

OGLALA LAKOTA COUNTY APPROVED MINUTES OF FEBRUARY 9, 2022

The Oglala Lakota Board of County Commissioners met in regular session on February 9, 2022. Present: Ramon Bear Runner, Art Hopkins, Anna Takes the Shield (DuBray), Eugenio White Hawk, Wendell Yellow Bull and Sue Ganje, Auditor.

The meeting was called to order at 1:34 p.m. by Chairman White Hawk. The agenda was reviewed for conflicts. ALL MOTIONS RECORDED IN THESE MINUTES WERE PASSED BY UNANIMOUS VOTE, UNLESS OTHERWISE STATED.

Motion made by Takes the Shield (DuBray), seconded by Bear Runner, to enter executive session as per SDCL 1-25-2 (1) for personal at 1:35 p.m.

Meeting resumed at 1:50 p.m.

Lance Russell, State's Attorney met with the Board and introduced Stacy Wickre, Seventh Circuit Court Judge for Fall River and Oglala Lakota Counties. Also present was Bob Evans, Fall River County Sheriff. Russell brought forth the issue of other states or jurisdictions that are not recognizing Orders related to child custody issued by the Oglala Sioux Tribe. The Commission members asked if there could be hearings in the 7th Circuit and /or County Commission meetings. Judge Wickre will research that question.

Motion made by Yellow Bull, seconded by Takes the Shield (DuBray), to approve the agenda as written.

Motion made by Takes the Shield (DuBray), seconded by Bear Runner, to approve the minutes of January 12 and January 19, 2022.

Motion made by Bear Runner, seconded by Yellow Bull, to approve the 2022 Combined Election agreement between Oglala Lakota County and the Oglala Lakota County School District for the June 7, 2022 Primary Election.

Motion made by Bear Runner, seconded by Yellow Bull, to accept the Veteran's Service Officer's Monthly Activity Report for January 2022.

Motion made by Takes the Shield (DuBray), seconded by Yellow Bull, to add First National Bank of Lead to the bank depositories list.

Motion made by Yellow Bull, seconded by Bear Runner, to approve the following resolution:

Oglala Lakota County RESOLUTION # 2022-04

WHEREAS, the South Dakota Wildland Fire Coordinator is authorized to assist in fighting range fires through the State; and

WHEREAS, a county must formally request his assistance pursuant to SDCL 41-20A-11;
and

WHEREAS, because there is insufficient time to hold a meeting and adopt a resolution during a fire, Oglala Lakota County can designate a person (s) with authority to request assistance under this law;

NOW THEREFORE BE IT RESOLVED, that the Oglala Lakota County Commissioners hereby designate the following person(s) with the authority to request assistance from the State Wildland Fire Coordinator in fighting range fires:

Franklin W. Maynard
EMERGENCY MANAGEMENT DIRECTOR
605 890-7245 (CELL) or 605 745-7562 (OFFICE)

Joe Herman
OGLALA LAKOTA COUNTY SHERIFF
605 441-6215 (CELL)

Eugenio White Hawk
COMMISSIONER
605 899-0014 (CELL) or 605 455-2293 (HOME)

Ramon Bear Runner
COMMISSIONER
605 441-5768 (CELL) or 605 867-2599 (HOME)

Wendell Yellow Bull
COMMISSIONER
605 441-8273 (CELL) or 605 867-2263 (HOME)

Dated this 9th day of February, 2022

/s/Eugenio White Hawk
CHAIRMAN
Oglala Lakota County Commission

Attest:
/s/Sue Ganje
AUDITOR
Oglala Lakota County

Joe Herman, Sheriff, met with the Board, to give a report on activities that included theft issues and a missing female. Discussion was held on the Sheriff doing a justification analysis for possible new hires in the Sheriff's Department with funding through the American Rescue Plan

Act and follow-up, the OST Law and Order Committee meeting and jurisdictional restrictions. The Board indicated their preference for a written report.

Motion made by Takes the Shield (DuBray), seconded by Yellow Bull, to table hire approval for full-time or part-time employment at \$16.00 for certified or \$14.00 for uncertified, and accept the Sheriff's verbal report.

Motion made by Hopkins, seconded by Takes the Shield (DuBray), to approve a Covid-19 Vaccine Incentive in the amount of \$1,000.00 for both vaccinations, with an additional \$500.00 for the booster, with copy of the vaccination card for Oglala Lakota County employees, including Commissioners. Contract employees are not eligible for this incentive.

Break was taken at 3:02 p.m. Meeting resumed at 3:10 p.m.

Lynx Bettelyoun, Highway Superintendent, met with the Board. Motion made by Takes the Shield (DuBray), seconded by Yellow Bull, to approve the January 10, 2022 through February 5, 2022 sheriff fuel transfer to reimburse the highway for 219.2 gallons of fuel at \$2.939 per gallon, for a total of \$644.23.

Motion made by Takes the Shield (DuBray), seconded by Hopkins, to approve the following resolution:

OGLALA LAKOTA COUNTY RESOLUTION #2022-05

WHEREAS, the Oglala Lakota County Board of Commissioners did adopt the following 2022 ANNUAL LOAD RESTRICTIONS:

Oglala Lakota County will impose load and speed limits as follows in coordination with the State of South Dakota Highway's Annual Load Restrictions:

All oil roads will be posted at 45 Ton and 45 mph.

All gravel roads will be posted at 10 ton and 45 mph.

NOW THEREFORE, BE IT RESOLVED this amendment was approved and passed on this 9th day of February, 2022.

/s/Eugenio White Hawk, Chairman
Oglala Lakota County Board of Commissioners

ATTEST:

/s/Sue Ganje

Oglala Lakota County Auditor

Discussion was held on enforcement of Load Limits. Bettelyoun advised it is best to continue having the SDDOT do the enforcement; CDL trainings can be done at established facilities or have local trainings in the county for CDL licenses, but to hire DOT Certified Trainers.

Takes the Shield (DuBray) exited the meeting at 3:19 p.m.

Bettelyoun answered the Board when questioned about drug tests, the County does not participate in the random test program but does require the tests if there has been an accident; physicals are only required if going across state lines. Updates were given – employees attended the MSHA training, maintenance was done on the 2008 Kenworth and 2012 F150, and snow removal on County Roads 15, 16, 11, 17 and 4 was done.

Hopkins questioned the progress on the County taking over maintenance on BIA 17. The tribe is rewriting their Resolution, which will then be submitted to SDDOT. It then can be added to the County Road System.

The Private Road Work Hearing was held as advertised. Motion made by Bear Runner, seconded by Yellow Bull, to approve the continuation of private road work as per SDCL 31-11-41 thru 45, with the following rates per hour:

Motor Grader	\$85.00
Dump Truck/Loader/Water Truck	\$65.00
Semi/Belly Dump	\$139.00
Pit Run Gravel	\$2.00
Mower Tractor	\$55.00

Motion made by Yellow Bull, seconded by Hopkins, to approve bills as follows:

GENERAL FUND

AT&T MOBILITY	WIRELESS PHONE SHERIFF	\$53.87
BEAR RUNNER, RAMON	MILEAGE	\$54.60
BEAM INSURANCE ADMIN. LLC	VISION PLAN	\$45.30
CENTURY BUSINESS	COPIER LEASE/METER	\$152.46
TAKES THE SHIELD, ANNA	MILEAGE	\$41.16
EFTPS	EFTPS PAYROLL TAXES	\$1,773.48
FALL RIVER CO. SHERIFF	INMATE HOUSING	\$425.00
GOLDEN WEST	LOCAL PHONE/EMAIL/LONG DISTANCE	\$294.39
HOPKINS, ARTHUR L	MILEAGE	\$95.76
KNOWINK, LLC	VOTE CENTER I-PADS	\$21,850.00
LAKOTA TIMES	PUBLICATION	\$782.69
LYNN'S DAKOTA MART	INMATE PHARMACY	\$550.79
MASTEL, BRUCE	WEB HOST/UPDATE/SERVER	\$35.00
MASTERCARD	COUNTY CREDIT CARD	\$864.99
MICROFILM IMAGING SYSTEMS	SCANNING EQUIP LEASE	\$17.50
QUADIENT FINANCE USA, INC	POSTAGE	\$293.13

OGLALA SIOUX TRIBE	MONTH RENT FOR VET SERVICE OFFICER	\$100.00
QUALIFIED PRESORT SERVICE	SERVICE	\$313.16
RELIANCE STANDARD	LIFE INSURANCE	\$59.00
SD ASSN OF COUNTY COMM.	CATASTROPHIC LEGAL	\$41.00
SDACHS	2022 SHORT COURSE COURSE	\$100.00
SECRETARY OF STATE	PISTOL PERMITS	\$7.00
SD STATE RETIREMENT	SDRS CONTRIBUTIONS	\$824.65
WHITE HAWK, EUGENIO	MILEAGE	\$78.12
YELLOW BULL, WENDELL	MILEAGE	\$53.76
COMMISSIONERS	JANUARY SALARIES	\$1,425.00
STATE'S ATTORNEY'S OFFICE	JANUARY SALARIES	\$500.00
VETERAN'S SERVICE OFFICE	JANUARY SALARIES	\$1,465.00
SHERIFF	JANUARY SALARIES	\$4,357.23
CORONER	JANUARY SALARIES	\$1,125.00
	TOTAL FOR GENERAL FUND	\$37,779.04
COUNTY ROAD & BRIDGE		
AT&T MOBILITY	WIRELESS PHONE SHERI	\$187.46
BEAM INSURANCE ADMIN. LLC	VISION PLAN	\$37.10
DELTA DENTAL OF SD	DENTAL PLAN	\$306.80
EFTPS	EFTPS PAYROLL TAXES	\$3,030.27
MARTIN AUTO PARTS	PARTS/SUPPLY	\$34.08
MASTERCARD	COUNTY CREDIT CARD	\$100.53
MCI COMM SERVICE	LONG DISTANCE	\$50.43
MENARDS	SUPPLY	\$151.48
RELIANCE STANDARD	LIFE INSURANCE	\$94.75
SDACHS	2022 SHORT COURSE	\$100.00
SD FEDERAL PROPERTY AGCY	SUPPLY	\$128.00
SD STATE RETIREMENT	SDRS CONTRIBUTIONS	\$1,573.37
HIGHWAY DEPARTMENT	JANUARY SALARIES	\$12,513.45
HIGHWAY DEPARTMENT	OVERTIME	\$35.43
	TOTAL FOR COUNTY ROAD & BRIDGE	\$18,343.15
M & P RELIEF		
MICROFILM IMAGING SYSTEMS	SCANNING EQUIPMENT LEASE	\$165.00
	TOTAL FOR M & P RELIEF	\$165.00
	TOTAL PAID BETWEEN 1/20/22 AND 2/09/22	\$56,287.19

No public comment was given. Bear Runner noted that he turned his tablet back in to the County for non-use. Motion made by Yellow Bull, seconded by Hopkins, to adjourn at 3:46 p.m.

/s/Eugenio White Hawk
Eugenio White Hawk, Chairman
Board of Oglala Lakota County Commissioners

ATTEST:

/s/Sue Ganje

Sue Ganje, Oglala Lakota County Auditor

TO THE HONORABLE BOARD OF OGLALA LAKOTA COUNTY COMMISSIONERS:
I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer of this County on this 31st day of January 2022.

Total Amount of Deposit in First Interstate Bank, HS: \$ 190,364.95

Total Amount of Cash: \$ 1,561.40

Total Amount of Checks in Treasurer's Possession Not Exceeding Three Days: \$ 9,378.24

FIRST INTERSTATE SAVINGS

First Interstate, HS: \$ 2,124,549.35

CERTIFICATES OF DEPOSIT:

First Interstate, HS: \$ 202,106.72

Black Hills Federal Credit Union, HS: \$ 50,000.00

First National Bank of Lead Checking \$ 1,000.00

First Nation Bank of Lead ICS Acct \$ 1,216,271.03

Itemized list of all items, checks and drafts that have been in the Treasurer's possession over three days:

Sheriff Change Fund: \$ 200.00

Election Petty Cash: \$ 15.00

RETURNED CHECKS:

TOTAL \$ 3,795,446.69

Dated This 31st Day of January 2022



Sue Ganje, County Auditor of Oglala Lakota County



Teresa Pullen, County Treasurer of Oglala Lakota County

County Monies	\$	3,727,733.42
Held for other Entities	\$	29,274.44
Held in Trust	\$	38,438.83
TOTAL	\$	3,795,446.69

The Above Balance Reflects County Monies, Monies Held in Trust, and Monies Collected for and to be remitted to Other ENTITIES: SCHOOLS, TOWNS, AND STATE.

