with 30 days of the execution of the contract.

XIII.

ATTACHMENTS

(Attachments available in Word Document format)

ATTACHMENT A – Grant Summary Page

ATTACHMENT B – Narrative Template for Grant Proposals

ATTACHMENT C – Evaluation Worksheet

ATTACHMENT D – Project Budget Form 2022

Project Budget Form 2023

**2022 – 2023 GRANT SUMMARY PAGE
BEHAVIORAL HEALTH RFP
CLALLAM COUNTY**

Organization Name: _____

Proposal Title: _____

Please Check One: ☐ West End Behavioral Health Services
☐ SUD/MH Housing and Shelter
☐ Prevention/Early Intervention
☐ Unfunded/Underfunded Behavioral Health

Proposal Summary:

Requested Funds Amount 2022: \$ _____

2023: \$ _____

Matching/In-kind Funds Amount 2022: \$ _____

2023: \$ _____

Street Address:

City:

State:

Zip:

Primary Contact:

Phone:

E-Mail:

Non-Profit Status: 501C3 of the Internal Revenue Code? ☐ Yes ☐ No

Federal Tax ID Number: _____

- If incorporated, attach a list of the members of the Board of Directors, including names and addresses.
- If not incorporated (sole proprietor or partnership), attach a list of the names and addresses of the principals.

Signature

Print Name

Title

Date

**2022 – 2023 NARRATIVE TEMPLATE FOR GRANT PROPOSALS
BEHAVIORAL HEALTH RFP
CLALLAM COUNTY**

All Proposals will be screened and rated based on the following Narrative information using the template below. The Narrative is limited up to 10 pages.

1. Organizational Capacity

- A. Organizational Governance
- B. History of Project Management
- C. Staffing Capacity

2. Community Needs and Benefit

- A. Needs Assessment
- B. Outreach
- C. Community Need (Gaps in Services)

3. Project Description

- A. Project Design
- B. Evaluation
 - Goals
 - Activities
 - Objectives
- C. Evidence-based or Promising Practices (Explain)
- D. Innovative Practices (Explain if applicable)
- E. Community Collaboration, Integration and Collective Impact

4. Project Financial Feasibility

- A. Budget Narrative
- B. Additional Resources and Sustainability
- C. Copy of your most recent financial audit. Include any responses to any findings, etc.

2022 - 2023 EVALUATION WORKSHEET

BEHAVIORAL HEALTH RFP
CLALLAM COUNTY**INSTRUCTIONS:**

Evaluation is the collection of information about a program in a systematic and defined manner to demonstrate success, identify areas for improvement and lessons learned. Every program has at least one end goal and might have several – one or more activities are required to make progress toward meeting the goal. Progress is measured with one or more objectives that might cover an output (number of something) or outcome (change over time) due to the program.

DEFINITIONS:

Goal:	A broad statement or a desired, longer-term, outcome of a program. A program can have one or multiple goals. Each goal has a one or more related specific objectives that, if met, will collectively achieve the stated goal.
Activity:	Actions taken or work performed to produce specific outputs and outcomes.
Objective:	A statement of a desired program result that meets the criteria of being SMART (specific, measurable, achievable, realistic, and time-bound).
Output:	Results of program activities; the direct products or deliverables of program activities; such as number of: sessions completed, people served, materials distributed.
Outcome:	Effect of a program (change) - can be in: participant satisfaction; knowledge, attitude, skill; practice or behavior; overall problem; or a measure of return-on-investment or cost-benefit. Identify any measures that are “fidelity” measures for an evidence based practice.
Reporting:	How and from where will data be collected? How will you measure your desired/stated output/outcome to show success and/or progress?

ATTACHEMENT C

PROJECT NAME: Click here to enter text.

A. GOAL	B. ACTIVITY	C. SMART OBJECTIVE	D. TYPE OF MEASURE Output/Outcome	E. SOURCE/REPORTING How will you measure your stated output/outcome to indicated success and/or progress? (Every 6 months)
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

Behavioral Health Funds January 1, 2022 – December 31, 2022 PROJECT BUDGET FORM					
Agency Name:		Project Name:			
Enter the Associated Cost of your Project					
Personnel/Benefits	Proposed Cost	FTE	Requested Funds	Matching Funds	Comments
Title of Staff					
Title of Staff					
Title of Staff					
Title of Staff					
Title of Staff					
Indirect (max. 10%)					
Total Benefits					
SUBTOTAL	\$ -	0.00	\$ -	\$ -	
Supplies and Equipment	Proposed Cost		Requested Funds	Matching Funds	Comments
Describe					
Describe					
Describe					
Describe					
SUBTOTAL	\$ -		\$ -	\$ -	

ATTACHEMENT D

Program/Other	Proposed Cost		Requested Funds	Matching Funds	Comments
Describe					
Describe					
Describe					
Describe					
Describe					
SUBTOTAL	\$ -		\$ -	\$ -	
Operations & Maintenance	Proposed Cost		Requested Funds	Matching Funds	Comments
Describe					
Describe					
Describe					
Describe					
Describe					
SUBTOTAL	\$ -		\$ -	\$ -	
OTHER EXPENSES	Proposed Cost		Requested Funds	Matching Funds	Comments
Describe					
Describe					
Describe					
Describe					
Describe					
SUBTOTAL	\$ -		\$ -	\$ -	
TOTAL	\$ -	0.00	\$ -	\$ -	

Behavioral Health Funds January 1, 2023– December 31, 2023 PROJECT BUDGET FORM					
Agency Name:		Project Name:			
Enter the Associated Cost of your Project					
Personnel/Benefits	Proposed Cost	FTE	Requested Funds	Matching Funds	Comments
Title of Staff					
Title of Staff					
Title of Staff					
Title of Staff					
Title of Staff					
Indirect (max. 10%)					
Total Benefits					
SUBTOTAL	\$ -	0.00	\$ -	\$ -	
Supplies and Equipment	Proposed Cost		Requested Funds	Matching Funds	Comments
Describe					
Describe					
Describe					
Describe					
SUBTOTAL	\$ -		\$ -	\$ -	

ATTACHEMENT D

Program/Other	Proposed Cost		Requested Funds	Matching Funds	Comments
Describe					
Describe					
Describe					
Describe					
Describe					
SUBTOTAL	\$ -		\$ -	\$ -	
Operations & Maintenance	Proposed Cost		Requested Funds	Matching Funds	Comments
Describe					
Describe					
Describe					
Describe					
Describe					
SUBTOTAL	\$ -		\$ -	\$ -	
OTHER EXPENSES	Proposed Cost		Requested Funds	Matching Funds	Comments
Describe					
Describe					
Describe					
Describe					
Describe					
SUBTOTAL	\$ -		\$ -	\$ -	
TOTAL	\$ -	0.00	\$ -	\$ -	

REQUEST FOR PROPOSALS/QUALIFICATIONS

Clallam County is soliciting proposals from interested parties to provide Substance Use, Mental Health, and related services throughout Clallam County for the period January 1, 2022 through December 31, 2023.

