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The Countdown to Encumbered: The 12/31/24 Sunset of ARPA



Fall Conference September 27 – October 1, 2023

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Introductions



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Agenda

1. Eligibility
2. Compliance
3. Practical Application
4. Useful Tools
5. Q&A

ARPA Eligibility

$350 billion to state, local, territorial, and Tribal governments

Four eligible use categories:

- **Replacing Lost Public Sector Revenue**
- **Public Health & Economic Impacts**
- **Premium Pay**
- **Water, Sewer & Broadband Infrastructure**

❑ Funds must be obligated by December 31, 2024

❑ Funds must be expended by December 31, 2026

SLFRF Final Rule US Treasury January 2022

2023 Interim Final Rule – Additional ARPA Eligibility

On August 10, 2023, the US Treasury released the 2023 Interim Final Rule which implements amendments to the SLFRF program which were created in the CONSOLIDATED APPROPRIATIONS ACT, 2023 . The new eligible use categories are:

1. Emergency Relief From Natural Disasters or their Negative Economic Impacts
2. Surface Transportation Projects
3. Title I Projects (CDBG & ICDBG)

- ❑ Recipients may use SLFRF funds for the new eligible uses for costs incurred beginning December 29, 2022
- ❑ Recipients must still obligate funds, including newly eligible activities, by December 31, 2024
- ❑ Funds for uses under Natural Disasters must be expended by December 31, 2026
- ❑ Funds for uses under the Surface Transportation and Title I categories must be expended by **September 30, 2026**

Replacing Lost Public Sector Revenue

- Standard allowance for revenue loss of up to $10 million
- Recipients that select the standard allowance may use that amount – in many cases their full award – for **general government services**, with streamlined reporting requirements
  - Those with less than $10 million may use their entire SLFRF allocation toward government services

OR

- Calculate annual revenue loss with Treasury formula, using a new, enhanced minimum default growth rate of 5.2% per year or calculate the actual differential for your city

- **Cities must stay with whatever option they initially selected**



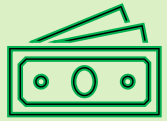
Public Health

- COVID-19 mitigation and prevention
- Medical expenses
- Behavioral health care
- Preventing and responding to violence

Economic Impacts

- Assistance to households and communities
- Assistance to small businesses
- Assistance to non-profits
- Aid to impacted industries
- Public sector capacity

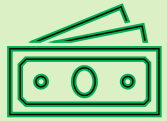
Premium Pay



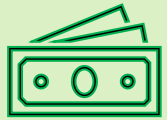
The final rule broadens the share of eligible workers who can receive premium pay without a written justification while maintaining a focus on lower-income and frontline workers performing essential work.



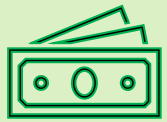
Premium pay may be awarded to eligible workers up to $13 per hour. Premium pay must be in addition to wages or remuneration (i.e., compensation) the eligible worker otherwise receives. Premium pay may not exceed $25,000 for any single worker during the program.



ARPA does not permit recipient to provide premium pay to City Officials or those directing the decisions of the SLFRF program.



Amounts calculated for back pay can be paid in a lump sum; however, premium pay must be based on an hourly rate of pay, which means overtime and pay-related benefits are also affected.