Sacred Heart Church

P. O. Box 359, Pine Ridge, SD 57770
Telephone: 605-867-5551, Fax: 605-867-1969

SACRED HEART BUILDING USE AGREEMENT

This use agreement entered into on Friday, February 25, 2022 between Sacred Heart Church
(date)
and a representative from the The County Auditor's office
(Name)

for temporary use: Early voting in the Lakota room and office,
(Rooms that will be used: Lakota Room, Kitchen,

on the following dates and times From April 22, to June 6, 2022 for a total of 33 days @ \$80.00 (8 hours a day)
(dates) (times)

For the agreed upon donation of \$2,640.00. payable to **Sacred Heart Church.**

It is also agreed that the renter will put down a \$100.00. security deposit prior to the beginning of USE. The security deposit may be paid either in cash or a separate check from the hall donation. It is agreed that the user will only receive the security deposit back after the rental room(s) have passed a maintenance inspection. It is agreed that any damage to the hall present after the use will result in the renter forfeiting the security deposit.

In addition, by signing this agreement, the parties agree to the following:

1. That renters are responsible for reasonable clean-up, the renters **will not mop nor will** they put away tables or chairs.
2. That children must be supervised at all times.
3. That the party and their guests will not illegally park (double park) in the Sacred Heart parking lot. Parking should not block any driveway or entryway, including all door. This will give access to all entryways in an emergency.
4. That there will be no alcohol or drug use on the premise.
5. That no pets or other animals (besides service animals) will be brought onto the property.
6. That a wake will end at midnight and that wakes may only be for one night.
7. That the wake and/or funeral will follow the schedule listed in the obituary.

If there are unusual circumstances to be considered by either party of this agreement, they are listed here: **Abide by the recommendations of the CDC for social distancing and sanitization of all public use areas during and after hall use. __ Face Masks are required for all people. THERE WILL BE NO MORE THEN 5 PEOPLE IN THE LAKOTA ROOM/OFFICE AT ONE TIME. __(no public restrooms available)_____**



Sacred Heart Representative Signature

Representative Signature

Printed Name: _____

Telephone: _____

Email: _____

Oglala Lakota County Proclamation

A proclamation designating March 29, 2022 as “Welcome Home Veteran’s Day”

Whereas, the Vietnam War was fought in Vietnam from 1961 to 1975, and involved North Vietnam and the Viet Cong in conflict with the United States Armed Forces and South Vietnam; and

Whereas, the United States became involved in Vietnam because policymakers in the United States believed that if South Vietnam fell to a Communist government then Communism would spread throughout the rest of Southeast Asia; and

Whereas, members of the United States Armed Forces began serving in an advisory role in the South Vietnamese in 1961; and

Whereas, as a result of the Gulf of Tonkin incidents on August 2, 1964, and August 4, 1964, Congress overwhelmingly passed the Gulf of Tonkin Resolution, on August 7, 1964, which effectively handed over war-making powers to President Johnson until such time as “peace and security” had returned to Vietnam; and

Whereas, in 1965, United States Armed Forces ground combat units arrived in Vietnam; and

Whereas, by the end of 1965, there were 80,000 United States troops in Vietnam, and by 1969 a peak of approximately 543,000 troops was reached; and

Whereas, on January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners-of-war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam; and

Whereas, on March 29, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam; and

Whereas, more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded; and

Whereas, members of the United States Armed Forces, who served bravely and faithfully for the United States during the Vietnam War, were caught upon their return home in the crossfire of public debate about the involvement of the United States in the Vietnam War; and

Whereas, it was also the first time in history America failed to welcome its veterans back as heroes; and

Whereas, the establishment of a “Welcome Home Vietnam Veterans Day” would be an appropriate way to honor those members of the United States Armed Forces who served in Vietnam during the Vietnam War; and

Now, therefore be it resolved that the Oglala Lakota County Commissioners do hereby recognize March 29, 2022 as “Welcome Home Vietnam Veterans Day”. The Oglala Lakota County Commissioners further honors and recognizes the contributions of veterans of the Armed Forces who served in Vietnam.

Dated this 17th day of February, 2022.

Eugenio White Hawk, Chairman

Oglala Lakota County Commission

Attest:

Sue Ganje, County Auditor



KEY

- EXISTING BUILDING
- ESSER II AND ESSER III FUNDED PROJECTS
- PROPOSED ATHLETIC FIELDS
- PLANNED FOR FUTURE EXPANSION (NOT ESSER FUNDED PROJECTS)
- PROPOSED DIVECARE LOCATIONS

ADDITIONAL WATER NEEDED TO SUPPLEMENT OSTRW SYSTEM ALLOCATION FOR WOLF CREEK SCHOOL CAMPUS.

SUPPLY WATER TO:

- 600 ELEMENTARY/MIDDLE SCHOOL STUDENTS
- 600 CTE HIGH SCHOOL STUDENTS
- 100 TEACHER HOUSING UNITS

CONSTRUCTION

- 1500 LF OF 8-INCH WATER MAIN
- 150,000 GALLON ELEVATED WATER STORAGE TANK
- WATER WELL IN OGLALA AQUIFER

COST = \$1.85 MILLION

CO Arch OP

1108 S. Main St., 102
Aberdeen, SD 57401
Phone: 605-725-4634

601 Kansas City St., 7
Rapid City, SD 57701
Phone: 605-716-8522

440 E. 8th St., 221
Sioux Falls, SD 57103
Phone: 605-334-9999

co.arch@arch.com

CO-OP PROJECT NO: 2131A

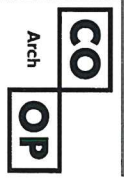
PRELIMINARY NOT FOR CONSTRUCTION

ISSUE:	09/15/21	SCHEMATIC DESIGN
REVISION SCHEDULE:	REV #	REV DSC
REV DATE		

PROJECT:
LAKOTA TECH WELLNESS CENTER
PINE RIDGE, SOUTH DAKOTA

SHEET TITLE:
ARCHITECTURAL MASTER PLAN

L100



1108 S. Main St. 107
7th Floor
Phone: 605-725-4832
601 Kansas City St. 7
Rapid City, SD 57701
Phone: 605-725-4832
440 E. 8th St. 221
Sioux Falls, SD 57103
Phone: 605-314-9999
so@arch.com

CO-OP PROJECT NO. 2131E

PRELIMINARY NOT FOR CONSTRUCTION

ISSUE: 12.07.2021 CONSTRUCTION DOCUMENTS
REVISION SCHEDULE:
REV # REV DSC REV DATE

PROJECT:
WOLF CREEK SCHOOL TEACHER HOUSING PHASE 3
OGALA LANGTIA COUNTY SCHOOL DISTRICT 65-1
PINE RIDGE, SOUTH DAKOTA

SHEET TITLE:
SITE PLAN CONCEPT

L101

Ogala Lakota County Sheriff Activity Cost

Filed Date: 1-10-2022

Cost: 2,939

Coroner Activity Cost

Date	Name	Gallons	Unit	Date	Name	Gallons	Unit
2-10-22	Helmers	13	CO 11419				
2-11-22	Helmers	13.1	CO 10039				
2-11-22	Helmers	8.3	CO 11419				
2-12-22	Helmers	12.2	CO 11419				
2-13-22	Helmers	20	CO 10039				
2-15-22	Helmers	12	CO 11419				
2-17-22	Helmers	12	CO 11398				
2-19-22	Helmers	20	CO 10039				
2-22-22	Helmers	10	CO 10039				
		180	Gals				
	X	2,939	Per Gal				
	Total =	354,424					

To: WESTCO 1800-762-9906

The Oglala Lakota County Highway Department is requesting a quote on fuel on this 23 day of Feb, 20 22.

Please provide a bid for the following.

OR
UNTEL
TANKS
all
Full

550 Gallons of Unleaded Gas at \$ 3.365 /gal.

#1

1000 Gallons of Diesel at \$ 3.669 /gal.

600 Gallons of Propane at \$ 2.249 /gal.

The Oglala Lakota County Highway Depart. Tank is a 1,000 gallon tank, the current propane level is 20% percent.

Signature: [Signature] Date: 2-24-22

County Exemptions / Taxes Applicable:

Unleaded: Federal tax exempt: State Tax Applicable

Diesel: Federal and State tax exempt: \$0.02 EPA tax applicable

Please submit a bid on the above requested fuel. Fax to 1 (605) 288-1867

Oglala Lakota County Highway Department

P.O Box# 208, Batesland SD 57716

PH: (605)288-1866 Fax: (605) 288-1867 Cell: (605) 441-6261

For office use only:

Response
 No Response

No Bid from:

PR Oil
Discount Fuel
Lakota Plains
Nelson's

THIS IS A CONTRACT

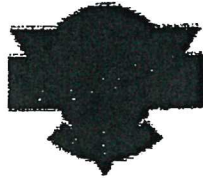
THE WORDS RENTER, BUYER YOU AND YOURS MEANS THE PERSON WHO SIGNS THIS CONTRACT (OR ARE OBLIGATED UNDER ITS TERMS). WE, OUR AND DEALER REFER TO THE BUSINESS NAMED AT RIGHT

SPECIALS ORDERS

ALL CANCELLED OR RETURNED SPECIAL ORDERS ARE SUBJECT TO A 25% RESTOCKING CHARGE.

DOWN PAYMENTS

PARTY/EVENT RESERVATION DOWN PAYMENTS ARE NON-REFUNDABLE



TIME EQUIPMENT RENTAL & SALES, INC.

311 N. CAMBELL STREET
RAPID CITY, SOUTH DAKOTA 57701-1713
(800) 371-2360
(605) 348-2360

TERMS: CASH IN ADVANCE

ESTABLISHED OPEN ACCOUNTS ARE DUE AND PAYABLE NET WITHIN 30 DAYS. PAST DUE ACCOUNTS BEAR LATE PAYMENT PENALTIES AT 1-1/2% PER MONTH.

WARRANTY POLICY

INSTALLATION LABOR IS COVERED UNDER WARRANTY FOR 1 YEAR FROM DATE OF PURCHASE. AFTER THAT, ONLY THE MANUFACTURERS WARRANTY WILL APPLY.

Customer: 1083986
OGLALA LAKOTA CO. HWY
PO BOX 208
105 DAKOTA ST
BATESLAND, SD 57716

CSO-722392 PG 1
OGLALA LAKOTA CO. HWY
PO BOX 208
105 DAKOTA ST
BATESLAND, SD 57716
(605) 288-1866

PO :

Estimated Date: 2/24/2022

Qty	Item	Description	Each	Amount
1.00	74300-3	WESTERN MVP3 BIG BOX MVP3	8,235.00	8,235.00
KIT INCLUDES:				
74485-BLADES 8.6'				
63710-1-MOUNT KIT 89 FORD F350				
72530- LIGHT KIT HALOGEN				
29050- HB5 HEADLIGHT ADAPTER				
29070-1 3 PORT MODULE				
35500- HAND CONTROL				
7.00	Install 1	- Installation Charge	95.00	665.00
1.00	SHOP 1	SHOP SUPPLIES CHARGE- INSTALL BAY INSTALL BAY	23.28	23.28
1.00	SHIP MFG	SHIPPING TRUCK FREIGHT FROM MFG PLUS TRUCK FREIGHT FROM MANUFACTURER	500.00	500.00
1.00	41810	WESTERN 10" DEFLECTOR 8'6" MVP3 RUBBER	372.90	372.90
1.00	43088	WESTERN MVP3 SHOE KIT SHOE KIT	271.00	271.00
1.00	BID ASSIST	GOVERNMENT BID ASSIST	-524.00	-524.00

Estimated Parts 8,878.18
Estimated Labor 665.00
Estimated Total 9,543.18

I, the undersigned, hereby accept/decline the damage waiver, as provided on the reverse side and agree to pay the above described additional charges therefor.