Sealed proposals must be clearly marked on the outside of the envelope **“Behavioral Health PROPOSAL 2022”**. Mailing address for proposal is: Board of Clallam County Commissioners, 223 East 4th Street, Suite 4, Port Angeles, Washington 98362, or hand-delivered (in accordance with current public health standards and in compliance with the Washington Ready Plan and to reduce the spread of COVID) to 223 East 4th Street, Room 150 (County Commissioner’s Office), Port Angeles, Washington. **Proposals MUST be received by 3:00 p.m., Monday, October 4, 2021**, whether by mail or by hand deliver. Submittals made in an incorrect format will not be considered. Proposals will be opened publicly and acknowledged at the Board of Clallam County Commissioners’ Meeting on Tuesday, October 5, 2021.

An RFP application and information packet is available on the Clallam County website at www.clallam.net/HHS or a hardcopy may be obtained Monday through Friday, 9:00 a.m. – 4:00 p.m., in the Health and Human Services Department, 111 East 3rd Street (upper floor), Port Angeles, Washington (in accordance with current public health standards and in compliance with the Washington Ready Plan and to reduce the spread of COVID). Telephone 360.417.2431 or email joppelt@co.clallam.wa.us for packets.

Clallam County hereby notifies all 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 proposals 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.

PASSED THIS _____ day of _____, 2021

ATTEST:

BOARD OF CLALLAM COUNTY COMMISSIONERS

Loni Gores, Clerk of the Board

Mark Ozias, Chair

c: Department

Publish: August 22 and August 29, 2021

Bill: Health and Human Services



9
8/9/21

AGENDA ITEM SUMMARY

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

Department: Public Works/Roads

WORK SESSION ☒ **Meeting Date:** 08/09/2021

REGULAR AGENDA ☒ **Meeting Date:** 08/17/2021

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

Item summary:

- | | | |
|---|--|--------------------------------------|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # 101-21-014 | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary:

Clallam County Public Works/Road Department needs to purchase Right of Way for the Towne Road Dike Relocation project. The County is purchasing 0.53 acres from PCC Farmlands for this 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?** ☐

698-1606 \$6941.00

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

That the Commissioners review, approve and sign this agreement

County Official signature & print name: Mary Peterson for ↓, Ross Tyler, P.E.

Name of Employee/Stakeholder attending meeting: Ross Tyler, Linda Capps

Relevant Departments: Roads

Date submitted: 08/03/2021

* 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)

COUNTY ROAD NAME Towne Road Dike Relocation CRP 698-1606
NO. 52270
PROPERTY OWNERS **PCC Farmland Trust dba Washington Farmland Trust, a**
Washington nonprofit corporation, on Tax
Parcel No's. 043136450560, 043136450570, 043136450575

CLALLAM COUNTY ROAD DEPARTMENT
Land Purchase Agreement

In exchange for deeded land in the matter of the above said County Road Project, Clallam County shall provide the following:

Existing County R/W 0.59 acres RCW 36.86.010= \$0.00
Land: 0.53 acres as per AOS dated 5/4/20 = \$6,184.00
TCE: 0.26 acres as per AOS dated 5/4/20 = \$757.00
Total \$6,941.00

Clallam County will construct a drainage tile system on TPN 043136450560 as illustrated.

The undersigned property owners hereby authorize and grant Clallam County the right to provide the above agreement, together with the right to enter upon their remaining lands as may be necessary to perform any of the above. There are no other agreements written or oral other than those stated herein.

Signed at Seattle, Washington this 29 day of June, 2021.

PCC Farmland Trust DBA Washington Farmland Trust
Property Owner Farmland Trust Property Owner

Property Owner

PO Box 2206
Address; Street or Box No.

Seattle WA 98111
City State Zip

John M. Pope, Jr.
R/W Agent or Witness

Property Owner

Address; Street or Box No.

City State Zip

R/W Agent or Witness

Reviewed By:

Joe Dornia 8-3-21
Assistant Engineer Date

R. Tyler, P.E. 8/3/21
County Engineer Date

Deputy Prosecuting Attorney Date

Approved By:

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair Date

Randy Johnson Date

Bill Peach Date

WHEN RECORDED RETURN TO
Clallam County Road Department

Statutory Warranty Deed

THE GRANTOR PCC Farmland Trust dba Washington Farmland Trust, a Washington
nonprofit corporation

for and in consideration of \$10.00 and other valuable consideration, conveys and warrants to
CLALLAM COUNTY, a political subdivision, by and through its road department
the following described real estate, together with all after acquired title of the grantor(s) therein,
situate in the County of Clallam, State of Washington, being a portion of Tax Parcel Nos.
043136450560 043136450570, 043136450575. Subject, however, to existing easements for public
roads and highways, public utilities, railroads and pipelines.

SEE PCC FARMLAND TRUST LEGAL DESCRIPTIONS
"A", "B" and "C" ATTACHED

Dated June 28 20 21

GRANTOR

PCC Farmland Trust dba Washington Farmland Trust

By: Melissa Campbell

Name: Melissa Campbell

Its: Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Melissa Campbell is the person who appeared before
me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to
execute the instrument and acknowledged it as the Executive Director of PCC Farmland Trust dba Washington
Farmland Trust, a Washington nonprofit corporation to be the free and voluntary act of such party for the uses
and purposes therein mentioned.

Given under my hand and official seal this 28th day of June, 20 21.

John Milton Payne, Jr.
Notary Public in and for the State of Washington
residing at Lynnwood, Washington
My appointment expires: 02/20/2024

JOHN MILTON PAYNE JR
Notary Public
State of Washington
Commission # 20103410
My Comm. Expires Feb 20, 2024



PCC FARMLAND TRUST DESCRIPTION "A"

TPN 043136-450560

08/04/2021

THAT PORTION OF THE SMALLEY DONATION LAND CLAIM IN SECTION 36, TOWNSHIP 31 NORTH, RANGE 4 WEST, W.M., CLALLAM COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

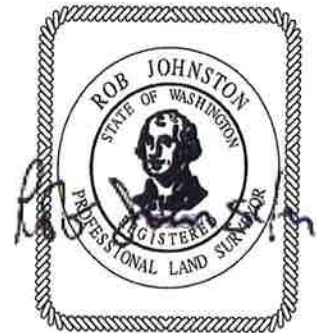
COMMENCING AT THE SOUTHEAST CORNER OF THE ABERNATHY DONATION LAND CLAIM FROM WHICH THE NORTHWEST CORNER OF THE SMALLEY DONATION LAND CLAIM BEARS NORTH 01°56'37" EAST, A DISTANCE OF 950.35 FEET; THENCE NORTH 01°56'37" EAST, ALONG THE WEST LINE OF SAID SMALLEY DLC, A DISTANCE OF 208.50 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF PARCEL B PER BOOK 49 OF SURVEYS, PAGE 97 AND THE WEST OF SAID SMALLEY DLC BEING THE TRUE POINT OF BEGINNING;

THENCE NORTH 01°56'37" EAST, ALONG SAID WEST LINE, A DISTANCE OF 385.51 FEET TO THE INTERSECTION WITH THE NORTH LINE OF SAID PARCEL AND SAID WEST LINE; THENCE NORTH 89°40'38" EAST, ALONG THE NORTH LINE THEREOF, A DISTANCE OF 201.67 FEET, THENCE SOUTH 59°31'35" WEST, A DISTANCE OF 48.98 FEET, THENCE SOUTH 46°34'19" WEST, A DISTANCE OF 63.46 FEET; THENCE SOUTH 30°01'53" WEST, A DISTANCE OF 84.60 FEET; THENCE SOUTH 18°37'20" WEST, A DISTANCE OF 96.35 FEET, THENCE SOUTH 05°07'53" WEST, A DISTANCE OF 147.18 FEET; THENCE SOUTH 01°42'38" WEST, A DISTANCE OF 7.24 TO THE SOUTH LINE OF SAID PARCEL; THENCE NORTH 89°23'33" WEST, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 39.95 TO THE TRUE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF CLALLAM, STATE OF WASHINGTON.