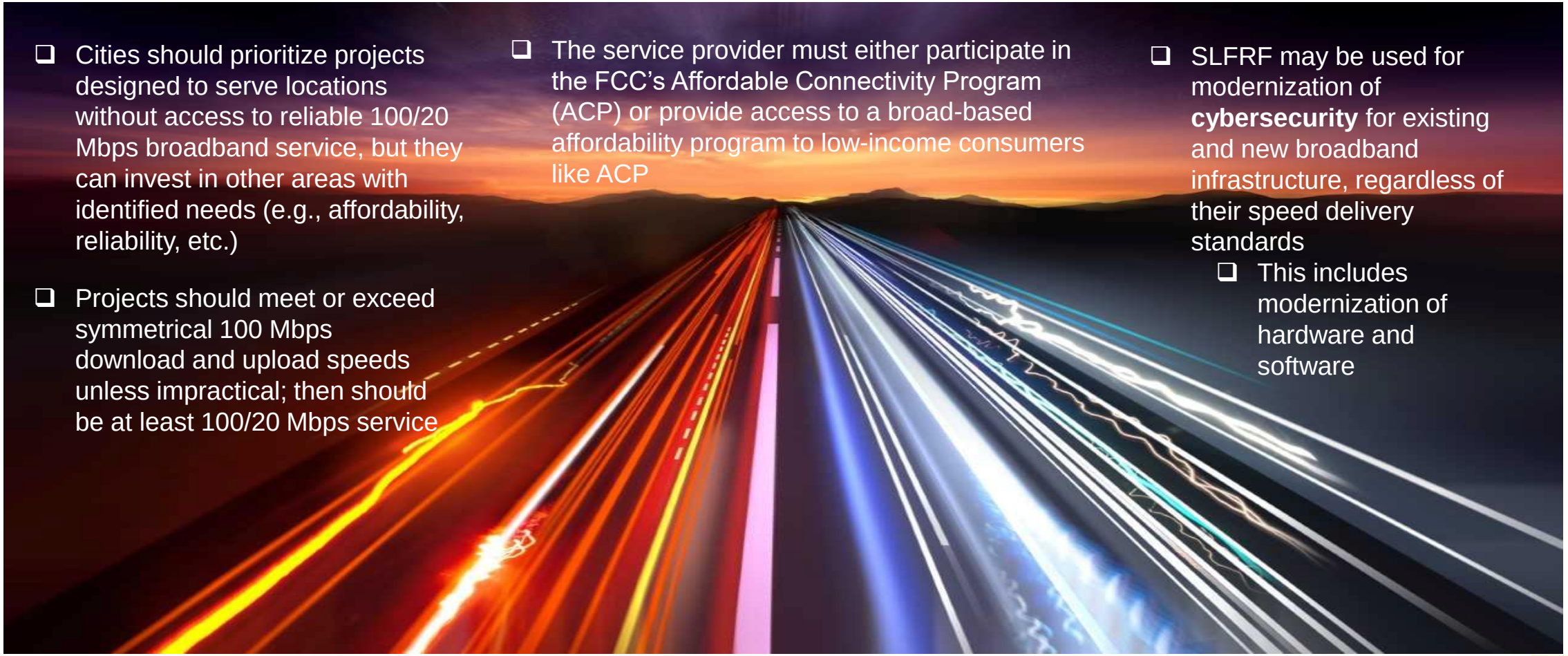
Recipients may provide premium pay retrospectively for work performed at any time since the start of the COVID-19 public health emergency. Such premium pay must be “in addition to” wages and remuneration already received and the obligation to provide such pay must not have been incurred by the recipient **prior to March 3, 2021**. Accordingly, recipients may not use SLFRF funds to provide premium pay to essential workers for work conducted after the end of the National Emergency, which **ended** on **April 10, 2023**.

Water and Sewer Infrastructure

- Projects must conform to requirements of the EPA's Drinking Water State Revolving Fund (DWSRF) or Clean Water State Revolving Fund (CWSRF)
- SLFRF money may be used for additional stormwater projects, including culvert repair, resizing, and removal; replacement of storm sewers; and additional stormwater infrastructure
- Other projects are eligible dealing with wells, dams, reservoirs, and lead remediation
- DWSRF and CWSRF eligible projects are presumed to be necessary investments; however, recipients will still need to consider cost-effectiveness and sustainability