I accept/decline the damage waiver, as provided on the reverse side and agree to pay the above described additional charges therefor

IF DECLINED
PLEASE INITIAL

X

THIS IS YOUR CONTRACT. READ BOTH SIDES BEFORE SIGNING

Deedholder	Parcel Number	Abtmt Years	Abtmt Type	Abtmt Amount	Abatement Reason
County:					
USA IN TRUST FOR OGLALA SIOUX TRIBE	16000-03648-122-10	2021 pay 2022	Pro-Rated	\$12.52	Property went into trust
REITZ, BERNARD & CAROL	80000-00000-009-99	2021 pay 2022	Total Tax	\$183.06	Mobile home sold to School
LITTAU, PHYLLIS	90000-01999-000-10	2021 pay 2022	Total Tax	\$992.98	MH sold to tribal member
CLIFFORD-POURIER, PHYLLIS L ET-AL	52000-04144-254-10	2018 pay 2019	Partial	\$476.03	House should not have been Taxed
		2019 pay 2020	Partial	\$470.05	
		2020 pay 2021	Partial	\$465.71	
		2021 pay 2022	Partial	\$459.37	
			Clifford Total:	\$1,871.16	

**GUIDANCE FOR THE CORONAVIRUS
CAPITAL PROJECTS FUND**
*FOR STATES, TERRITORIES & FREELY
ASSOCIATED STATES*

U.S. Department of the Treasury





GUIDANCE FOR THE CORONAVIRUS CAPITAL PROJECTS FUND FOR STATES, TERRITORIES & FREELY ASSOCIATED STATES

U.S. Department of the Treasury | September 2021

INTRODUCTION

The U.S. Department of the Treasury (Treasury) is issuing this guidance regarding the Coronavirus Capital Projects Fund (Capital Projects Fund), established by Section 604 of the Social Security Act (the Statute), as added by Section 9901 of the American Rescue Plan Act of 2021 (American Rescue Plan). This guidance provides a summary of project eligibility and terms and conditions, as well as information about the process for applying for a grant under the Capital Projects Fund program. This guidance may be updated, revised, or modified, and Treasury may waive these standards to the extent permitted by law.

The American Rescue Plan appropriated \$10 billion to Treasury to provide payments to States, territories, freely associated states, and Tribal Governments “to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19).” Treasury has separately published the allocations available to each eligible entity in accordance with Section 604(b), which is available at: [treasury.gov/CPF](https://www.treasury.gov/CPF).

Although this is not a competitive grant program, States, territories, and freely associated states must submit an Application and a Grant Plan; for Tribal Governments, the Application also serves as their Grant Plan.

The Capital Projects Fund allows for investment in high-quality broadband infrastructure as well as other connectivity infrastructure, devices, and equipment. Treasury encourages consultation with the statewide entity or office that oversees broadband planning and implementation, where such an entity or office exists, when planning for the use of Capital Projects Fund grant funding. In addition to supporting broadband, it also provides flexibility for each State, territory, freely associated state, and Tribal Government to make investments in other Capital Projects designed to directly enable work, education, and health monitoring and that meet Treasury’s other criteria. The Capital Projects Fund also provides flexibility for each Recipient to identify communities to be served by Capital Projects, so long as the Recipient can demonstrate that said communities have critical needs related to work, education, and health monitoring that the Capital Project intends to address.

Treasury expects many Recipients will choose to use Capital Projects Fund grant funding for Broadband Infrastructure Projects. The COVID-19 public health emergency highlighted that access to high-quality internet can enable work, education, and health access, and that individuals and communities that lack affordable access to such high-quality internet are at a marked disadvantage. Investing in broadband for communities sensitive to or that have historically experienced these inequities will be critical for improving digital equity and opportunity, especially in the case of communities that currently lack access to the affordable, reliable, high-quality broadband internet that is necessary for full participation in school, healthcare, employment, social services, government programs, and civic life.



I. AWARD TERMS AND CONDITIONS

This Section describes the overall structure and terms of the assistance, including key information on Eligible Applicants, allocations, Capital Projects eligible for funding, eligible and ineligible costs, labor practices, and the period of performance. This guidance is not intended to provide a comprehensive listing of the award terms and conditions. Such terms and conditions will be contained in the Grant Agreement.

A. ELIGIBLE APPLICANTS

Section 604 identifies States, certain territories and freely associated states, and Tribal Governments, as the entities eligible to apply for a Capital Projects Fund grant (“Eligible Applicants”).

- Eligible states (“States”) are each of the 50 states, the District of Columbia, and Puerto Rico.¹
- The seven eligible territories and freely associated states are the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.²
- An eligible Tribal government³ is 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 this Act pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).⁴ The State of Hawaii, for exclusive use of the Department of Hawaiian Home Lands and the Native Hawaiian Education Programs to assist Native Hawaiians, is also eligible to apply for funding under this funding category.

Capital Projects Fund Recipients may award funds to Subrecipients, such as other levels or units of government (e.g., municipalities or counties), non-profits, or private entities. For example, for Broadband Infrastructure Projects, Subrecipients may include co-operatives, electric utilities, and other entities that build or operate broadband networks, including networks that are owned, operated by, or affiliated with local governments.⁵

¹ Section 604(d)(2).

² Section 604(b)(1)(B).

³ Section 604(d)(3) of the Capital Projects Fund Statute provides that the term “Tribal government” has the same meaning given to the term in Section 602(g).

⁴ Available at <https://www.federalregister.gov/documents/2021/01/29/2021-01606/indian-entities-recognized-by-and-eligible-to-receive-services-from-the-united-states-bureau-of>.

⁵ Subrecipients receive a subaward from a Recipient to carry out a Capital Project on behalf of the Recipient with the Recipient’s federal award funding. Recipients are responsible for monitoring and overseeing Subrecipients’ use of 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 remain responsible for reporting to Treasury on their Subrecipients’ use of funds.



B. ALLOCATIONS

Section 604 provides for a total of \$10 billion for Treasury to make grants to Eligible Applicants to carry out critical Capital Projects and directs the Secretary of the Treasury to make grants to the Eligible Applicants in accordance with the allocation formula set forth in the Statute.

Treasury separately published on its website the allocations for each Eligible Applicant, along with the methodology used for implementing the statutory allocation formula. These documents can be accessed at: treasury.gov/CPF.

C. PROJECT ELIGIBILITY

Section 604 authorizes Capital Projects Fund Recipients to use Capital Projects Fund grant funds for critical Capital Projects that directly enable work, education, and health monitoring in response to the COVID-19 public health emergency. Such Projects include remote options.

For a Capital Project to be an eligible use of Capital Projects Fund grant funds, it must meet all of the following criteria:

1. The Capital Project invests in capital assets designed to directly enable work, education, and health monitoring.
2. The Capital Project is designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency.
3. The Capital Project is designed to address a critical need of the community to be served by it.

a) Presumptively Eligible Projects

- **Broadband Infrastructure Projects.** The construction and deployment of broadband infrastructure projects (“Broadband Infrastructure Projects”) are eligible for funding under the Capital Projects Fund program if the infrastructure is designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical download and upload speeds of 100 Mbps. If it would be impracticable, because of geography, topography, or excessive cost, for a Broadband Infrastructure Project to be designed to deliver services at such a speed, the Project must be designed so that it reliably meets or exceeds 100 Mbps download speeds and between 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds. Treasury encourages Recipients to focus on projects that will achieve last-mile connections. Recipients considering funding middle-mile projects are encouraged to have commitments in place to support new and/or improved last-mile service.

Recipients are encouraged to prioritize investments in fiber-optic infrastructure where feasible, as such advanced technology better supports future needs. Treasury also encourages Recipients to prioritize Projects that involve broadband networks owned, operated by or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to generate profits and with a commitment to serving entire communities.

Treasury strongly encourages that the chief executive of the Eligible Applicant and/or the authorized representative consult with the statewide entity or office that oversees



broadband planning and implementation, where such an entity or office exists, when planning for the use of Capital Projects Fund grant funds.

Recipients are encouraged to address affordability as a barrier to full use of the internet when developing their Program Plans for Broadband Infrastructure Projects. Affordability of broadband is necessary to directly enable its use by all Americans. Therefore, when selecting Broadband Infrastructure Projects for Capital Projects Fund grant funding, Recipients are required to consider whether the broadband service options offered by recipients of Capital Projects Fund grant funding will be affordable to their target markets in the proposed service area. Recipients are also encouraged to consult with the community as part of the process they undertake to consider affordability and are required to publish the description of their process for considering affordability in their project selection process. Additionally, Recipients are encouraged to require that services provided by a Capital Projects Fund-funded Broadband Infrastructure Project include at least one low-cost option offered at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Recipients will be required to report pricing data as part of program performance and monitoring.

Recipients are also required to ensure that the service provider for a completed Capital Projects Fund-funded Broadband Infrastructure Project participate in federal programs that provide low-income consumers with subsidies on broadband internet access services. Initially, Recipients will be required to ensure that completed service offerings funded by the Capital Projects Fund allow subscribers in the service area to utilize the Federal Communications Commission's (FCC) Emergency Broadband Benefit (EBB) program. Once the FCC's EBB program has terminated, Treasury will identify any other program(s) that service providers must participate in to meet this requirement. Treasury will not identify programs that would require the service provider to be designated as an eligible telecommunications carrier.

Investments in Capital Projects must be carried out in ways that comply with applicable federal laws, including the 2019 National Defense Authorization Act (NDAA). Among other requirements contained in 2 C.F.R. Part 200, 2 C.F.R. 200.216 implements certain provisions of the NDAA and contains prohibitions on the use of grant funds to procure or obtain certain telecommunications and video surveillance services or equipment provided or produced by designated entities, including certain entities owned or controlled by the People's Republic of China. In addition, 2 C.F.R. 200.471 provides that certain telecommunications and video surveillance costs associated with 2 C.F.R. 200.216 are unallowable.

Recipients must explain why the communities they have identified to be served by Broadband Infrastructure Projects have a critical need for those projects as is related to access, affordability, reliability, and/or consistency. Additional discussion and explanation of critical needs can be found in Section I.C.c.3. Recipients are encouraged to prioritize projects that are designed to provide service to households and businesses not currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed. To the extent Recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable wireline service at speeds of at least 100 Mbps of download speed and 20 Mbps of upload speed, the Recipient should ensure that the Capital Projects Fund grant funding will not be used for costs that will be reimbursed by the other federal or



state funding stream(s). That is, Capital Projects Fund grant funds must be used only for complementary purposes. Recipients must ensure there is additional public benefit and a justification for using additional public funding to deploy to those locations. Treasury encourages Recipients to use all available federal and state datasets when making these determinations.

When determining the communities to be served by Broadband Infrastructure Projects, Recipients may choose to consider any available data including but not limited to documentation of existing broadband internet service performance, federal and/or state collected broadband data, user speed test results, interviews with community members and business owners, reports from community organizations, and any other information they deem relevant.

In evaluating such data, Recipients may take into account a variety of factors, including whether users actually receive internet service at or above speed thresholds at all hours of the day, whether factors other than speed such as latency or jitter, or deterioration of the existing connections make their user experience unreliable, and whether the existing service is being delivered by legacy technologies, such as copper telephone lines (typically using Digital Subscriber Line technology) or early versions of cable system technology (DOCSIS 2.0 or earlier), and other factors related to the services to be provided by Broadband Infrastructure Projects. Recipients may consider the actual experience of current broadband customers when making their determinations; and whether there is a provider serving the area that advertises or otherwise claims to offer broadband at a given speed is not dispositive.

- **Digital Connectivity Technology Projects.** The purchase and/or installation of devices and equipment to facilitate broadband internet access are eligible for funding under the Capital Projects Fund program where affordability has been identified by the Recipient as a barrier to broadband adoption and use. Permitted devices and equipment include laptops, tablets, and desktop personal computers⁶ for distribution to members of the public through a short- or long-term loan program or to be made available for use in public facilities. Permitted equipment includes equipment installed as part of public wi-fi infrastructure (e.g., access points, repeaters, routers).

Ownership of the equipment must be maintained by the Recipient or a Subrecipient.

Recipients must explain why the communities they have identified to be served by Digital Connectivity Technology Projects have a critical need for those projects. Additional discussion and explanation of critical needs can be found in Section I.C.c.3.

When determining the communities to be served by Digital Connectivity Technology Projects, Recipients may choose to consider any available data including but not limited to documentation of existing broadband internet service performance and pricing; federal and/or state collected broadband data; user speed test results; federal and/or state collected data, such as the American Community Survey, the U.S. Department of

⁶ Devices, such as phones and televisions, that do not permit users to fully participate in work (e.g., by providing access to fully functional remote video conferences, and necessary work applications), school (e.g., by allowing full participation in remote video classrooms and group projects, as well as the ability to draft and edit complex writing assignments), and health monitoring activities would not qualify as eligible Digital Connectivity Technology Projects under the Capital Projects Fund program.