AS DESCRIBED, CONTAINING 0.68 ACRES.

ALL BEARINGS AND DISTANCES ARE RELATIVE TO THE WASHINGTON COORDINATE SYSTEM GRID, NORTH ZONE, NAD 83(91) PER BOOK 40 OF SURVEYS, PAGE 43.



08/04/2021



PCC FARMLAND TRUST LEGAL DESCRIPTION "B"
TPN 043136-450570
09/20/2019

THAT PORTION OF THE SMALLEY DONATION LAND CLAIM IN SECTION 36, TOWNSHIP 31 NORTH, RANGE 4 WEST, W.M., CLALLAM COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE ABERNATHY DONATION LAND CLAIM FROM WHICH THE NORTHWEST CORNER OF THE SMALLEY DONATION LAND CLAIM BEARS NORTH 01°56'37" EAST, A DISTANCE OF 950.35 FEET; THENCE NORTH 01°56'37" EAST, ALONG THE WEST LINE OF SAID SMALLEY DLC, A DISTANCE OF 208.50 FEET TO THE INTERSECTION WITH THE NORTH LINE OF PARCEL 6 PER BOOK 8 OF SURVEYS, PAGE 44 AND THE WEST OF SAID DLC; THENCE SOUTH 89°23'33" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 39.95 FEET; THENCE SOUTH 01°42'38" WEST, A DISTANCE OF 255.13 FEET TO THE SOUTH LINE OF SAID PARCEL 6, THENCE NORTH 88°38'56" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 40.98 FEET TO SAID WEST LINE; THENCE NORTH 01°56'37" EAST, ALONG SAID WEST LINE, A DISTANCE OF 46.12 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF CLALLAM, STATE OF WASHINGTON.

AS DESCRIBED, CONTAINING 0.24 ACRES.

ALL BEARINGS AND DISTANCES ARE RELATIVE TO THE WASHINGTON COORDINATE SYSTEM GRID, NORTH ZONE, NAD 83(91) PER BOOK 40 OF SURVEYS, PAGE 43.



09/20/2019

8-4-21



PCC FARMLAND TRUST LEGAL DESCRIPTION "C"
TPN 043136-450575
11/01/2019

THAT PORTION OF THE SMALLEY DONATION LAND CLAIM IN SECTION 36, TOWNSHIP 31 NORTH, RANGE 4 WEST, W.M., CLALLAM COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE ABERNATHY DONATION LAND CLAIM FROM WHICH THE NORTHWEST CORNER OF THE SMALLEY DONATION LAND CLAIM BEARS NORTH 01°56'37" EAST, A DISTANCE OF 950.35 FEET; THENCE SOUTH 01°56'37" WEST, ALONG THE WEST LINE OF SAID SMALLEY DLC, A DISTANCE OF 46.12 FEET TO THE INTERSECTION WITH THE NORTH LINE OF PARCEL 7 PER BOOK 8 OF SURVEYS, PAGE 44 AND THE WEST OF SAID SMALLEY DLC BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 88°38'56" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 40.98 FEET; THENCE SOUTH 01°42'38" WEST, A DISTANCE OF 213.94 FEET, THENCE NORTH 89°08'14" WEST, A DISTANCE OF 41.85 FEET TO SAID WEST LINE; THENCE NORTH 01°56'37" EAST, ALONG SAID WEST LINE, A DISTANCE OF 214.31 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF CLALLAM, STATE OF WASHINGTON.

AS DESCRIBED, CONTAINING 0.20 ACRES.

ALL BEARINGS AND DISTANCES ARE RELATIVE TO THE WASHINGTON COORDINATE SYSTEM GRID, NORTH ZONE, NAD 83(91) PER BOOK 40 OF SURVEYS, PAGE 43.



11/01/2019

8-4-21

WHEN RECORDED RETURN TO
Clallam County Road Department

TEMPORARY CONSTRUCTION EASEMENT

THE GRANTOR **PCC Farmland Trust dba Washington Farmland Trust, a Washington
nonprofit corporation**

for and in consideration of \$10.00 and other valuable consideration grants and conveys to
CLALLAM COUNTY, a political subdivision, by and through its road department,
a temporary easement and right of way in, on, over, under, upon and across the hereinafter described
lands, situate in the County of Clallam, State of Washington, the land described below, for a period
not to exceed four years, beginning with date of possession of the land is granted to Clallam County,
for use by Clallam County, its representatives, agents, and contractors as a work area, including the
right to borrow and/or deposit fill, spoil and waste material thereon move, store and remove
equipment and supplies, and erect and remove temporary structures on the land and to perform any
other work necessary and incident to the construction of the Project, together with the right to trim,
cut, fell and remove there from all trees, underbrush, obstructions, and any other vegetation,
structures, or obstacles within the limits of the right of way; reserving, however, to the landowners,
their heirs and assigns, all such rights and privileges as may be used without interfering with or
abridging the rights and easement hereby acquired; subject, however, to existing easements for public
roads and highways, public utilities, railroads and pipelines. Being a portion of Tax Parcel No.
043136450560

See Legal Attached

Dated June 20 20 21

GRANTOR:

PCC Farmland Trust dba Washington Farmland Trust

By: [Signature]

Name: Melissa Campbell

Its: Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Melissa Campbell is the person who appeared before
me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to
execute the instrument and acknowledged it as the **Executive Director of PCC Farmland Trust dba Washington
Farmland Trust, a Washington nonprofit corporation** to be the free and voluntary act of such party for the uses
and purposes therein mentioned.

Given under my hand and official seal this 28th day of June, 20 21.

[Signature]
Notary Public in and for the State of Washington,
residing at Lynnwood, Washington
My appointment expires: 02/20/2024

JOHN MILTON PAYNE JR
Notary Public
State of Washington
Commission # 20103410
My Comm. Expires Feb 20, 2024



Document was submitted after the
agenda and packet were posted on
8-4-21

CONSTRUCTION EASEMENT DESCRIPTION
TPN 043136-450560
04/28/2020

THAT PORTION OF PARCEL B OF SURVEY RECORDED IN BOOK 49 OF SURVEYS, PAGE 97, RECORDS OF CLALLAM COUNTY, WASHINGTON, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 31 NORTH, RANGE 4 WEST, W.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE ABERNATHY DONATION LAND CLAIM FROM WHICH THE CENTER OF SECTION 36 BEARS NORTH 01°56'37" EAST, A DISTANCE OF 1,243.19 FEET; THENCE CONTINUING NORTH 01°56'37" EAST, A DISTANCE OF 208.50 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL B; THENCE SOUTH 89°23'33" EAST, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 39.95 FEET; THENCE NORTH 01°42'38" EAST, A DISTANCE OF 7.24 FEET; THENCE NORTH 05°07'53" EAST, A DISTANCE OF 147.18 FEET; THENCE NORTH 18°37'20" EAST, A DISTANCE OF 55.23 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 89°51'36" EAST, A DISTANCE OF 551.82 FEET; THENCE NORTH 00°39'40" WEST, A DISTANCE OF 20.47 FEET; THENCE NORTH 89°51'36" WEST, A DISTANCE OF 544.69 FEET; THENCE SOUTH 18°37'20" WEST, A DISTANCE OF 21.58 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN CLALLAM COUNTY, STATE OF WASHINGTON.