Broadband Infrastructure



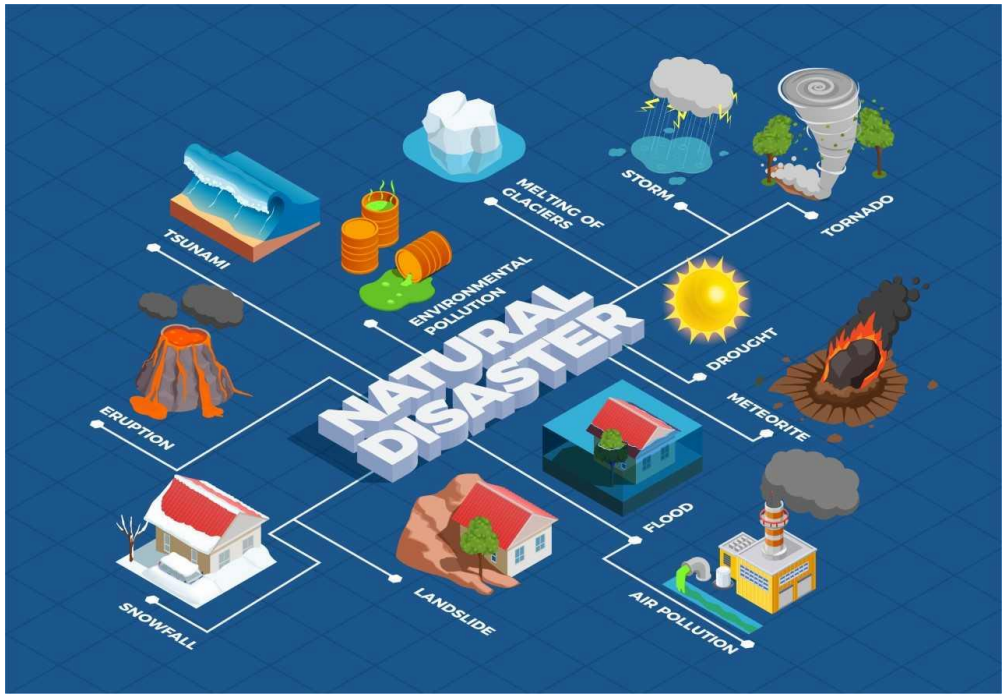
- Cities should prioritize projects designed to serve locations without access to reliable 100/20 Mbps broadband service, but they can invest in other areas with identified needs (e.g., affordability, reliability, etc.)
- Projects should meet or exceed symmetrical 100 Mbps download and upload speeds unless impractical; then should be at least 100/20 Mbps service
- The service provider must either participate in the FCC's Affordable Connectivity Program (ACP) or provide access to a broad-based affordability program to low-income consumers like ACP
- SLFRF may be used for modernization of **cybersecurity** for existing and new broadband infrastructure, regardless of their speed delivery standards
  - This includes modernization of hardware and software

Emergency Relief From National Disasters or their Negative Economic Impacts

Recipients must expend SLFRF funds obligated to provide emergency relief from natural disasters by December 31, 2026

Recipients must use a two-step process:

1. Identify a **natural disaster** that has occurred or is expected to occur imminently, or natural disaster that is threatened to occur in the future
2. Identify **emergency relief** that responds to the physical or negative economic impacts, or potential physical or negative economic impacts of the identified natural disaster (emergency relief must be related and reasonably proportional to the impact identified)



Must follow eligible use requirements for for emergency relief and mitigation activities