Commerce – National Telecommunications and Information Administration’s Indicators of Broadband Need Map, or the U.S. Department of Housing and Urban Development’s Qualified Census Tracts, related to internet use, device ownership, income, and poverty; interviews with community members and business owners; reports from community organizations; and any other information they deem relevant.

- **Multi-Purpose Community Facility Projects.** Projects to construct or improve buildings that are designed to jointly and directly enable work, education, and health monitoring are eligible for funding under the Capital Projects Fund program. Examples of Multi-Purpose Community Facility Projects are:
 - Projects to construct or improve full-service community schools that provide a comprehensive academic program to their students and adult education in the community at large; health monitoring to their students and the community; and workforce training or career counseling services that provide community members with the knowledge needed to engage in work, including digital literacy training programs.
 - Projects to construct or improve libraries that provide public access to the internet for purposes including work, education, and health monitoring such as offering digital skills programs and support for community members engaging in virtual learning.
 - Projects to construct or improve community health centers that, in addition to engaging in health monitoring, provide a broader range of services to the communities they serve, including activities such as access to job counseling employment services, as well as health education classes or internship programs for medical professionals.

Projects must be designed to jointly and directly enable work, education, and health monitoring, but these activities need not be the exclusive function or purpose of the Project. For example, a building, such as a library or community center providing the public with access to computers with high-speed internet service, can meet this criterion even if the completed Project is also used for other functions, such as community recreational activities.

Recipients must explain why the communities they have identified to be served by Multi-Purpose Community Facility Projects have a critical need for such projects.

When determining the communities to be served by Multi-Purpose Community Facility Projects, Recipients may choose to consider any available data, including, but not limited to federal and/or state collected data, such as the American Community Survey or the U.S. Department of Housing and Urban Development’s Qualified Census Tracts, related to internet use, device ownership, income, poverty, health, education, and employment; interviews with community members and business owners; reports from community organizations; documentation of existing facilities providing similar or identical services to those the Capital Project is intended to provide; and any other information they deem relevant.

Treasury will require Recipients to commit that the Capital Projects will provide services or activities that directly enable work, education, and health monitoring for at least five years from the completion of the Project.



b) Ineligible Projects and Projects Not Presumed to be Eligible

General infrastructure projects, such as highways, bridges, transit systems, and ports, are ineligible under the Capital Projects Fund program. General construction and improvement of hospitals and traditional schools are not presumed to be eligible, although, there may be opportunities for such projects to receive funding under the Capital Projects Fund program if they meet the project eligibility criteria. Such projects will be reviewed on a case-by-case basis.

c) Case-by-Case Review

In addition to the presumptively eligible Capital Projects described above, a Recipient may propose a different use of funds. Such a use must meet each of the statutory criteria. The Recipient must demonstrate that its Project satisfies the criteria below.

1. **The Project invests in capital assets designed to directly enable work, education, and health monitoring.**

Investments in Capital Assets

Capital Project or Project means the construction, purchase, and installation of, and/or improvements to capital assets⁷ where the costs of such assets are capitalized or depreciated, including ancillary costs necessary to put the capital asset to use.

Examples of capital assets include buildings, towers, digital devices and equipment, fiber-optic lines, and broadband networks. Examples of ancillary costs include project costs related to project planning and feasibility, broadband installation, and community engagement, broadband adoption, digital literacy, and training associated with a planned or completed Project funded by the Capital Projects Fund program.

Projects that are Designed to Directly Enable Work, Education, and Health Monitoring

A Capital Project is designed to directly enable all three activities (work, education, and health monitoring) if the Project is designed to, upon completion, be used by community members while engaged in work, education, and health monitoring or activities to obtain the knowledge or skills to engage in such activities.

Projects must directly enable all three activities of work, education, and health monitoring.

- **Work:** Activities to help community members engage in employment, search for employment, and/or develop the requisite skills and knowledge to become employed (e.g., participate in career counseling programs, workforce training programs, as well as gain access to internet websites to search for and apply to jobs).

A Project is not considered to directly enable work simply because individuals are

⁷ Treasury does not intend for the definition of capital assets, as defined under Uniform Guidance, to limit eligible investments under Capital Projects.



employed at the location of the completed Capital Project; rather, the asset itself must enable new and further employment opportunities beyond employment at the location of the completed Project. In addition, job creation related to project construction and operations (e.g., employment of construction workers) would not satisfy this requirement.

- **Education:** Activities to acquire knowledge and/or skills, undertaken as part of a person's participation in school, an academic program, extracurricular program, social-emotional development program for students or youths, internship, or professional development program, or in another educational environment.
- **Health Monitoring:** Services to monitor an individual's health, including with respect to either physical or behavioral health.

Health monitoring activities are often conducted as part of telemedicine appointments with a healthcare provider, but these activities can be conducted in a variety of other ways, such as during in-person appointments with health care providers or as part of community health screening programs.

Recipients must show that the Project is designed to jointly and directly enable work, education, and health monitoring; however, these activities need not be the exclusive function or purpose of the Project. For example, construction of a building, such as a community center or library providing the public with access to computers with high-speed internet service, can meet this criterion even if the completed Project is also used for other functions, such as community recreational activities.

To directly enable all three activities, the result of the Capital Project should be assets that offer affordable services or are otherwise publicly accessible (e.g., public wi-fi).

Directly Enabling Work, Education, and Health Monitoring after Completion of the Project

Project eligibility is defined by the services that the completed Projects are designed to provide. The exact services or activities may change over time, so long as the Capital Project directly enables all three activities of work, education, and health monitoring for at least five years from the completion of the Project.

2. The Project will be designed to address a critical need that results from or was made apparent or exacerbated by the COVID-19 public health emergency.

Projects must be designed to address impediments to community members' ability to directly engage in work, education, and health monitoring that resulted from or were made apparent or exacerbated by the COVID-19 public health emergency.

Recipients are expected to first identify one or more impediments to participation in work, education, and health monitoring that resulted from or were made apparent or exacerbated by the COVID-19 public health emergency and then identify how any such impediments would be remediated with the Project.

Recipients have broad latitude to identify the specific conditions and circumstances that have



impeded their community members' ability to access work, education, and health monitoring activities and services during the COVID-19 public health emergency and must be prepared to provide a description of such conditions and circumstances in their Grant Plan. Recipients are encouraged to solicit input from and engage with community members when identifying these circumstances and conditions.

Treasury recognizes that there are some common impediments that were experienced by communities across the country. As an example, potential exposures to the virus and public health mitigation measures have made safely accessing work, school, and health monitoring resources more difficult for many communities during the COVID-19 public health emergency. The pandemic laid bare the limitations on access to high-quality, affordable, and reliable internet experienced by many Americans, including individuals living in rural America, Tribal communities, and low- and moderate-income communities, and increased reliance on high-quality internet for access to services is expected to remain a feature of American life even after the pandemic subsides. As such, Projects that enable remote access to services (e.g., Broadband Infrastructure Projects, public computer facilities) meet the requirement to remediate a need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency.

3. The Project is designed to address a critical need in the community to be served by it.

The Project must be designed to address a critical need for the Project in the community to be served by it. Communities with a critical need for the Project include those that do not have access to the resources or services that are provided by the Project, whether because of the physical absence or insufficiency within the community of the type of resources provided by the Project, or because access to those resources is unaffordable, resulting in impediment(s) to participation in work, education, and health monitoring that were caused or exacerbated by the COVID-19 public health emergency.⁸

Recipients have broad latitude to identify communities with a critical need for a Capital Project. In assessing whether a community has such a need, Recipients may consider the existing capacity, service quality, and ability to meet any relevant health, safety, or performance standards for the relevant service to be provided.

Recipients are strongly encouraged to consider individuals and communities in greatest need in identifying communities to be served by a Capital Project.⁹ Historically disadvantaged communities have experienced disproportionately poor work, education, and health outcomes, in part due to lack of access to equitable resources and opportunities in these areas.

When determining the individuals and communities with a critical need that will be served by a proposed Capital Project, Recipients may choose to consider any available data including federal and/or state collected data; interviews with community members and business owners; reports from community organizations; documentation of existing facilities providing similar or identical services to those the Capital Project is intended to provide; and any other information they deem

⁸ Tribal Governments may identify communities with a critical need that are or are not located on Tribal lands.

⁹ 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."



relevant.

D. ELIGIBLE AND INELIGIBLE COSTS

Allowable costs are determined in accordance with the cost principles identified in 2 C.F.R. Part 200, Subpart E.¹⁰ Federal funds committed to an award may only be used to cover allowable costs incurred during the period of performance and for allowable closeout costs incurred during the grant closeout process. Cost sharing is not a requirement for the use of these funds.

a) Program Administrative Costs

Absent Treasury's express consent, Program Administrative Costs over the period of performance may not exceed the greater of five (5) percent of the total amounts of the grant received under the Capital Projects Fund, or \$25,000. The five percent limitation on administrative expenses includes the combined total of indirect costs and direct administrative costs charged to an award. The term "Program Administrative Costs" is defined as the costs of administering the Capital Projects Fund grant funding by a Recipient, providing technical assistance to potential Subrecipients, and complying with grant administration and audit requirements. Recipients may request a higher limit on Program Administrative Costs by providing a rationale for the use of additional funds for administrative purposes.

Consistent with 2 C.F.R. 200.414(f), Recipients that do not have a current negotiated indirect cost rate may elect to charge indirect costs to an award pursuant to a de minimis rate of up to ten percent of modified total direct costs (MTDC) for program administration, in which case a negotiated indirect cost rate agreement is not required.

Recipients may use their negotiated cost rate agreement so long as the total of all administrative costs incurred by the Recipient and any subrecipient, whether direct or indirect costs, do not exceed any applicable limit on Program Administrative Costs.

As described in 2 C.F.R. 200.403, costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both.

b) Project Costs

A Recipient may use funds to cover costs incurred during the period beginning March 15, 2021, for one or more eligible Projects. For pre-award costs incurred after March 15, 2021, but prior to execution of the Grant Agreement, Recipients are required to provide reasonable assurance that the costs were incurred pursuant to the negotiation of and in anticipation of the Capital Projects Fund award and are necessary for the efficient and timely performance of the Project. Such costs are allowable only to the extent they would have been allowable if incurred after the date of the Capital Projects Fund award and only with the written approval of Treasury.

Project costs are not limited to new construction. For example, Project costs can involve

¹⁰ The government has established a set of principles for determining eligible or allowable costs. Allowable costs are determined in accordance with the cost principles applicable to the entity incurring the costs. For example, the allowability of costs incurred by State, local or Tribal Governments is determined in accordance with the provisions of 2 C.F.R. Part 200, Subpart E.



improvements and repairs to buildings to permit the buildings to be used for eligible purposes.

Eligible Project Costs. Below is a non-exhaustive list of eligible costs:

- Costs associated with completing the grant or Application and Grant Plan;
- Pre-project development costs and uses, including data-gathering, feasibility studies, community engagement and public feedback processes, equity assessments and planning, and needs assessments; permitting, planning, architectural design, engineering design, and work related to environmental, historical, and cultural reviews;
- Costs of repair, rehabilitation, construction, improvement, and acquisition of real property, equipment (e.g., devices and office equipment), and facilities (e.g., telecommunications equipment, including infrastructure for backhaul, middle, and last mile networks);
- Cost of long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including indefeasible right-of-use (IRU) agreements and capital leases;
- Personnel costs including salaries and fringe benefits for staff and consultants required for carrying out a Capital Project (such as project managers, program directors, subject matter experts, equity consultants, grant administrators, financial analysts, accountants, and attorneys);
- Ancillary costs necessary to operationalize and put the capital assets to full use, including costs to increase broadband adoption and improve digital literacy;
- Costs associated with monitoring of and reporting on Projects in compliance with Treasury requirements, including award closeout costs;
- Costs associated with collecting and measuring performance data and conducting activities needed to establish and maintain a performance management and evaluation regime related to Projects funded by the Capital Projects Fund program.

Ineligible Project Costs. Unless otherwise permitted by Treasury, Capital Projects Fund grant funds may not be used for the following purposes:

- Acquisition of spectrum licenses;
- Operating expenses, other than grant administration costs;
- Short-term operating leases;
- Payment of interest or principal on outstanding debt instruments, or other debt service costs incurred prior to March 15, 2021;
- Fees or issuance costs associated with the issuance of new debt;
- Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding; or
- To support or oppose collective bargaining. This does not affect the ability to use funds to comply with 41 C.F.R. 60-1.4.