04/28/2020

Capps, Linda

Document was submitted after the
agenda and packet were posted on
8-4-21

From: Hilary Aten <haten@wafarmlandtrust.org>
Sent: Tuesday, August 03, 2021 12:23 PM
To: Beals, Alice M (DFW); Capps, Linda
Subject: RE: Towne Road-USFWS Approval

Excellent, thank you Alice! Linda, this document serves to clear our contingency of WDFW approval for closing and recording on the sale to Clallam County. However, this document does not itself need to be recorded, we will maintain a copy in our files. Please feel free to do the same in your files, as needed.

In the meantime, we are now ready to close and record the sale with the documents you have in hand.

Please let me know if you have any questions, thanks again!

Hilary Aten (she/her)
Conservation & Stewardship Director

WASHINGTON FARMLAND TRUST

Direct: (206)777-4043 | Mobile: (205)617-8184

Visit us online at wafarmlandtrust.org
Please take note of my new email address



From: Beals, Alice M (DFW) <Alice.Beals@dfw.wa.gov>
Sent: Tuesday, August 3, 2021 11:17 AM
To: Capps, Linda <lcapps@co.clallam.wa.us>; Hilary Aten <haten@wafarmlandtrust.org>
Subject: RE: Towne Road-USFWS Approval

Attached is the letter signed by WDFW approving the Washington Farmland Trust transfer to the County.

Alice Beals

Lands Agent, Region 6
Washington Dept. of Fish & Wildlife
48 Devonshire Rd, Montesano, WA 98563
WORKING REMOTELY:
cell (360) 490-9030
alice.beals@dfw.wa.gov

Although the tone of email is always hard to interpret, be assured my messages are always sent with good intentions!

From: Capps, Linda <lcapps@co.clallam.wa.us>
Sent: Tuesday, August 3, 2021 10:58 AM
To: 'Hilary Aten' <haten@wafarmlandtrust.org>



Document was submitted after the
agenda and packet were posted on
8-4-21

July 22, 2021

Washington Dept. of Fish & Wildlife
Real Estate Services
600 Capitol Way North
Olympia, WA 98501-1091

SENT VIA EMAIL

RE: Delta Farm Conservation Easement - Lower Dungeness Floodplain Realignment Project
To whom it may concern,

Clallam County is proposing to acquire 0.53 acres in the ~~northeast~~ ^{northwest} corner of the Delta Farm property, owned by Washington Farmland Trust and under a conservation easement held by WDFW, to facilitate the Lower Dungeness Floodplain Realignment Project in partnership with the U.S. Army Corps of Engineers, Department of Ecology's Floodplain by Design Program, the Jamestown S'Klallam Tribe, among many others. We have been working with the County for many years for on this project, which is a high priority in the Dungeness River watershed to restore critical floodplain function and assist with salmon recovery efforts. In the Trust's reading WDFW's Deed of Conservation Easement (Recording # 20021092397), this proposed acquisition is clearly in support of enhancing the stated conservation values, specifically:

A portion of the property possesses natural, fish and wildlife, and open space values, herein called conservation values, of importance to the Grantors, Grantee and the people of Clallam County and the State of Washington, and in particular is part of the headwaters of the Dungeness River riparian corridor having valuable riparian habitat for fish and a wetland of great importance for numerous wildlife species which Grantee is actively seeking to preserve through acquisition of fee simple title and acquisition of conservation easements.¹

Washington Farmland Trust is supportive of the project and its benefit to the greater function of the Dungeness River and its floodplain system, and would like to move forward with the partial transfer to Clallam County, although the terms outlined in the WDFW-held easement deed, specifically restrictions

¹ As defined in the Recitals, Pgs 1-2

on subdivision², do not appear to permit the division of the protected property for the proposed project. Further, several other terms would likely conflict with the proposed infrastructure without explicit written permission from WDFW including restrictions on construction³, and alteration of land⁴, among others.

We understand that on June 25, 2021, the Washington State Fish & Wildlife Commission approved the release of the .53 acres from the conservation easement in support of this County project. We are writing this letter to request the written approval from Washington Department of Fish and Wildlife, to proceed with the proposed property transfer and allow for the associated construction activities from the project impacting the Delta Farm property, in light of the terms outlined in the conservation easement.

We are happy to answer any questions to the best of our knowledge and look forward to working with you on completion of the Lower Dungeness Floodplain Realignment project.

Sincerely,



Hilary Aten
Conservation & Stewardship Director

CC: Alice Beals, Lands Agent – Region 6
Nash Huber, Farm Tenant

² Section 3 (a) – Subdivision. “The legal or ‘de facto’ division, subdivision, or partitioning of the Property from its current configuration [shall be prohibited]”

³ Section 3 (b) – Construction. “The placement or construction of any buildings, structures or other improvements of any kind (including, without limitation, pipelines, wells, septic systems, drain fields, fences, roads, and parking areas), temporary or permanent, are prohibited except as expressly provided. Existing improvements, including roads, trails, culverts, corrals, ditches and/or canals, water pipelines, etc., which are needed for the approved activities are allowed and may be maintained for their intended purposes”