No duplication of benefits

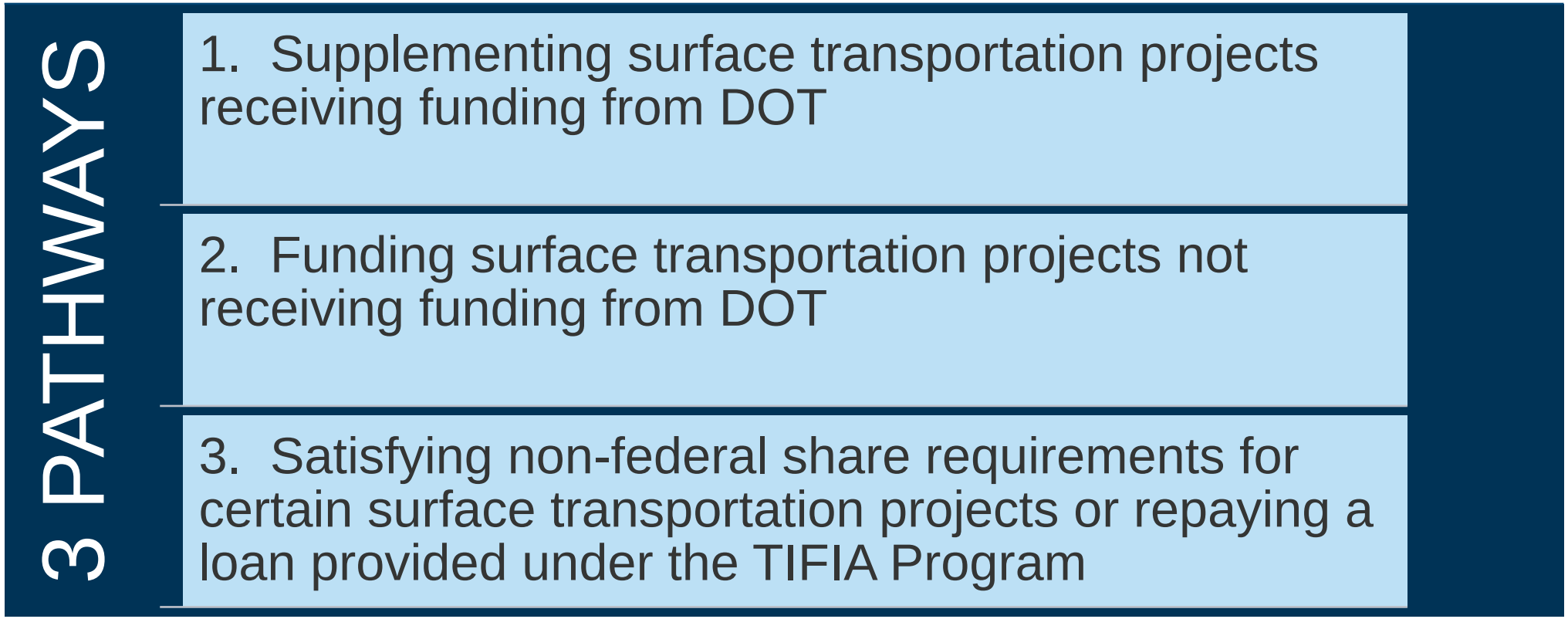
For mitigation activities with total expected capital expenditures of $1 million or greater, recipients (except for Tribal governments) must complete and meet the substantive requirements of a Written Justification for the capital expenditures in their project

Surface Transportation and Title I Projects

- **Limitation on SLFRF Contribution Towards Surface Transportation and Title I Projects:** The total amount of SLFRF funds that a recipient may use for Surface Transportation projects and Title I projects, taken together, cannot exceed the greater of $10 million and 30% of a recipient's SLFRF allocation
  - Recipients cannot spend more than $18 million in SLFRF funds across the Surface Transportation and Title I categories together
- **Restriction on Supplanting of Funds:** Recipients using SLFRF funds for Surface Transportation projects and Title I projects must supplement, and not supplant, other federal, state, territorial, Tribal, and local government funds (as applicable) otherwise available for such uses
- **Applicability of Certain Existing Laws:** Except as otherwise determined by the Secretary, the use of SLFRF funds for Surface Transportation and Title I projects is subject to certain other laws, including the requirements of titles 23, 40, and 49 of the U.S. Code, title I of the Housing and Community Development Act of 1974, and the National Environmental Policy Act of 1969
- **Obligation and Expenditure Deadline:** Recipients using SLFRF funds for Surface Transportation and Title I projects must **obligate funds by December 31, 2024** and **expend funds by September 30, 2026**

Surface Transportation Projects

Recipients may use SLFRF funds for Surface Transportation projects in the following ways:



Title I – CDBG & ICDBG

- Recipients may use SLFRF funds for Title I projects, which are the activities eligible under the CDBG and ICDBG programs, subject to certain requirements and limitations
- Treasury is not delegating authority to the U.S. Department of Housing and Urban Development (HUD) to oversee these projects, and therefore, counties should report projects only to Treasury
- Must comply with Title I requirements and the associated regulations
- Recipients must comply with NEPA requirements, as implemented by Title I and the associated HUD regulations, and as adapted to the SLFRF program by Treasury
- When using SLFRF funds for Title I projects, recipients must comply with the following requirements that apply to the total amount of SLFRF used towards Title I projects, including:
  - For all SLFRF recipients:
    - The Primary Objective
    - Public Services Cap
    - Planning and Administrative Costs Cap
    - BEAD Program Requirements
  - For non-Tribal SLFRF recipients only:
    - CDBG National Objectives
    - Labor Standards Requirements

Compliance



Federal funds come with purse strings

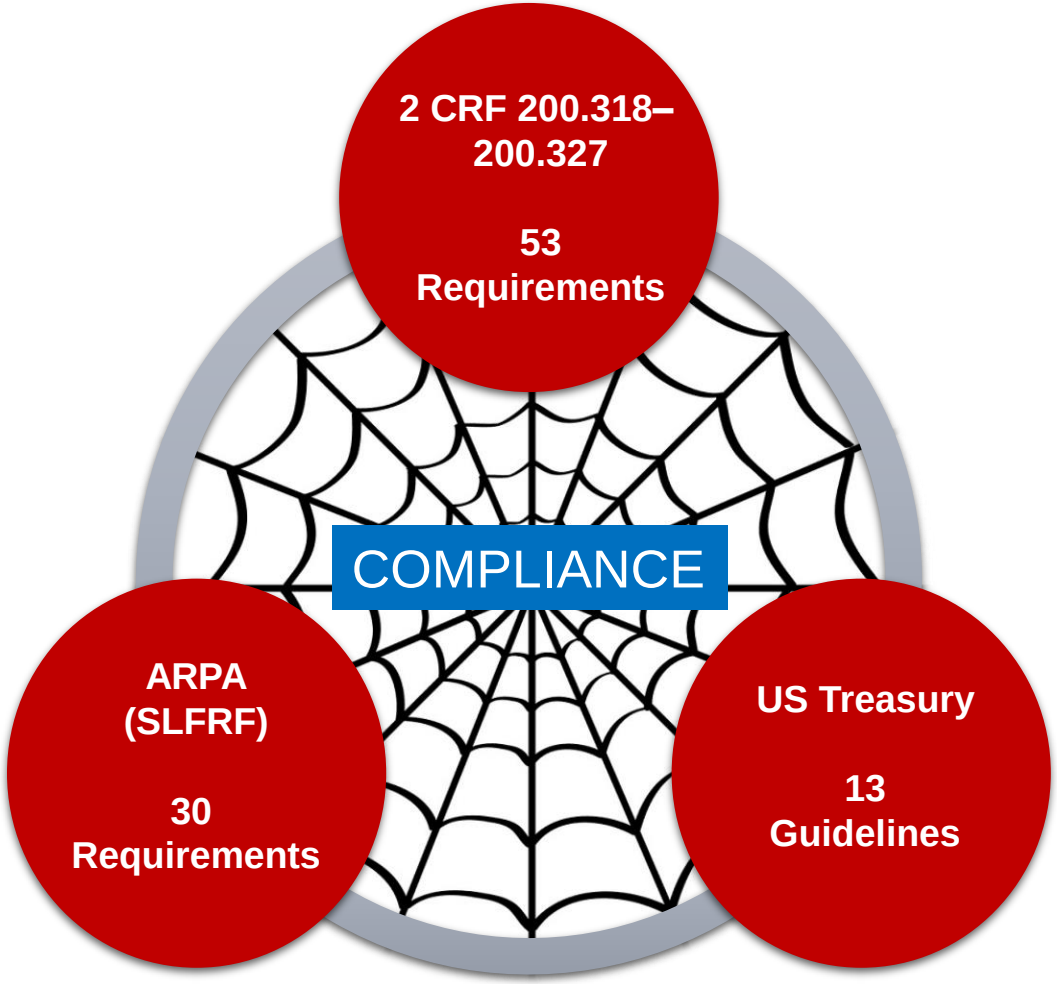
Compliance Requirements

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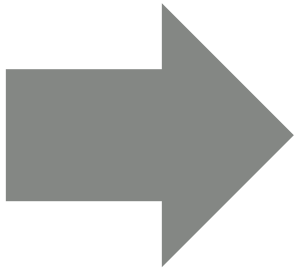
Compliance Requirements



Procurement Standards

For the acquisition of property or servcies required under a **Federal award or subaward**

Municipalities must have and must follow their own documented procurement procedures, consistent with state & local laws and regulations



Procedures must also conform to applicable Federal law & the standards identified in 2 CFR §§ 200.318 - 200.327

2 CFR 200.318 – 200.327

Post Federal Award Requirements

§ 200.318	General procurement standards.
§ 200.319	Competition.
§ 200.320	Methods of procurement to be followed.
§ 200.321	Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
§ 200.322	Domestic preferences for procurements.
§ 200.323	Procurement of recovered materials.
§ 200.324	Contract cost and price.
§ 200.325	Federal awarding agency or pass-through entity review.
§ 200.326	Bonding requirements.
§ 200.327	Contract provisions.

Build America Buy America (BABA)

Iron & Steel

- Means articles, materials, or supplies that consist wholly or **predominantly** of iron or steel or a combination of both
- All iron and steel used in the project are produced in the United States, from the initial melting stage through the application of coatings