E. STRONG LABOR PRACTICES IN CONSTRUCTION

It is important that investments in Capital Projects be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Projects funded by the Capital Projects Fund must comply with all applicable federal laws and regulations, and with all requirements for state, local, and Tribal laws and ordinances to the extent that such requirements



do not conflict with federal laws.

While the federal Davis-Bacon Act prevailing wage rate requirements do not apply to Projects funded solely by the Capital Projects Fund program, except for Capital Projects Fund-funded construction Projects undertaken by the District of Columbia,¹¹ Treasury encourages Recipients to ensure that Capital Projects incorporate 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. Treasury further encourages Recipients to prioritize employers (including contractors and subcontractors) without recent violations of federal and state labor and employment laws as a further measure that may minimize project disruptions and delays.

Among other requirements contained in 2 C.F.R. 200, Appendix II, all contracts made by a Recipient or Subrecipient in excess of \$100,000 that involve employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). And as noted below in Section III.C, Treasury will seek information from Recipients on their workforce plans and practices related to Capital Projects Fund Projects, as well as information about subcontracted entities.

Further, Treasury encourages Recipients to prioritize in their procurement decisions employers who can demonstrate:

- Their workforce meets high safety and training standards, including professional certification, licensure and/or robust in-house training;
- Prioritization in hiring of local workers and/or workers from historically disadvantaged communities;
- Direct employment of their workforce, or policies and practices in place to ensure contractors and subcontractors meet high labor standards; and
- No recent violations of federal and state labor and employment laws.

F. PERIOD OF PERFORMANCE

All funds must be expended by December 31, 2026, which is the end of the period of performance. Recipients must return to Treasury any grant funds that are not used by the end of the period of performance on December 31, 2026. Treasury may, in its sole discretion, grant extensions to the period of performance upon request from Recipients.

¹¹ Neither the Davis-Bacon Act nor Davis-Bacon Act related provisions requirements apply to projects funded solely with award funds from the Capital Projects Fund, except for Capital Projects Fund-funded construction projects undertaken by the District of Columbia. The Davis-Bacon Act specifically applies to the District of Columbia when it uses federal funds (Capital Projects Fund or otherwise) to enter into contracts over \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Recipients may be subject to the requirements of the Davis-Bacon Act, when Capital Projects Fund grant funds are used on a construction project in conjunction with funds from another federal program that requires enforcement of the Davis-Bacon Act. Additionally, corollary state prevailing-wage-in-construction laws (commonly known as “baby Davis-Bacon Acts”) may apply to projects.



II. GRANT PROCESS FOR STATES, TERRITORIES & FREELY ASSOCIATED STATES

This section provides a summary of the steps for states, territories, and freely associated states to access Capital Projects Fund grant funds. The process for requesting Capital Projects Fund grant funding involves three main steps, described in detail below.

1. Submission of an Application to Treasury establishing Applicant eligibility.
2. Execution of a Grant Agreement with Treasury.
3. Submission of Grant Plans to Treasury, which will be used by Treasury to assess proposed use of funds for alignment with Capital Projects Fund objectives and requirements.

A. REQUIREMENTS

For an Application and Grant Plan to be approved, each Applicant must:

- Demonstrate that it is an Eligible Applicant;
- Demonstrate that funds will be used for eligible Capital Projects, including how the funds will address critical needs of the communities to be served;
- Provide a Grant Plan for use of the funds;
- Demonstrate that program performance will be measured in a robust manner, measuring outputs and outcomes for Projects and Programs, through a program evaluation plan;
- Comprehensively respond to all Application and Grant Plan requirements; and
- Provide additional information as required by Treasury.

B. APPLICATION CONTENTS

a) Requested Grant Amount

Eligible Applicants must specify the amount of Capital Projects Fund grant funding that they wish to receive, not to exceed their allocated amount (see Section I.B above). Eligible Applicants may request this amount or a smaller amount and may reduce their requested amount at a later date. However, Eligible Applicants may not increase their total requested amount after 365 days following the date that Treasury begins accepting Applications via the Capital Projects Fund Portal (“Capital Projects Fund Portal Launch”).

b) Requested Amount for Program Administrative Costs

Eligible Applicants must specify the amount of Capital Projects Fund grant funding for Program Administrative Costs that they wish to have access to following execution of the Grant Agreement. This amount may not generally exceed five percent of the total requested grant amount, or \$25,000, whichever is greater. Recipients may request a higher limit on Program Administrative Costs by providing a rationale for the use of additional funds for administrative purposes. If Eligible Applicants request less than five percent of the total grant amount at the time of their Application, they may request the remaining amount at a later date.

c) Designation Letter

If applicable, the Application must include a designation letter signed by the chief executive of the Eligible Applicant (e.g., State Governor) that identifies and delegates authority, as appropriate, to an authorized representative. The authorized representative is the individual who will sign the



necessary certifications, submit the Application, and sign the Grant Agreement on behalf of the Eligible Applicant.

d) Points of Contact

The authorized representative may designate one or more points of contact to communicate with Treasury regarding the Capital Projects Fund Application and Grant Plans.

e) Eligibility and Payment Information

The Eligible Applicant must provide their IRS Employer Identification Number (EIN), and their Dun & Bradstreet D-U-N-S Number, a unique nine-digit identification number linked to the Eligible Applicant's physical location. Eligible Applicants will also be required to provide bank account information necessary to make Capital Projects Fund grant payments, and may be asked to provide additional information to allow Treasury to establish eligibility.

C. SUBMITTING APPLICATIONS

Accessing the Capital Projects Fund Portal. To gain access to the Capital Projects Fund Portal and submit an Application, the authorized representative and/or points of contact (see Section II.B.c and Section II.B.d), as appropriate, must have a registered username and password through the ID.me identity verification service. ID.me is an approved Treasury service provider. ID.me registration requires a one-time identity verification process that involves validation of multiple forms of identification (e.g., passports) using a mobile phone camera. All personally identifiable information provided to ID.me is encrypted and disclosed only with the express consent of the user. Users who are not able to validate their identity using ID.me should contact the Capital Projects Fund (see Section V).

Application Form. Applications will only be accepted through the Capital Projects Fund Portal, accessible at: <https://portal.treasury.gov/>. A .pdf sample of the Application content will be available on the Treasury website at: treasury.gov/CPF.

Application Deadline. Eligible Applicants must complete the Application by December 27, 2021 to receive funding under the Capital Projects Fund. Treasury will post the specific dates on its website during which it will accept Capital Projects Fund Applications. Failure to submit a timely Application may result in the forfeiture of grant funds. Eligible Applicants have additional time, as outlined in Section II.F, to submit subsequent detailed Grant Plans.

Eligibility. Only eligible entities may apply, and only one Application shall be accepted from each eligible entity. Eligible Applicants should coordinate internally to ensure that only one Application is submitted.

D. EXECUTION OF AGREEMENTS

Treasury Determinations. Treasury will review Applications for completeness and Applicant eligibility. Treasury will also review additional required or requested material as well as any other reasonable supplementary information submitted by Eligible Applicants. Treasury may consult with other U.S. Government agencies in reaching its Application determinations, but final determinations will be at Treasury's sole discretion.



Grant Agreements. Once Treasury has validated Application completeness and Applicant eligibility, the Eligible Applicant's authorized representative (see Section II.B.c) will execute a Grant Agreement. The Grant Agreement will, among other things, contain terms and conditions related to the following:

- Roles and responsibilities;
- Grant payments;
- Eligible uses of funds (see Section I.C.);
- Period of performance, which ends on December 31, 2026;
- Accounting and reporting requirements;
- Compliance requirements and remedies for noncompliance, including but not limited to return of funds where appropriate;
- Audits, recordkeeping, and internal controls; and
- Other terms required or permitted by federal law.

E. PAYMENT OF FUNDS FOR PROGRAM ADMINISTRATIVE COSTS

After executing a Grant Agreement, Recipients will have access to the amount of funds requested in the Application for Administrative Costs, in an amount up to five percent of the total amount of the grant, or \$25,000, whichever is greater (unless Treasury has specifically authorized a higher amount). If an Eligible Applicant requested less than five percent of the total grant amount at the time of its Application, it may request the remaining amount at a later date.

F. GRANT PLAN CONTENTS

Recipients must submit a plan for deploying Capital Projects Fund grant funding (the Capital Projects Fund Grant Plan or Grant Plan) within 365 days of the Capital Projects Fund Portal Launch, providing information on the Recipient's intended uses of Capital Projects Fund funds. Recipients will be able to submit Grant Plans requesting funding up to the amount that was stated in their Application (see Section II.B.a). Treasury may publicly share information from the Grant Plan.

A Grant Plan will consist of an executive summary, an Allocation Table showing the broad categories of Capital Projects the Recipient seeks to undertake using Capital Projects Fund grant funds (e.g., Broadband Infrastructure Projects, Digital Connectivity Technology Projects, Multi-Purpose Community Facility Projects) and how much the Recipient intends to spend on each such category, and one or more Program Plans. Each Program Plan is intended to provide more detailed information on a particular type of Capital Project(s) the Recipient intends to undertake, and constitutes an Eligible Applicant's request for funding for those Capital Projects. For example, a State might file a Grant Plan that indicates that it intends to spend funding on broadband deployment throughout the State, and a Program Plan that provides detailed information on its deployment plan for only some of the counties in the State. Later, it could file Program Plans detailing its deployment plans for other counties in the State.

After submitting a Grant Plan, that includes at least one Program Plan, Recipients may submit additional Program Plans on a rolling basis throughout the 365-day submission window so that Recipients can seek funding for a particular Capital Project (or Projects) when the Recipient is ready. Treasury will assess and approve each Program Plan separately and will separately provide access to funds for each Program Plan when approved. For example, a Recipient with



two Program Plans may submit, receive Treasury approval, and have access to funds for one Program Plan in December 2021, and then submit, receive Treasury approval, and have access to funds for the second Program Plan in March 2022.

Recipients should reference the Capital Projects Fund Portal for specific instructions and required information.

G. SUBMITTING CAPITAL PROJECTS FUND GRANT PLANS

Grant Plan Submission. Recipients will submit Grant Plans by logging into the Capital Projects Fund Portal (see Section II.C for full access instructions).

Grant Plan Deadline. After Capital Projects Fund Portal Launch, the Capital Projects Fund Portal will be open for 365 days for Recipients to submit Grant Plans. To be considered, complete Grant Plans must be submitted through the Capital Projects Fund Portal by this deadline, after which the Capital Projects Fund Portal will be closed to new Grant Plans. The deadline will be posted on the Capital Projects Fund website at the address provided below at Section V. Treasury will not consider Grant Plans submitted after the deadline, including any draft Grant Plans in the Capital Projects Fund Portal that were not completed and submitted by the deadline. Funding for Programs (as described the Recipient's Allocation Table) for which no complete Program Plan is received by the deadline will be considered forfeited by the Recipient, unless Treasury, in its sole discretion, grants a deadline waiver.

Updating Grant Plans. Recipients may submit updates to Grant Plans, or portions thereof (i.e., Allocation Table and Program Plans) through the Capital Projects Fund Portal. Updates to Grant Plans will be subject to review and approval by Treasury.

H. REVIEWING GRANT PLANS

Treasury Determinations. Treasury will review Grant Plans for completeness and consistency with Capital Projects Fund requirements (Recipient eligibility will be assessed during review of the Application (see Section II.D)). Treasury will review Grant Plans, including additional required or requested material, and any other reasonable supplementary information submitted by Recipients to assess whether the Recipient will fulfill the requirements and objectives of the Capital Projects Fund. Treasury may consult with other U.S. Government components in reaching its determinations, but final Grant Plan determinations will be at Treasury's sole discretion.

Each Program Plan will be evaluated for alignment with Capital Projects Fund requirements and will be assessed independently from the Recipient's other Program Plans. Treasury may review and approve Grant Plans in whole or in part.

Grant Plan Reviews and Approvals. If Treasury approves a Grant Plan only in part, the Recipient will be provided an opportunity to provide further information or address deficiencies identified by Treasury. Treasury may also return a Grant Plan to the Recipient with recommendations for improvement and resubmission to Treasury for reconsideration. Treasury may, in its discretion, allow Grant Plan deadline extensions for those plans undergoing remediation related to consistency with project eligibility criteria. It is the Recipient's responsibility to be responsive to Treasury communications and submit complete and accurate information by the stated deadlines to receive timely consideration and a definitive response. Failure to comply with Treasury's deadlines and information requests could jeopardize access to full Capital Projects Fund grant



funding.