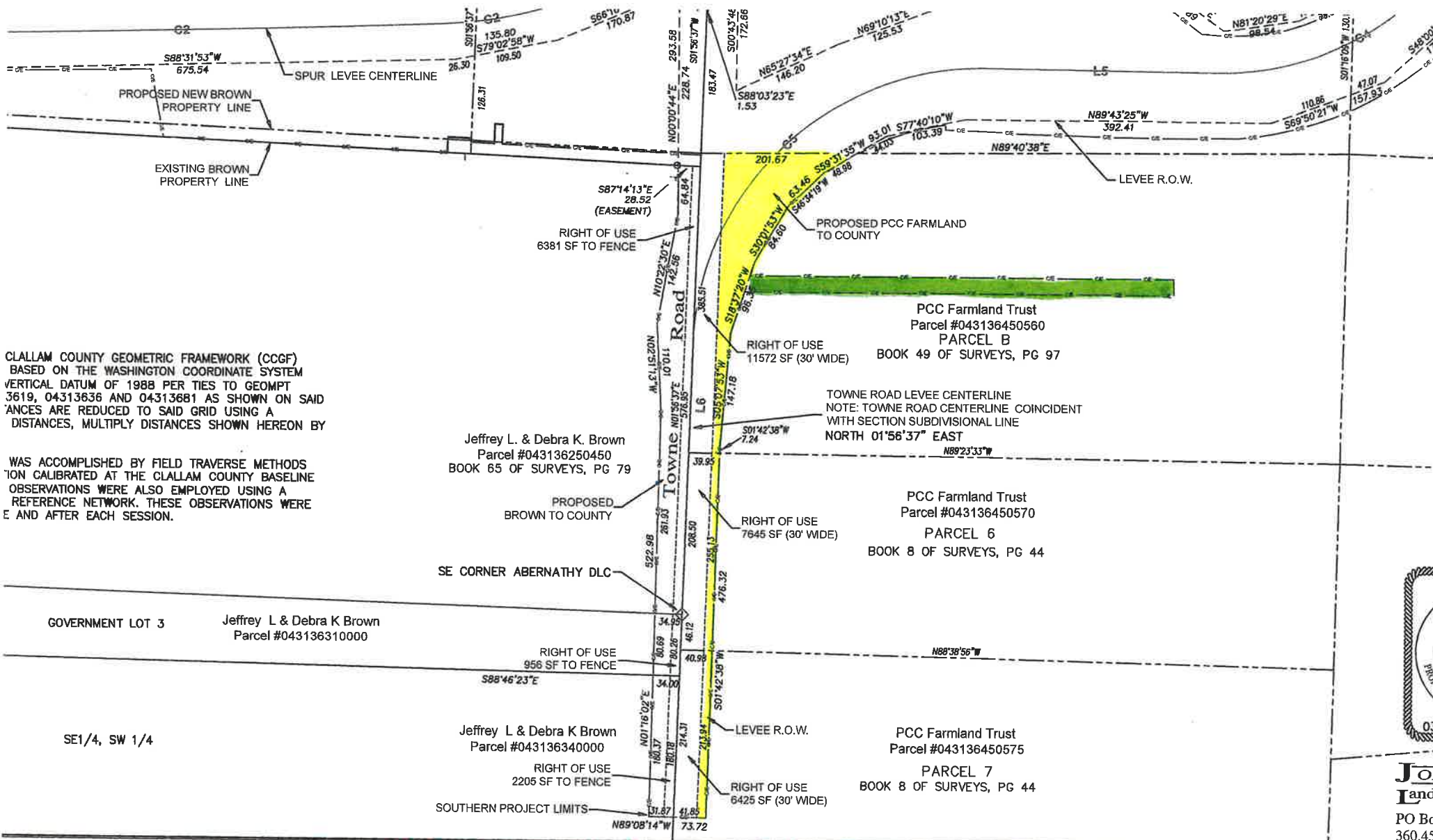
⁴ Section 3 (e) - Alteration of Land. “The alteration of the surface of the land, including without limitation, the excavation, fill or removal of soil, sand, gravel, rock, peat, or sod or any changes in topography that would alter or interfere with the natural distribution of flood flows on the Dungeness River floodplain; except as deemed necessary by Grantee to preserve or protect the conservation values of the Property and as may be allowed under Section 4”

The grant of 0.53 acre of right of way to Clallam County is hereby
APPROVED BY WASHINGTON DEPARTMENT OF FISH & WILDLIFE:



Cynthia Wilkerson
Lands Division Manager

Date: 7/30/21



CLALLAM COUNTY GEOMETRIC FRAMEWORK (CCGF)
 BASED ON THE WASHINGTON COORDINATE SYSTEM
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 TION CALIBRATED AT THE CLALLAM COUNTY BASELINE
 OBSERVATIONS WERE ALSO EMPLOYED USING A
 REFERENCE NETWORK. THESE OBSERVATIONS WERE
 E AND AFTER EACH SESSION.



Jo
Land
 PO Box
 360.45



10
8/19/21

AGENDA ITEM SUMMARY

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

Department: BOCC

WORK SESSION ☒ **Meeting Date: 8-9-21**

REGULAR AGENDA ☒ **Meeting Date: 8-17-21**

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 Discussion and next steps |

Documents exempt from public disclosure attached: ☐

Executive summary:

Commissioners' Responses to Charter Review Commission Recommendations:

At the conclusion of their term in 2020, the Charter Review Commission forwarded five formal recommendations to the County Commissioners as described in section 11.10.40 of our county Charter. The Chair has drafted "written conclusions and responses" to these recommendations and the purpose of today's work session discussion will be to share the draft responses and obtain input and additional direction from the entire Board so that final conclusions and responses may be adopted on August 17, 2021.

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?)

The purpose of today's work session discussion will be to share the draft responses and obtain input and additional direction from the entire Board so that final conclusions and responses may be adopted on August 17, 2021.

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

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: Board of Commissioners and Prosecuting Attorney's Office

Date submitted: July 22, 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)

Charter Review recommendations 8-9-21.docx

Revised: 3-04-2019



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

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

RICH SILL, County Administrator

August 17, 2021

2020 Clallam County Charter Review Commission County Commissioners' Formal Response to Recommendations

Background

Clallam County is a "Home Rule Charter" county, which in effect means that Clallam County has its own County Constitution, or Charter, rather than utilizing the system of county governance that is established by state law.

Every five years a group of county residents is elected by their peers to serve on the Charter Review Commission which is tasked with reviewing the county Charter to vet and suggest for further consideration, either directly by voters in the form of Charter Amendments or by providing recommendations to the Board of County Commissioners for additional vetting with county residents.

Section 11.10.40 of our Charter lays out a process for the County Commissioners to follow when presented with formal recommendations by the Charter Review Commission:

The Board of Commissioners shall conduct meetings, as required, including district town hall meetings, to fully vet publically all recommendations for changes or revisions to county operations and procedures (not proposed for ballot measures) forwarded to them by the Charter Review Commission. The meetings shall engage the public and shall encourage public comment on the proposed changes and revisions. Upon the conclusion of the meetings, the Board of Commissioners shall issue written conclusions and responses to the recommendations, including timetables for adoption of the recommendation and/or reasons for not adopting the recommendation. (New article proposed by the Charter Review Commission and approved by the voters November 3, 2015.)

Since the mechanism for presenting formal recommendations to the County Commissioners was adopted in 2015, and since the Charter Review Commission did not meet again until 2020, this is the first time that a Board of County Commissioners has received recommendations, engaged the public, encouraged public comment and issued written conclusions and responses to the recommendations.

Charter Review Commission's Recommendations

The five formal recommendations forwarded to the Board of County Commissioners by the 2020 Charter Review Commission are:

1. The BOCC shall take all required and necessary legal actions to ensure that any franchise associated with new radio frequency devices or systems operating in the micro or millimeter wave frequency range be accompanied by a scientific study determining that such law, regulation or franchise is in compliance with the National Environmental Policy Act (NEPA) prior to the enactment or granting of any franchise.
2. The Clallam County Board of County Commissioners pass a resolution calling on the state legislature to pass legislation, which would enable the County (and other jurisdictions in the state) to adopt ranked-choice voting for local elections, if they so choose.
3. That Clallam County increase its monitoring of the DNR's management of its trust lands by hiring a forester.
4. The Clallam County Board of Commissioners immediately take active leadership to reclaim and renew their primary leadership role in engaging a group of public and private organizations and businesses to creatively increase affordable housing availability, apply forward thinking ideas proven to be successful in communities that have reduced the experience of homelessness effectively, and report progress back to the community every six months.
5. The BOCC and the DCD shall jointly agree to commission a third-party review of the County ordinances and solicit a report on proposed changes to ordinances and operating procedures to clarify the roles and responsibilities of the DCD. The BOCC will consider, after public review and hearings, any proposed Ordinances for adoption within 120 days of the commissioned report. BOCC shall place on the November 2022 ballot, if needed, any necessary Charter changes to clarify the powers and duties of an elected DCD Director.