- **"Predominantly"** is defined as greater than 50% by cost



Manufactured Products

- All manufactured products used in the project are produced in the United States
- Manufactured products are "articles, materials, or supplies that have been:
  - processed into a specific form and shape; or
  - combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies"
- 55% of components must be produced in the US, the guidance includes instructions to calculate the cost of a manufactured product's components, based on the existing "cost of components" test found in the Federal Acquisition Regulation (FAR)

https://www.whitehouse.gov/wp-content/uploads/2023/08/REV_2-CFR-Guidance-Pre-publication-version-8.13.pdf
https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf

Build America Buy America (BABA)

Construction Materials

- All construction materials are manufactured in the United States
  - This means that all manufacturing processes for the construction material occurred in the United States
- OMB defines construction materials as follows:
  - Non-ferrous metals
  - Plastic and polymer-based products (including PVC, composite building materials, and polymers used in fiber optic cables)
  - Glass (including optic glass)
  - Fiber optic cable (including drop cable) **(NEW)**
  - Optical fiber **(NEW)**
  - Lumber
  - Engineered wood **(NEW)**
  - Drywall

Aggregates & Cement

- Section 70917(c) of BABA provides that stone, sand, gravel, and aggregate materials are not construction materials for the purpose of BABA
- Aggregates mixed only with other aggregates — such as sand mixed with gravel — remain aggregates and section 70917(c) materials

Build America Buy America (BABA) - Waiver

Public interest – Applying the domestic content procurement preference would be inconsistent with the public interest

Nonavailability - Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality

Unreasonable cost - The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall infrastructure project by more than 25 percent



WAIVER

Build America Buy America (BABA) - Waiver

- Federal agencies are responsible for providing specific instructions to award recipients on the format, content and supporting material for waiver requests
- Award recipients are required to make waiver requests in writing and identify which of the three available waiver types is being asserted