Timing of Reviews. Following Capital Projects Fund Portal Launch, Treasury will review Grant Plans upon receipt. Recipients are encouraged to submit Grant Plans as soon as possible after the Capital Projects Fund Portal Launch to expedite Treasury review and subsequent access to funds.

I. PROGRAM PAYMENTS

After Treasury approves a Grant Plan in whole or in part, Treasury will inform the Recipient of the schedule for payments to the Recipient for purposes of the approved portions of the plan. The amounts, timing, and conditions of such payments will be determined by Treasury in its sole discretion.

J. APPLICATION AND GRANT PLAN ASSISTANCE

Treasury is available to answer questions about the grant process and the Capital Projects Fund in general; e-mail correspondence is preferred. The Capital Projects Fund program contact information is provided below at Section V. Treasury may also host webinars and post FAQs on its website.



III. OTHER REQUIREMENTS

This Section provides a summary of other requirements that Recipients must meet, including construction, reporting, and compliance requirements. Treasury will release detailed reporting and compliance requirements soon after the Capital Projects Fund Portal Launch.

A. PUBLIC REPORTING

Treasury is required by transparency laws to disclose the names of Capital Projects Fund Recipients and the amounts of Capital Projects Fund grants, and Treasury may disclose other information provided by Recipients in their Applications or Grant Plans to the public. Treasury will post this information on its website and report this information on the usaspending.gov website, which allows the public to see how the federal government has distributed COVID-19 relief funding.

B. COMPLIANCE REQUIREMENTS FOR CONSTRUCTION

Projects funded by the Capital Projects Fund must comply with all applicable federal environmental laws. Generally, the National Environmental Policy Act does not apply to Projects funded by the Capital Projects Fund.¹² Prior to funding a Capital Project, Recipients may complete an environmental checklist, to be made available on the Capital Projects Fund website, to determine whether certain environmental laws apply. Generally, Capital Projects that do not involve construction activities will not be subject to federal environmental review requirements.

Projects must reach substantial completion before December 31, 2026. Substantial completion is defined as the date for which the Project can fulfill the primary operations that it was designed to perform, delivering services to end-users. At substantial completion, service operations and management systems infrastructure must be operational. Recipients may request extensions beyond this timeframe to the extent that factors outside of the Recipient's control have impacted Project delivery timelines. Treasury will approve extension requests on a case-by-case basis.

C. REPORTING

In general, Recipients will be responsible for satisfying the following reporting requirements:

- *Project and Expenditure Reports* submitted quarterly to Treasury that include data regarding Projects, expenditures, Project status, subawards, civil rights compliance, equity indicators, community engagement efforts, programmatic data such as geospatial data for Broadband Infrastructure Projects, and other measures as determined by Treasury. 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 Capital Projects Fund Projects, as well as information about subcontracted entities.
- *Performance Reports* submitted on an annual basis and demonstrating the outcomes of the Capital Projects Fund-financed grant programs. Reports must include data related to Project and Program outputs and outcomes against the stated objectives of the Recipient's Grant Plan. Costs associated with collecting and measuring performance data and

¹² Projects supported with payments from the Capital Projects Fund may still be subject to NEPA review if they are also funded by or otherwise involve actions from other federal programs or agencies.



conducting activities needed to establish and maintain a performance management and evaluation regime, including program evaluations¹³ conducted in support of Performance Report requirements, are eligible under the Capital Projects Fund.

Treasury will release detailed reporting guidance soon after the Capital Projects Fund Portal Launch.

D. OVERSIGHT

Recipients and Subrecipients will be subject to audit or review by the Treasury Inspector General and Government Accountability Office.

E. APPLICATION OF UNIFORM GUIDANCE

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 apply to the Capital Projects Fund grant, except for any provisions Treasury may determine are inapplicable to an 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.

F. SANCTIONS

In the event of a Recipient's noncompliance with applicable law or Capital Projects Fund program requirements or guidance, Treasury may impose additional conditions on the receipt of additional Capital Projects Fund funds by the Recipient, terminate further payments from the Capital Projects Fund, seek the repayment of previous Capital Projects Fund payments, or take other available remedies pursuant to 2 C.F.R. 200.339.

G. CONFIDENTIALITY OF ELIGIBLE APPLICANT INFORMATION

Treasury may publicly share information from the Application. Eligible Applicants are encouraged not to include any confidential or proprietary information in their Applications. If any such information is included, Eligible Applicants must identify and label it.

H. CIVIL RIGHTS COMPLIANCE

Recipients of federal financial assistance from 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 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), 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 C.F.R. part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 C.F.R. part 28; Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 C.F.R. part 23.

¹³ For additional information on example program evaluation standards and practices, please see OMB M-20-12, available at: <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-12.pdf>.



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 C.F.R. part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 C.F.R. part 42, provide for the collection of data and information from Recipients (see 28 C.F.R. 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.

I. COMPLIANCE WITH APPLICABLE LAWS

Recipients are responsible for complying with all applicable federal, Tribal, and state laws.



IV. DEFINITIONS

Treasury will apply the following definitions for purposes of this guidance. These definitions supplement and interpret certain terms in Section 604(b) of the Statute. Terms not defined herein shall have the definitions contained in Uniform Guidance

- (a) "Allocation Table" means a summary of all contemplated funding sources and uses for Program funded with Capital Projects Fund grant funding.
- (b) "Application" means the form hosted on the Capital Projects Fund Portal where Applicants will demonstrate eligibility, provide information, and respond to requirements necessary for receiving a Capital Projects Fund Grant.
- (c) "Broadband Infrastructure Project" has the meaning set forth in Section I.C.a.
- (d) "Capital Project" or "Project" has the meaning set forth in Section I.C.c.
- (e) "Capital Projects Fund Grant Plan" or "Grant Plan" means a plan for deploying Capital Projects Fund grant funding that is submitted by a Recipient as part of the request for funding.
- (f) "Capital Projects Fund Portal" means the electronic submissions portal where Eligible Applicants can submit their Application, Capital Projects Fund Grant Plan, and other information necessary to receive a Capital Projects Fund award. The Capital Projects Fund Portal may be reached at: <https://portal.treasury.gov/>.
- (g) "Capital Projects Fund Portal Launch" means the date at which Treasury begins accepting Applications via the Capital Projects Fund Portal to receive Capital Projects Fund grant funding.
- (h) "Digital Connectivity Technology Project" has the meaning set forth in Section I.C.a.
- (i) "Eligible Applicant" has the meaning set forth in Section I.A.
- (j) "Grant Agreement" means the standardized agreement executed between the Eligible Applicant's authorized representative and Treasury that outlines the terms and conditions of the funds, reporting and recordkeeping, and other requirements.
- (k) "Multi-Purpose Community Facility Project" has the meaning set forth in Section I.C.a.
- (l) "Program" means one or more Capital Projects with common characteristics (e.g., a group of Multi-Purpose Community Facility Projects that directly enable work, education, and health monitoring) for which an Eligible Applicant is seeking funding under the Capital Projects Fund.
- (m) "Program Administrative Cost" means the costs incurred by a Recipient related to the administration of Capital Projects Fund awards, the provision of technical assistants to potential Sub-recipients, and compliance with grant administration and audit requirements.
- (n) "Program Plan" means a plan submitted by a Recipient containing a description of a



Program for which the Recipient is seeking funding under the Capital Projects Fund.

- (o) "State" has the meaning set forth in Section I.A.
- (p) "Statute" means Section 604 of the Social Security Act.
- (q) "Treasury" means the U.S. Department of the Treasury.
- (r) "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 most recently as of the date of enactment of this Act pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131) and the State of Hawaii (for exclusive use of the Department of Hawaiian Home Lands and the Native Hawaiian Education Programs to assist Native Hawaiians).
- (s) "Uniform Guidance" means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located in Title 2 of the Code of Federal Regulations (2 C.F.R. 200).



V. CONTACT INFORMATION

E-mail correspondence is preferred. Correspondence by mail may be subject to significant delays.

CapitalProjectsFund@treasury.gov

U.S. Department of the Treasury Attn: **Capital Projects Fund**
1500 Pennsylvania Ave NW
Washington, DC 20220

<https://www.treasury.gov/CPF>



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

U.S. DEPARTMENT OF THE TREASURY

January 2022



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

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



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Introduction

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

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

EARLY PROGRAM IMPLEMENTATION

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

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

KEY CHANGES AND CLARIFICATIONS IN THE FINAL RULE

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

Replacing Lost Public Sector Revenue

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

Public Health and Economic Impacts

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



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

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

Premium Pay

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

Water, Sewer & Broadband Infrastructure

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

FINAL RULE EFFECTIVE DATE

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

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



Overview of the Program

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

Recipients may use SLFRF funds to:

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

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- Eligible uses for assistance to impacted households include aid for re-employment, job training, food, rent, mortgages, utilities, affordable housing development, childcare, early education, addressing learning loss, and many more uses.
- Eligible uses for assistance to impacted small businesses or nonprofits include loans or grants to mitigate financial hardship, technical assistance for small businesses, and many more uses.
- Recipients can also provide assistance to impacted industries like travel, tourism, and hospitality that faced substantial pandemic impacts, or address impacts to the public sector, for example by re-hiring public sector workers cut during the crisis.
- Recipients providing funds for enumerated uses to populations and groups that Treasury has presumed eligible are clearly operating consistently with the final rule. Recipients can also identify (1) other populations or groups, beyond those presumed eligible, that experienced pandemic impacts or disproportionate impacts and (2) other programs, services, or capital expenditures, beyond those enumerated, to respond to those impacts.
- **Provide premium pay for eligible workers performing essential work**, offering additional support to those who have and will bear the greatest health risks because of their service in critical sectors.
 - Recipients may provide premium pay to eligible workers – generally those working in-person in key economic sectors – who are below a wage threshold or non-exempt from the Fair Labor Standards Act overtime provisions, or if the recipient submits justification that the premium pay is responsive to workers performing essential work.
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, to support vital wastewater and stormwater infrastructure, and to expand affordable access to broadband internet.
 - Recipients may fund a broad range of water and sewer projects, including those eligible under the EPA’s Clean Water State Revolving Fund, EPA’s Drinking Water State Revolving Fund, and certain additional projects, including a wide set of lead remediation, stormwater infrastructure, and aid for private wells and septic units.
 - Recipients may fund high-speed broadband infrastructure in areas of need that the recipient identifies, such as areas without access to adequate speeds, affordable options, or where connections are inconsistent or unreliable; completed projects must participate in a low-income subsidy program.

While recipients have considerable flexibility to use funds to address the diverse needs of their communities, some restrictions on use apply across all eligible use categories. These include:

- **For states and territories:** No offsets of a reduction in net tax revenue resulting from a change in state or territory law.

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- **For all recipients except for Tribal governments:** No extraordinary contributions to a pension fund for the purpose of reducing an accrued, unfunded liability.
- **For all recipients:** No payments for debt service and replenishments of rainy day funds; no satisfaction of settlements and judgments; no uses that contravene or violate the American Rescue Plan Act, Uniform Guidance conflicts of interest requirements, and other federal, state, and local laws and regulations.

Under the SLFRF program, funds must be used for costs incurred on or after March 3, 2021. Further, funds must be obligated by December 31, 2024, and expended by December 31, 2026. This time period, during which recipients can expend SLFRF funds, is the “period of performance.”

In addition to SLFRF, the American Rescue Plan includes other sources of funding for state and local governments, including the [Coronavirus Capital Projects Fund](#) to fund critical capital investments including broadband infrastructure; the [Homeowner Assistance Fund](#) to provide relief for our country’s most vulnerable homeowners; the [Emergency Rental Assistance Program](#) to assist households that are unable to pay rent or utilities; and the [State Small Business Credit Initiative](#) to fund small business credit expansion initiatives. Eligible recipients are encouraged to visit the Treasury website for more information.



Replacing Lost Public Sector Revenue

The Coronavirus State and Local Fiscal Recovery Funds provide needed fiscal relief for recipients that have experienced revenue loss due to the onset of the COVID-19 public health emergency. Specifically, SLFRF funding may be used to pay for “government services” in an amount equal to the revenue loss experienced by the recipient due to the COVID-19 public health emergency.