Public Engagement Process

The County Commissioners have engaged in a variety of efforts to “engage the public and encourage public comment” on these recommendations, including:

- Multiple Public Hearings, including morning, afternoon and evening events, attended by all three County Commissioners
- Presentations and question/answer opportunities with the Forks Chamber of Commerce (Commissioner Peach,) the Port Angeles Regional Chamber of Commerce (Commissioner Johnson,) and the Sequim-Dungeness Chamber of Commerce (Commissioner Ozias)
- Town hall-style events held by each County Commissioner in our respective Districts
- Radio outreach and question/answer opportunities on KONP and KSQM
- Written comments received (mostly via email) from October 2020 through June 2021
- Individual conversations with county residents

Our intent was to provide a variety of times, forums and formats to engage the public. The Public Hearings, and by extension the written comments received over several months, were where public engagement was most effective and successful. The Chamber of Commerce events were all well-attended and provided opportunities to further explore the recommendations that garnered the most interest. The town hall-style events were not an effective means of communicating with the public; despite broad promotion attendance at these events was essentially nil. It is certainly likely that in-person attendance was impacted by COVID-19. The radio outreach opportunities provided a good way to share and discuss the recommendations but were less effective in terms of engaging the public.

Commissioners' Responses to Recommendations

1. *"The BOCC shall take all required and necessary legal actions to ensure that any franchise associated with new radio frequency devices or systems operating in the micro or millimeter wave frequency range be accompanied by a scientific study determining that such law, regulation or franchise is in compliance with the National Environmental Policy Act (NEPA) prior to the enactment or granting of any franchise."*

This recommendation relates to "5G" technology that is currently being deployed across the country. The general topic of "5G" generated the highest volume of comments from members of the community during the Charter Review process, with a significant number concerned about the safety of this technology and others looking forward to improved mobile and broadband speed capability in a county with poor access to broadband.

The Commissioners understand that concerns exist regarding public health and safety that have been raised during this discussion. Small cell or 5G wireless technology is substantively different from previous technologies and its impacts have not been widely-studied; most health concerns center around the increase in involuntary exposure to electromagnetic radiation. Public health concerns relating to this new technology have caused other countries to take a variety of actions, including Switzerland placing a moratorium on the use of its 5G network in February of 2020 before developing new environmental guidelines that were released in February of 2021.

In county government, elected officials are tasked with looking to their Prosecuting Attorney's office for legal advice and guidance. Legal guidance from our Prosecuting Attorney's office indicated:

- Clallam County can only grant franchises along county roads or rights-of-way owned by the county, and we have no authority to grant or deny franchises along state highways. Franchises in cities are managed by those entities, while public or private providers may also seek easements across private property or purchase property themselves on which to locate equipment.
- Clallam County's ability to regulate telecommunications equipment is limited by the Telecommunications Act of 1996 and the Commerce Clause of the U.S. Constitution. While Clallam County retains some regulatory authority over our rights-of-way, the extent to which the County can regulate telecommunications is quite restricted: "No State or local statute or regulation, or other State or local requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." The Act goes on to state that "regulation of the placement, construction and modification of personal wireless service facilities by any...local government...shall not prohibit or have the effect of prohibiting the provision of personal wireless services."

The legal opinion goes on to indicate that a requirement to ensure compliance with NEPA would create many hurdles that would need to be overcome before the telecommunications equipment could be installed, and would seem to require action by the FCC that neither Clallam County nor the company applying for the franchise could force the FCC to take. It is also unclear what specific steps would be necessary to demonstrate compliance with NEPA. The result of creating an Ordinance that would require NEPA compliance would seem to be that no entity would be able to obtain such a franchise, which would likely be viewed by the Court as an outright ban which would be unlawful.

Furthermore, federal law already requires compliance with NEPA. The county Ordinance that is being suggested would, in effect, ask an entity that is applying for a wireless franchise to be compliant with federal law that already exists. It is unclear whether any county department has the expertise necessary to even evaluate NEPA compliance in this context.

Regardless of whether a local jurisdiction like Clallam County may or may not wish to regulate wireless technology, Congress has ensured that only Congress itself can regulate such technology under the Commerce Clause of the U.S. Constitution. As cities and counties have pushed back against the reality that we have little ability to regulate wireless franchises and “5G” technology, the Court has substantially upheld FCC rules and underscored the extremely limited ability local jurisdictions have to enact local regulations. While local jurisdictions have been found to be able to legally regulate franchise fees and the aesthetics of cell towers, no local jurisdictions have been found to be able to legally regulate franchise agreements based on public health concerns.

Conclusion: There is no action that Clallam County could reasonably or legally take to ensure compliance with NEPA that federal law doesn’t already require, making any proposed Ordinance along these lines redundant at best and potentially placing the County in legal jeopardy at worst. When coupled with the fact that there are many other jurisdictions within Clallam County that have the ability to grant wireless franchises, the Commissioners see no benefit – public health or otherwise – to even attempting to place an additional regulatory burden on entities seeking a new wireless franchise.

Additionally, the Commissioners are not convinced that the County Charter is the appropriate location in which to identify or direct any specific Ordinance; rather, its purpose is to describe how Ordinances are to be adopted, amended or rescinded. The Charter envisions an Initiative Process, outlined in Sections 8.10, 8.20, 8.30, 8.40 and 8.50 which is to be used when the people desire a new Ordinance.

The Commissioners will continue to follow this topic closely should the regulatory environment change in the future in such a way as to allow local jurisdictions more authority.

2. *“The Clallam County Board of County Commissioners pass a resolution calling on the state legislature to pass legislation, which would enable the County (and other jurisdictions in the state) to adopt ranked-choice voting for local elections, if they so choose.”*

Ranked-choice voting is an electoral system in which voters have the ability to rank multiple candidates by preference on their ballots, rather than just voting for a single candidate. Under a ranked-choice system, if a candidate garners a majority (more than 50%) of first-place votes they are declared the winner. If no candidate achieves a majority of first-place votes, then the candidate with the fewest first-place votes is eliminated. The first preference votes cast for the failed candidate are eliminated, lifting the second-place votes on those ballots. The count is re-tallied, and if there is still not a majority winner the process repeats until a candidate achieves a majority.

Ranked-choice voting has been instituted in a variety of states and locales across the United States, most notably Maine and New York City. It is currently being considered by local jurisdictions as well, including the City of Seattle.

Proponents of ranked-choice voting posit that ranked-choice voting ensures that candidates with the broadest support win, and that it levels the field for all candidates. It effectively allows voters to vote their actual preferences instead of having to vote strategically; for example, a voter might rank their *actual* favorite candidate first, followed by the candidate they can live with and who they expect to win. This assures that if their first place vote is negated, their second-place vote will still have meaning. Proponents argue that ranked-choice voting might also reduce distortions in partisan representation, reduce the entrenchment of incumbents in “safe” seats, reduce some of the vitriol currently taking place in elections and improve representation and competition.

Opponents of ranked-choice voting have expressed concern that it is too complicated and difficult to understand, which could discourage some from exercising their right to vote. Some point to the value of a traditional primary that elevates the top two candidates, who then have several months to engage each other and the public to garner support in the general election. Others point to data from previous elections that illustrate ranked-choice voting usually produces similar outcomes to traditional elections. Conversely, there is concern that ranked-choice voting could result in “fringe” candidates winning.

This recommendation garnered a substantial volume of comments from county residents, with approximately even numbers in support and in opposition. There are strong feelings about ranked-choice voting, but no clear mandate.