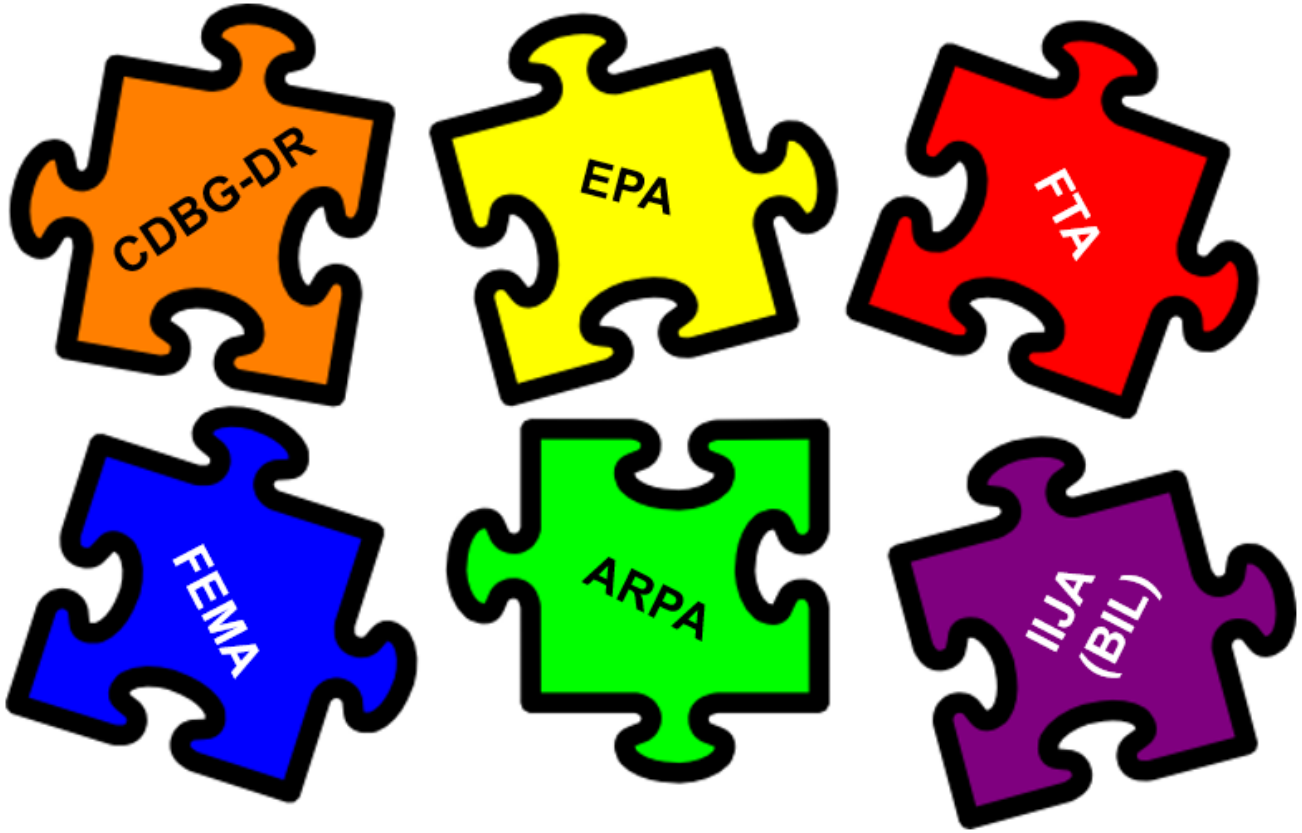
- Once the waiver request is submitted, but before the proposed waiver is issued, the agency is required to issue a detailed written explanation, including identifying which justification it is relying on in granting a waiver request; and then the agency must:
  - Make the proposed waiver and the detailed written explanation publicly available in an easily accessible location on a website designated by the Federal awarding agency and OMB
  - Provide a period of not less than 15 calendar days for public comment on the proposed waiver;
  - Unless the Director of OMB provides otherwise, submit the waiver determination to the Made in America Office in OMB for final review pursuant to Executive Order 14005 and section 70923(b) of the Build America, Buy America Act

Funding Sources

ARPA funds can be coupled with different federal funding sources

BUT

Not all federal funds have the same compliance requirements



Sample Compliance Differentials

- Grant vs Loan
  2 CFR 200
- ARPA (Treasury) – No Davis Bacon
- FEMA – Eligibility & Timing
- CDBG-DR – Local Cost Share Flexibility
- FTA – DBE vs Other Federal Agencies
- NEPA – ARPA vs Other Federal Funds

Common Procurement Pitfalls

- Restricting competition
- No Independent Cost Estimate (ICE)
- No Price and Cost Analysis
- Failure to check government debarment lists (sam.gov)
- Lack of outreach to MWBE firms
- Use of cost-plus percentage of cost (CPPC)

AND Watch Out for BABA!