Government services generally include any service traditionally provided by a government, including construction of roads and other infrastructure, provision of public safety and other services, and health and educational services. Funds spent under government services are subject to streamlined reporting and compliance requirements.

In order to use funds under government services, recipients should first determine revenue loss. They may, then, spend up to that amount on general government services.

DETERMINING REVENUE LOSS

Recipients have two options for how to determine their amount of revenue loss. Recipients must choose one of the two options and cannot switch between these approaches after an election is made.

- 1. Recipients may elect a “standard allowance” of \$10 million to spend on government services through the period of performance.**

Under this option, which is newly offered in the final rule Treasury presumes that up to \$10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund “government services.” The standard allowance provides an estimate of revenue loss that is based on an extensive analysis of average revenue loss across states and localities, and offers a simple, convenient way to determine revenue loss, particularly for SLFRF’s smallest recipients.

All recipients may elect to use this standard allowance instead of calculating lost revenue using the formula below, including those with total allocations of \$10 million or less. Electing the standard allowance does not increase or decrease a recipient’s total allocation.

- 2. Recipients may calculate their actual revenue loss according to the formula articulated in the final rule.**

Under this option, recipients calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Under the flexibility provided in the final rule, recipients can choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. Treasury has also provided several adjustments to the definition of general revenue in the final rule.

To calculate revenue loss at each of these dates, recipients must follow a four-step process:



- a. Calculate revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue*.
- b. Estimate *counterfactual revenue*, which is equal to the following formula, where *n* is the number of months elapsed since the end of the base year to the calculation date:

$$\text{base year revenue} \times (1 + \text{growth adjustment})^{\frac{n}{12}}$$

The *growth adjustment* is the greater of either a standard growth rate—5.2 percent—or the recipient’s average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency.

- c. Identify *actual revenue*, which equals revenues collected over the twelve months immediately preceding the calculation date.

Under the final rule, recipients must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after the date of adoption of the final rule (January 6, 2022). Specifically, the estimated fiscal impact of tax cuts and tax increases adopted after January 6, 2022, must be added or subtracted to the calculation of actual revenue for purposes of calculation dates that occur on or after April 1, 2022.

Recipients may subtract from their calculation of actual revenue the effect of tax increases enacted prior to the adoption of the final rule. Note that recipients that elect to remove the effect of tax increases enacted before the adoption of the final rule must also remove the effect of tax decreases enacted before the adoption of the final rule, such that they are accurately removing the effect of tax policy changes on revenue.

- d. Revenue loss for the calculation date is equal to *counterfactual revenue* minus *actual revenue* (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period. Revenue loss for the period of performance is the sum of the revenue loss on for each calculation date.

The supplementary information in the final rule provides an example of this calculation, which recipients may find helpful, in the Revenue Loss section.



SPENDING ON GOVERNMENT SERVICES

Recipients can use SLFRF funds on government services up to the revenue loss amount, whether that be the standard allowance amount or the amount calculated using the above approach. **Government services generally include *any service traditionally provided by a government***, unless Treasury has stated otherwise. Here are some common examples, although this list is not exhaustive:

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

Government services is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements. Recipients should be mindful that certain restrictions, which are detailed further in the Restrictions on Use section and apply to all uses of funds, apply to government services as well.



Responding to Public Health and Economic Impacts of COVID-19

The Coronavirus State and Local Fiscal Recovery Funds provide resources for governments to meet the public health and economic needs of those impacted by the pandemic in their communities, as well as address longstanding health and economic disparities, which amplified the impact of the pandemic in disproportionately impacted communities, resulting in more severe pandemic impacts.

The eligible use category to respond to public health and negative economic impacts is organized around the types of assistance a recipient may provide and includes several sub-categories:

- public health,
- assistance to households,
- assistance to small businesses,
- assistance to nonprofits,
- aid to impacted industries, and
- public sector capacity.

In general, to identify eligible uses of funds in this category, recipients should (1) identify a COVID-19 public health or economic impact on an individual or class (i.e., a group) and (2) design a program that responds to that impact. Responses should be related and reasonably proportional to the harm identified and reasonably designed to benefit those impacted.

To provide simple, clear eligible uses of funds that meet this standard, Treasury provides a non-exhaustive list of enumerated uses that respond to pandemic impacts. Treasury also presumes that some populations experienced pandemic impacts and are eligible for responsive services. In other words, recipients providing enumerated uses of funds to populations presumed eligible are clearly operating consistently with the final rule.¹

Recipients also have broad flexibility to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or “classes” of beneficiaries that experienced pandemic impacts and provide services to those classes.

¹ However, please note that use of funds for enumerated uses may not be grossly disproportionate to the harm. Further, recipients should consult the Capital Expenditures section for more information about pursuing a capital expenditure; please note that enumerated capital expenditures are not presumed to be reasonably proportional responses to an identified harm except as provided in the Capital Expenditures section.

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Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	<ul style="list-style-type: none"> • Can identify impact to a specific household, business or nonprofit or to a class of households, businesses, or nonprofits (i.e., group) • Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class 	<ul style="list-style-type: none"> • Types of responses can include a program, service, or capital expenditure • Response should be related and reasonably proportional to the harm • Response should also be reasonably designed to benefit impacted individual or class
Simplifying Presumptions	<ul style="list-style-type: none"> • Final Rule presumes certain populations and classes are impacted and disproportionately impacted 	<ul style="list-style-type: none"> • Final Rule provides non-exhaustive list of enumerated eligible uses that respond to pandemic impacts and disproportionate impacts

To assess eligibility of uses of funds, recipients should first determine the sub-category where their use of funds may fit (e.g., public health, assistance to households, assistance to small businesses), based on the entity that experienced the health or economic impact.² Then, recipients should refer to the relevant section for more details on each sub-category.

While the same overall eligibility standard applies to all uses of funds to respond to the public health and negative economic impacts of the pandemic, each sub-category has specific nuances on its application. In addition:

- Recipients interested in using funds for capital expenditures (i.e., investments in property, facilities, or equipment) should review the Capital Expenditures section in addition to the eligible use sub-category.
- Recipients interested in other uses of funds, beyond the enumerated uses, should refer to the section on “Framework for Eligible Uses Beyond Those Enumerated.”

² For example, a recipient interested in providing aid to unemployed individuals is addressing a negative economic impact experienced by a household and should refer to the section on assistance to households. Recipients should also be aware of the difference between “beneficiaries” and “sub-recipients.” Beneficiaries are households, small businesses, or nonprofits that can receive assistance based on impacts of the pandemic that they experienced. On the other hand, sub-recipients are organizations that carry out eligible uses on behalf of a government, often through grants or contracts. Sub-recipients do not need to have experienced a negative economic impact of the pandemic; rather, they are providing services to beneficiaries that experienced an impact.



RESPONDING TO THE PUBLIC HEALTH EMERGENCY

While the country has made tremendous progress in the fight against COVID-19, including a historic vaccination campaign, the disease still poses a grave threat to Americans' health and the economy. Providing state, local, and Tribal governments the resources needed to fight the COVID-19 pandemic is a core goal of the Coronavirus State and Local Fiscal Recovery Funds, as well as addressing the other ways that the pandemic has impacted public health. Treasury has identified several public health impacts of the pandemic and enumerated uses of funds to respond to impacted populations.

- **COVID-19 mitigation and prevention.** The pandemic has broadly impacted Americans and recipients can provide services to prevent and mitigate COVID-19 to the general public or to small businesses, nonprofits, and impacted industries in general. Enumerated eligible uses include:
 - ✓ Vaccination programs, including vaccine incentives and vaccine sites
 - ✓ Testing programs, equipment and sites
 - ✓ Monitoring, contact tracing & public health surveillance (e.g., monitoring for variants)
 - ✓ Public communication efforts
 - ✓ Public health data systems
 - ✓ COVID-19 prevention and treatment equipment, such as ventilators and ambulances
 - ✓ Medical and PPE/protective supplies
 - ✓ Support for isolation or quarantine
 - ✓ Ventilation system installation and improvement
 - ✓ Technical assistance on mitigation of COVID-19 threats to public health and safety
 - ✓ Transportation to reach vaccination or testing sites, or other prevention and mitigation services for vulnerable populations
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities, public facilities, and schools
 - ✓ Support for prevention and mitigation strategies in small businesses, nonprofits, and impacted industries
 - ✓ Medical facilities generally dedicated to COVID-19 treatment and mitigation (e.g., ICUs, emergency rooms)
 - ✓ Temporary medical facilities and other measures to increase COVID-19 treatment capacity
 - ✓ Emergency operations centers & emergency response equipment (e.g., emergency response radio systems)
 - ✓ Public telemedicine capabilities for COVID-19 related treatment



- **Medical expenses.** Funds may be used for expenses to households, medical providers, or others that incurred medical costs due to the pandemic, including:
 - ✓ Unreimbursed expenses for medical care for COVID-19 testing or treatment, such as uncompensated care costs for medical providers or out-of-pocket costs for individuals
 - ✓ Paid family and medical leave for public employees to enable compliance with COVID-19 public health precautions
 - ✓ Emergency medical response expenses
 - ✓ Treatment of long-term symptoms or effects of COVID-19

- **Behavioral health care, such as mental health treatment, substance use treatment, and other behavioral health services.** Treasury recognizes that the pandemic has broadly impacted Americans' behavioral health and recipients can provide these services to the general public to respond. Enumerated eligible uses include:
 - ✓ Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs, outreach to individuals not yet engaged in treatment, harm reduction & long-term recovery support
 - ✓ Enhanced behavioral health services in schools
 - ✓ Services for pregnant women or infants born with neonatal abstinence syndrome
 - ✓ Support for equitable access to reduce disparities in access to high-quality treatment
 - ✓ Peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services
 - ✓ Expansion of access to evidence-based services for opioid use disorder prevention, treatment, harm reduction, and recovery
 - ✓ Behavioral health facilities & equipment

- **Preventing and responding to violence.** Recognizing that violence – and especially gun violence – has increased in some communities due to the pandemic, recipients may use funds to respond in these communities through:
 - ✓ Referrals to trauma recovery services for victims of crime
 - ✓ Community violence intervention programs, including:
 - Evidence-based practices like focused deterrence, with wraparound services such as behavioral therapy, trauma recovery, job training, education, housing and relocation services, and financial assistance
 - ✓ In communities experiencing increased gun violence due to the pandemic:
 - Law enforcement officers focused on advancing community policing
 - Enforcement efforts to reduce gun violence, including prosecution
 - Technology & equipment to support law enforcement response



RESPONDING TO NEGATIVE ECONOMIC IMPACTS

The pandemic caused severe economic damage and, while the economy is on track to a strong recovery, much work remains to continue building a robust, resilient, and equitable economy in the wake of the crisis and to ensure that the benefits of this recovery reach all Americans. While the pandemic impacted millions of American households and businesses, some of its most severe impacts fell on low-income and underserved communities, where pre-existing disparities amplified the impact of the pandemic and where the most work remains to reach a full recovery.

The final rule recognizes that the pandemic caused broad-based impacts that affected many communities, households, and small businesses across the country; for example, many workers faced unemployment and many small businesses saw declines in revenue. The final rule describes these as "impacted" households, communities, small businesses, and nonprofits.

At the same time, the pandemic caused disproportionate impacts, or more severe impacts, in certain communities. For example, low-income and underserved communities have faced more severe health and economic outcomes like higher rates of COVID-19 mortality and unemployment, often because pre-existing disparities exacerbated the impact of the pandemic. The final rule describes these as "disproportionately impacted" households, communities, small businesses, and nonprofits.

To simplify administration of the program, the final rule presumes that certain populations were "impacted" and "disproportionately impacted" by the pandemic; these populations are presumed to be eligible for services that respond to the impact they experienced. The final rule also enumerates a non-exhaustive list of eligible uses that are recognized as responsive to the impacts or disproportionate impacts of COVID-19. Recipients providing enumerated uses to populations presumed eligible are clearly operating consistently with the final rule.

As discussed further in the section Framework for Eligible Uses Beyond Those Enumerated, recipients can also identify other pandemic impacts, impacted or disproportionately impacted populations or classes, and responses.