The potential cost related to the implementation of ranked-choice voting is unclear. County Auditor Shoonaa Riggs has done preliminary research and indicates that the county’s voting system vendor believes that its system would require a substantial overhaul in order to accommodate a ranked-choice election; in addition to new or updated software there would also be an unknown impact on the elections staff needed to manage a more complex vote counting process. The County Commissioners believe that should ranked-choice voting eventually be allowed by the state legislature and then adopted by a vote of county residents, a robust and ongoing public education campaign would be necessary to help explain the new system.

Conclusion: The County Commissioners see no reason to preclude Clallam County voters from adopting ranked-choice voting should it be allowed by state law. While no Commissioner is opposed to considering a Resolution that would call on the state legislature to allow for ranked-choice voting, the Commissioners note that in recent legislative sessions Bills to allow for ranked-choice voting have garnered little traction and have never advanced past the preliminary stages of the legislative process. Since there is no clear mandate from Clallam County voters, the Commissioners believe there would be little-to-no impact in forwarding such a Resolution at this time. (Of course, any interested individual is encouraged to reach out to our state representatives to share their support for, or opposition to, ranked choice voting.)

Rather, the Commissioners believe that a combination of internal preparatory work – namely developing a more clear understanding of what it would take in terms of technology, software, hardware and staff time, coupled with increased public education about ranked-choice voting are more important and meaningful exercises. Should it become clear that the state legislature is actively and realistically contemplating legislation that would allow for ranked-choice voting at some point in the future, the County Commissioners believe that it would be wholly-appropriate to consider the proposed Resolution at that time.

3. *“That Clallam County increase monitoring of the DNR’s management of its trust lands by hiring a forester.”*

The Department of Natural Resources (DNR) manages approximately 92,000 acres of Clallam County Trust Lands for commercial forestry with a mandate to return revenue to the county and to junior taxing districts. This is an important source of revenue for all parties, but most especially for some junior taxing districts.

There is no doubt that the DNR has an antiquated and inadequate inventory system and the County Commissioners agree that improvements are needed. However, both the state House and Senate recently passed bills to fund significant improvements in the DNR’s inventory system so there is reason to expect improvement. Furthermore, Clallam County has been working with other “timber counties” through the Washington Association of Counties Timber Counties Caucus to review the entirety of the DNR’s system – not just inventory management – and have developed a common set of priorities to take to the DNR and to the legislature. These priorities, and the entire assessment, can be viewed in greater detail at [Trust Lands Performance Assessment Project: Charting a Course for the Future \(wa.gov\)](https://www.wa.gov/Trust-Lands-Performance-Assessment-Project-Charting-a-Course-for-the-Future)

We believe this effort will be more successful than any action taken by an individual county because there is strength in numbers and because the DNR has been involved in this broad review process and has a stake in its success. The Commissioners believe that there may be increased opportunity for local engagement at the conclusion of this effort.

Because the Charter Review Commission did not envision a job description for this position it is impossible to know exactly what may have been envisioned beyond an improved understanding of actual inventory on the ground. When discussing this recommendation with county citizens, the Commissioners found that most either had no opinion or did not understand the potential role of such a position.

Others believed that for such a position to have value, the job description would need to be sufficiently expansive as to help establish broad vision and policy for the future of county trust lands. Given that our Charter defines the role of the elected Director of Community Development as “...advise(ing) the County Commissioners on all laws...with respect to the environment, natural resources, and land and shoreline development, including...forest management...” the Commissioners believe that county voters have already identified whom they would like to take the lead in establishing a broad vision and policy for county trust lands.

Conclusion: The Commissioners will not move forward with hiring a county forester at this time. Rather, we will continue to work with fellow Timber Counties Caucus members and through the Washington Association of Counties to improve all aspects of the larger system, including improved inventory assessment and management. Should a broader vision for county trust lands be developed, this visioning process should be led by the elected Director of Community Development as indicated by our County Charter.

4. *“The Clallam County Board of Commissioners immediately take active leadership to reclaim and renew their primary leadership role in engaging a group of public and private organizations and businesses to creatively increase affordable housing availability, apply forward thinking ideas proven to be successful in communities that have reduced the experience of homelessness effectively, and report progress back to the community every six months.”*

The County Commissioners are acutely aware that housing and homelessness rank among the top concerns of our community and of county governance, and we are engaged in a variety of efforts in this arena.

However, we must point out that while our Charter indicates that Charter Review recommendations be forwarded to the Commissioners this recommendation may have been better directed to the elected Director of Community Development, who is specifically empowered by our Charter to “administer, enforce and advise the County Commissioners on all laws, except health, with respect to...land and shoreline development, including, but not limited to, zoning, land divisions, environmental policy, building and fire codes...” Nothing is more central to community development then enumerating and pursuing a housing policy and recommending new or updated Ordinance, planning documents or development regulations in support of this policy. (The Commissioners do acknowledge that Director Winborn created a pre-approved “tiny home” plan available to county residents.)

Because no broad vision or plan for increasing the availability of affordable housing has ever been presented by any elected Director of Community Development, and given the immediate and substantial need for more affordable housing options in our county, the Commissioners are providing leadership by:

- Planning for the strategic use of the HB 1406 revenue stream for maximum impact now
- Considering how the Opportunity Fund can be paired with other revenue sources to facilitate the development of affordable housing units
- Working with community partners including the Peninsula Housing Authority, Habitat for Humanity, Peninsula Behavioral Health, Serenity House, Healthy Families, Sarge’s Place and private builders to create a land bank, community land trust or similar model to reduce the cost of affordable housing and to create a method of ensuring affordable housing stock in perpetuity
- Leading a housing/homelessness working group to establish priorities and opportunities for dollars recently made available through the American Recovery Plan Act
- Working with Serenity House, Peninsula Behavioral Health and the Peninsula Housing Authority to support funding applications and planning processes for affordable housing projects in multiple areas of the county
- Providing a letter of support and funding to support a current application to the Dept. of Commerce Housing Trust Fund for a 25-27 unit affordable housing project being spearheaded by Peninsula Behavioral Health
- Supporting the United Way in leading a “Housing Summit” to bring parties together

The Commissioners do have a clear role to play with regard to addressing homelessness and the coordinated entry system. We are currently engaged in the following:

- Implementing a Clallam County Homelessness Gaps and Needs Analysis, including targeted recommendations
- Working closely with Serenity House to facilitate a major expansion of their overnight shelter

- Supporting the Homelessness Task Force in their work to improve the RFP and funding process for the dedicated revenue streams that can be used to build homelessness programming and infrastructure
- Funding a variety of programs that support homeless individuals in pursuit of permanent housing
- Planning for in-house management and oversight for the coordinated entry system, a responsibility which is currently deferred to Serenity House

Conclusion: While our Charter indicates that the Director of Community Development is tasked with the primary leadership role in developing and recommending policy to engage public and private organizations and businesses to creatively increase affordable housing availability, nevertheless the Commissioners are highly-engaged in this work due to its importance and due to the reality that most in the community (up to and including the Charter Review Commission itself) see this as the Commissioners' job.

The Commissioners believe that the combination of new revenue sources (primarily HB 1406 and ARPA funds) coupled with intense community focus provides the opportunity to make real gains in the provision and availability of affordable housing in the next few years.

As supported by the recently-concluded Homelessness survey and gaps analysis, our efforts in the homelessness arena will be focused on expanding and improving coordinated entry, increasing funding for effective outreach and case management services, expanding shelter options, considering strategies like establishing safe parking areas and most importantly working to ensure improved coordination and communication among and between service providers, and between providers and business and community leaders.

5. *The BOCC and the DCD shall jointly agree to commission a third-party review of the County ordinances and solicit a report on proposed changes to ordinances and operating procedures to clarify the roles and responsibilities of the DCD. The BOCC will consider, after public review and hearings, any proposed Ordinances for adoption within 120 days of the commissioned report. BOCC shall place on the November 2022 ballot, if needed, any necessary Charter changes to clarify the powers and duties of an elected DCD Director.*

Clallam County is unique in Washington State, and we believe in the entire country, in that our Director of Community Development is an elected – rather than appointed – position. Due to the unique and controversial nature of this arrangement, previous Charter Review Commissions have asked county voters to re-affirm this choice several times and each time voters have affirmed that they do, in fact, wish this county official to be elected by the people.

One of the unique challenges arising from this situation is that state and federal law do not recognize the elected authority of this official. Therefore, any number of planning documents, grant agreements and contracts that would appear to fall squarely under the jurisdiction of the elected DCD in fact require that final action be taken by the Board of County Commissioners. This reality truly “muddies the waters” when attempting to describe and capture the intended authority of the DCD in county Ordinance, policy or procedure.

As previously noted, the waters are further muddled by public perception. Our Charter language indicates that the DCD take the lead in developing broad environmental vision around forestry policy, yet when no policy has been advanced the public (via the Charter Review Commission) asks the Commissioners to act to fill the void by hiring a forester. Our Charter language indicates that the DCD should take the lead in developing affordable housing policy, yet when no such policy has been advanced the public (via the Charter Review Commission) asks the Commissioners to reclaim our natural leadership role in this arena.

It is these “muddy waters” that underscored this recommendation and there is little doubt that all parties would benefit from greater clarity should that be possible. Since the recommendation asks the Commissioners and the DCD to jointly agree to a third-party review of county Ordinances we began by discussing the recommendation and potential third-party reviewers at a Commissioners’ work session late in 2020.

During that discussion, Director of Community Development Mary Ellen Winborn indicated that she did not believe that such a review was as important or necessary as improving personal and professional relationships between herself and the Commissioners, and requested consideration of a mediation to help improve these relationships prior to any third-party review.

The Commissioners have agreed to mediation as requested by Director Winborn and each Commissioner will engage in an individual mediation with Director Winborn sometime this summer. Our expectation is that we can begin with a third-party review as recommended by the Charter Review Commission at the conclusion of these mediations.

Conclusion: The Commissioners believe there would be value in engaging in the third-party review as suggested by the Charter Review Commission and plan to work with Director Winborn to identify an appropriate “third party” to review county Ordinance after the completion of these mediations. Should the review indicate consideration of changes or updates to Ordinance, policy or procedure the Commissioners will move forward with the appropriate required processes to vet them with the public.

Recommendations for Next Time

Based on our experience receiving and responding to formal recommendations from the Charter Review Commission for the first time, we wish to offer the following observations and recommendations for the next Charter Review cycle for the consideration of future Charter Review Commissioners and future County Commissioners. The County Commissioners recognize the unusual challenges that the 2020 Charter Review Commission faced as they worked around the COVID-19 pandemic and understand the extreme impact the pandemic had on the CRC's process and public participation plan.

- Given that most people who are elected as Charter Review Commissioners may not be wholly familiar with the structure of county government generally, nor with the functioning of Clallam County government specifically, we believe that it is vital for future Charter Review Commissions to spend sufficient time "up-front" to build up their knowledge base. ***This is particularly important given that these recommendations relate to "changes or revisions to county operations or procedures,"*** rather than topics that are worthy of inclusion in the Charter itself, which is intended as a document that outlines the structure, authorities and operation of county government.
- It was very difficult to engage the public in a meaningful way after the conclusion of the formal Charter Review effort. Most county residents who were interested in engaging in the topics being raised for consideration by the Charter Review Commission provided their input during the Charter Review process. Our recommendation is to ensure robust public engagement during the year the Charter Review Commission is meeting; again, we realize that the 2020 CRC's process was severely hampered by the COVID-19 pandemic.
- The Commissioners question the benefit of the Charter language that was adopted in 2015 that asks Charter Review Commissioners to make suggestions related to county operations or procedures. We believe that county residents are best-served by a Charter Review Commission that focuses its attention on the Charter document itself, rather than being distracted by "getting into the weeds" by focusing on operational or procedural issues and our suggestion to the next Charter Review Commission is to reconsider the efficacy of this language.

The Commissioners deeply appreciate the service of those elected to the 2020 Charter Review Commission and commend them for their effort and dedication, particularly given the tremendous impact of the COVID-19 pandemic. Our county government only works when residents are active participants and those who serve on the Charter Review Commission do all of us a great service; even more so in 2020 during such a difficult time.

Sincerely,

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

Randy Johnson

Bill Peach



AGENDA ITEM SUMMARY

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

11
8/19/21

Department: BOCC/Finance

WORK SESSION ☒ **Meeting Date:** 08/09/2021

REGULAR AGENDA ☒ **Meeting Date:** 08/17/2021

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: Notice of 2022 Preliminary Budget |
- Documents exempt from public disclosure attached: ☐

Executive Summary:

To comply with state law and the Clallam County Charter, effective September 7, 2021, the Board of County Commissioners will have available in their office, a true copy of the Preliminary 2022 Clallam County Budget.

Approval requested to issue notice that the Preliminary 2022 Clallam County Budget will be presented on Tuesday, September 7, 2021.

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?)

Approval to issue notice that the Preliminary 2022 Clallam County Budget will be presented on Tuesday, September 7, 2021.

County Official signature & print name: Debi Cook 

Name of Employee attending meeting: Debi Cook

Relevant Departments: BOCC, Finance

Date Submitted: 07/28/2021

* Work Session Meeting - Submit 1 single sided/not stapled copy Agenda Item Summary Public Notice 2022 Preliminary Budget.docx
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies) Revised: 3-04-2019

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, in order to comply with state law and the County Home Rule Charter, effective September 7, 2021 the Board of Clallam County Commissioners will have available in their office, a true copy of the Preliminary 2022 Clallam County Budget. This document may be inspected during normal office hours (8 a.m. to 4:30 p.m.) on weekdays at the Clallam County Commissioners' Office, 223 East 4th Street, Room 150, Port Angeles or at www.clallam.net.

Copies of the preliminary budget by line item may be requested through the Public Records Department at www.clallam.net.

IN ADDITION, public meetings on the Preliminary 2022 Clallam County Budget will be held in conjunction with the Six-year Road Plan as follows:

September 8	Red Lion Hotel Meeting Room, Port Angeles – 11:30 a.m.
September 29	Blakeslee's Bar & Grill, Forks – 12 p.m.
October 26	Seven Cedars Hotel, Sequim – 11:30 a.m.

In compliance with the Americans with Disabilities Act, reasonable accommodations are available upon request. The facility is considered "barrier free" and accessible to those with physical disabilities.

Dated this 17th day of August 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

ATTEST:

Loni Gores, Clerk of the Board

Publish: August 22, 2021 and August 29, 2021 – Peninsula Daily News
August 25, 2021 – Sequim Gazette
August 26, 2021 – Forks Forum

Bill: Commissioners' Office