Assistance to Households

Impacted Households and Communities

Treasury presumes the following households and communities are impacted by the pandemic:

- ✓ Low- or-moderate income households or communities
- ✓ Households that experienced unemployment
- ✓ Households that experienced increased food or housing insecurity
- ✓ Households that qualify for the Children’s Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, or Medicaid
- ✓ *When providing affordable housing programs:* households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
- ✓ *When providing services to address lost instructional time in K-12 schools:* any student that lost access to in-person instruction for a significant period of time

Low- or moderate-income households and communities are those with (i) income at or below 300 percent of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines or (ii) income at or below 65 percent of the area median income for the county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines are higher than the area’s median income and using the Federal Poverty Guidelines would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the response they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$65,880 per year.³ In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is impacted by the pandemic and eligible for services to respond. Additionally, by following the steps detailed in the section Framework for Eligible Uses Beyond Those Enumerated, recipients may designate additional households as impacted or disproportionately impacted beyond these presumptions, and may also pursue projects not listed below in response to these impacts consistent with Treasury’s standards.

³ For recipients in Alaska, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$82,350 per year. For recipients in Hawaii, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$75,780 per year.



Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to impacts of the pandemic on households and communities:

- ✓ Food assistance & food banks
- ✓ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- ✓ Health insurance coverage expansion
- ✓ Benefits for surviving family members of individuals who have died from COVID-19
- ✓ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly-employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers
- ✓ Financial services for the unbanked and underbanked
- ✓ Burials, home repair & home weatherization
- ✓ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access
- ✓ Cash assistance
- ✓ Paid sick, medical, and family leave programs
- ✓ Assistance in accessing and applying for public benefits or services
- ✓ Childcare and early learning services, home visiting programs, services for child welfare-involved families and foster youth & childcare facilities
- ✓ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)
- ✓ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing
- ✓ Certain contributions to an Unemployment Insurance Trust Fund⁴

⁴ Recipients may only use SLFRF funds for contributions to unemployment insurance trust funds and repayment of the principal amount due on advances received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. Additionally, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that balance and deposit more SLFRF funds, back up to the pre-pandemic balance. Recipients that deposit SLFRF funds into an unemployment insurance trust fund, or use SLFRF funds to repay principal on Title XII advances, may not take action to reduce benefits available to unemployed workers by changing the computation method governing regular unemployment compensation in a way that results in a reduction of average weekly benefit amounts or the number of weeks of benefits payable (i.e., maximum benefit entitlement).

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Disproportionately Impacted Households and Communities

Treasury presumes the following households and communities are disproportionately impacted by the pandemic:

- ✓ Low -income households and communities
- ✓ Households residing in Qualified Census Tracts
- ✓ Households that qualify for certain federal benefits⁵
- ✓ Households receiving services provided by Tribal governments
- ✓ Households residing in the U.S. territories or receiving services from these governments

Low-income households and communities are those with (i) income at or below 185 percent of the Federal Poverty Guidelines for the size of its household based on the most recently published poverty guidelines or (ii) income at or below 40 percent of area median income for its county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines level is higher than the area median income level and using this level would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the service they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$40,626 per year.⁶ In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is disproportionately impacted by the pandemic and eligible for services to respond.

⁵ These programs are Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs, Medicare Part D Low-Income Subsidies, Supplemental Security Income (SSI), Head Start and/or Early Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 Vouchers, Low-Income Home Energy Assistance Program (LIHEAP), and Pell Grants. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.

⁶ For recipients in Alaska, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$50,783 per year. For recipients in Hawaii, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$46,731 per year



Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to disproportionate impacts of the pandemic on households and communities:

- ✓ Pay for community health workers to help households access health & social services
- ✓ Remediation of lead paint or other lead hazards
- ✓ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities
- ✓ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- ✓ Investments in neighborhoods to promote improved health outcomes
- ✓ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant-lot cleanup & conversion to affordable housing⁷
- ✓ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs
- ✓ Schools and other educational equipment & facilities

⁷ Please see the final rule for further details and conditions applicable to this eligible use. This includes Treasury’s presumption that demolition of vacant or abandoned residential properties that results in a net reduction in occupiable housing units for low- and moderate-income individuals in an area where the availability of such housing is lower than the need for such housing is ineligible for support with SLFRF funds.



Assistance to Small Businesses

Small businesses have faced widespread challenges due to the pandemic, including periods of shutdown, declines in revenue, or increased costs. The final rule provides many tools for recipients to respond to the impacts of the pandemic on small businesses, or disproportionate impacts on businesses where pre-existing disparities like lack of access to capital compounded the pandemic's effects.

Small businesses eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "small business," specifically:

1. Have no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and
2. Are a small business concern as defined in section 3 of the Small Business Act⁸ (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation).

Impacted Small Businesses

Recipients can identify small businesses impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue or gross receipts
- ✓ Financial insecurity
- ✓ Increased costs
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to small businesses that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs
- ✓ Technical assistance, counseling, or other services to support business planning

Disproportionately Impacted Small Businesses

Treasury presumes that the following small businesses are disproportionately impacted by the pandemic:

⁸ 15 U.S.C. 632.



- ✓ Small businesses operating in Qualified Census Tracts
- ✓ Small businesses operated by Tribal governments or on Tribal lands
- ✓ Small businesses operating in the U.S. territories

Assistance to disproportionately impacted small businesses includes the following enumerated uses, which have been expanded under the final rule:

- ✓ Rehabilitation of commercial properties, storefront improvements & façade improvements
- ✓ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses
- ✓ Support for microbusinesses, including financial, childcare, and transportation costs



Assistance to Nonprofits

Nonprofits have faced significant challenges due to the pandemic's increased demand for services and changing operational needs, as well as declines in revenue sources such as donations and fees.

Nonprofits eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "nonprofit"—specifically those that are 501(c)(3) or 501(c)(19) tax-exempt organizations.

Impacted Nonprofits

Recipients can identify nonprofits impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue (e.g., from donations and fees)
- ✓ Financial insecurity
- ✓ Increased costs (e.g., uncompensated increases in service need)
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to nonprofits that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship
- ✓ Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

Disproportionately Impacted Nonprofits

Treasury presumes that the following nonprofits are disproportionately impacted by the pandemic:

- ✓ Nonprofits operating in Qualified Census Tracts
- ✓ Nonprofits operating in the U.S. territories
- ✓ Nonprofits operated by Tribal governments or on Tribal lands

Recipients may identify appropriate responses that are related and reasonably proportional to addressing these disproportionate impacts.



Aid to Impacted Industries

Recipients may use SLFRF funding to provide aid to industries impacted by the COVID-19 pandemic. Recipients should first designate an impacted industry and then provide aid to address the impacted industry's negative economic impact.

This sub-category of eligible uses does not separately identify disproportionate impacts and corresponding responsive services.

1. **Designating an impacted industry.** There are two main ways an industry can be designated as "impacted."
 1. If the industry is in the travel, tourism, or hospitality sectors (including Tribal development districts), the industry is impacted.
 2. If the industry is outside the travel, tourism, or hospitality sectors, the industry is impacted if:
 - a. The industry experienced at least 8 percent employment loss from pre-pandemic levels,⁹ or
 - b. The industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries as of the date of the final rule, based on the totality of economic indicators or qualitative data (if quantitative data is unavailable), and if the impacts were generally due to the COVID-19 public health emergency.

Recipients have flexibility to define industries broadly or narrowly, but Treasury encourages recipients to define narrow and discrete industries eligible for aid. State and territory recipients also have flexibility to define the industries with greater geographic precision; for example, a state may identify a particular industry in a certain region of a state as impacted.

2. **Providing eligible aid to the impacted industry.** Aid may only be provided to support businesses, attractions, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Further, aid should be generally broadly available to all businesses within the impacted industry to avoid potential conflicts of interest, and Treasury encourages aid to be first used for operational expenses, such as payroll, before being used on other types of costs.

⁹ Specifically, a recipient should compare the percent change in the number of employees of the recipient's identified industry and the national Leisure & Hospitality sector in the three months before the pandemic's most severe impacts began (a straight three-month average of seasonally-adjusted employment data from December 2019, January 2020, and February 2020) with the latest data as of the final rule (a straight three-month average of seasonally-adjusted employment data from September 2021, October 2021, and November 2021). For parity and simplicity, smaller recipients without employment data that measure industries in their specific jurisdiction may use data available for a broader unit of government for this calculation (e.g., a county may use data from the state in which it is located; a city may use data for the county, if available, or state in which it is located) solely for purposes of determining whether a particular industry is an impacted industry.

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Treasury recognizes the enumerated projects below as eligible responses to impacted industries.

- ✓ Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
- ✓ Technical assistance, counseling, or other services to support business planning
- ✓ COVID-19 mitigation and infection prevention measures (see section Public Health)

As with all eligible uses, recipients may pursue a project not listed above by undergoing the steps outlined in the section Framework for Eligible Uses Beyond Those Enumerated.



PUBLIC SECTOR CAPACITY

Recipients may use SLFRF funding to restore and bolster public sector capacity, which supports government's ability to deliver critical COVID-19 services. There are three main categories of eligible uses to bolster public sector capacity and workforce: Public Safety, Public Health, and Human Services Staff; Government Employment and Rehiring Public Sector Staff; and Effective Service Delivery.

Public Safety, Public Health, and Human Services Staff

SLFRF funding may be used for payroll and covered benefits for public safety, public health, health care, human services and similar employees of a recipient government, for the portion of the employee's time spent responding to COVID-19. Recipients should follow the steps below.

1. Identify eligible public safety, public health, and human services staff. Public safety staff include:

- ✓ Police officers (including state police officers)
- ✓ Sheriffs and deputy sheriffs
- ✓ Firefighters
- ✓ Emergency medical responders
- ✓ Correctional and detention officers
- ✓ Dispatchers and supervisor personnel that directly support public safety staff

Public health staff include:

- ✓ Employees involved in providing medical and other physical or mental health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions
- ✓ Laboratory technicians, medical examiners, morgue staff, and other support services essential for patient care
- ✓ Employees of public health departments directly engaged in public health matters and related supervisory personnel

Human services staff include:

- ✓ Employees providing or administering social services and public benefits
- ✓ Child welfare services employees
- ✓ Child, elder, or family care employees

2. Assess portion of time spent on COVID-19 response for eligible staff.

Recipients can use a variety of methods to assess the share of an employees' time spent responding to COVID-19, including using reasonable estimates—such as estimating the share of time based on discussions with staff and applying that share to all employees in that position.

For administrative convenience, recipients can consider public health and safety employees entirely devoted to responding to COVID-19 (and their payroll and benefits fully covered by SLFRF) if the



employee, or his or her operating unit or division, is “primarily dedicated” to responding to COVID-19. Primarily dedicated means that more than half of the employee, unit, or division’s time is dedicated to responding to COVID-19.

Recipients must periodically reassess their determination and maintain records to support their assessment, although recipients do not need to track staff hours.

3. **Use SLFRF funding for payroll and covered benefits for the portion of eligible staff time spent on COVID-19 response.** SLFRF funding may be used for payroll and covered benefits for the portion of the employees’ time spent on COVID-19 response, as calculated above, through the period of performance.

Government Employment and Rehiring Public Sector Staff

Under the increased flexibility of the final rule, SLFRF funding may be used to support a broader set of uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring, support, and retention.

- **Restoring pre-pandemic employment.** Recipients have two options to restore pre-pandemic employment, depending on the recipient’s needs.
 - *If the recipient simply wants to hire back employees for pre-pandemic positions:* Recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021. Recipients may use SLFRF funds to cover payroll and covered benefits for such positions through the period of performance.
 - *If the recipient wants to hire above the pre-pandemic baseline and/or would like to have flexibility in positions:* Recipients may use SLFRF funds to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted FTEs up to 7.5 percent above its pre-pandemic baseline. Specifically, recipients should undergo the following steps:
 - a. Identify the recipient’s budgeted FTE level on January 27, 2020. This includes all budgeted positions, filled and unfilled. This is called the *pre-pandemic baseline*.
 - b. Multiply the pre-pandemic baseline by 1.075. This is called the *adjusted pre-pandemic baseline*.
 - c. Identify the recipient’s budgeted FTE level on March 3, 2021, which is the beginning of the period of performance for SLFRF funds. Recipients may, but are not required to, exclude the number of FTEs dedicated to responding to the COVID-19 public health emergency. This is called the *actual number of FTEs*.
 - d. Subtract the *actual number of FTEs* from the *adjusted pre-pandemic baseline* to calculate the number of FTEs that can be covered by SLFRF funds. Recipients do not have to hire for the same roles that existed pre-pandemic.

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