Risks of Noncompliance

- ❑ De-obligations of Funds
- ❑ Payments Temporarily Withheld
- ❑ Work Not Reimbursed
- ❑ Suspending Federal Award
- ❑ Debarment From Further Awards
- ❑ Negative Publicity
- ❑ State & Federal Investigation

=

DISASTER

Procurement Best Practices

- ☑ Review & update existing polices/ordinances to include Federal rules
- ☑ Prepare Federally compliant model contract documents
- ☑ Training to implement and follow Federal rules and utilize contracting documents



- ☑ Acknowledge and recognize that specific requirements vary between federal programs – READ THE GRANT DOCUMENTS
- ☑ **DOCUMENT, DOCUMENT, DOCUMENT!**

View from the Rear View Mirror

Practical Applications

Robin Jones Jackson

International Municipal Lawyers Association

2023 Annual Conference

La Quinta, California

Saturday, September 30, 2023

American Rescue Plan Act Compliance Session

Part III

View from the Rear View Mirror:

ARPA Funding Practical Compliance Considerations

Robin Jones Jackson

Retired Transactional Division Chief

Office of the City Attorney, City of Miami, Florida

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From Robin Jones Jackson

Thanks: For Assistance with Public Records examples for Legislation, Procurement Code, and Agreements from the Office of the City Attorney, City of Miami, Florida.

Disclaimer: The views and suggestions provided in this Part III "View from the Rear-View Mirror: Practical Applications" are strictly and solely those of the Presenter Robin Jones Jackson ("RJJ") after over 39 years of practice and assisting with a wide range of governmental and community projects in 35 U.S. States and one foreign country.

Acknowledgement: Images herein have been saved from free clip art.

Notice How Wide Your View Must Be in Hindsight!



View from the Real View Mirror Practical Applications: RJJ

So What's the View in Hindsight? You Will Need the Following for Understanding If Your Local Government Can Meet ARPA Deadlines and Audit Standards: WHO, WHAT, WHERE(FORE), WHEN, WHY, AND HOW

WHO: <u>Your First Internal Re-Review Team of</u>:

1. Procurement, Finance, Budget, Audit, Risk, and Grants
2. Current Project/User Departments
3. Future Project/User Departments
4. Seasoned Attorney, Mid-Level Attorney, and New Generation Attorney
5. All Consultants (If Available Now)

WHAT: <u>You Need to Re-Review</u>:

1. Original ARPA Funding Acceptance Legislation and All Amendments Thereto (See Appendix ___ Example)
2. Current List of Ongoing Projects/Uses and All Timelines and Benchmarks for Completion
3. All Inter-Related Agreements/Commitments for Funding, Matches, Intergovernmental Assistance, Community Assistance
4. Original ARPA Disclosures for Comprehensive Annual Financial Reports, Municipal Bonds Disclosures, Loans, Debts

View from the Rear View Mirror Practical Applications: RJJ

WHEREFOR: <u>To Make a Second List of</u>:

1. Current Projects/Uses that **<u>will not meet</u>** ARPA obligation and/or expenditure deadlines
2. Current Projects/Uses that **<u>may partially meet</u>** ARPA deadlines and which may be phased for partial funding from ARPA

WHEN: <u>NOW!!!</u>

WHY: <u>To Determine:</u>

1. Current Projects/Uses that Need Extra Assistance to be Audit Worthy:
   a. Help to Staff
   b. Help to Sub-Recipients
   c. Others/Extra Components: Officials, Public Notices, Contractors, Subcontractors, Etc.
2. Current Projects/Uses that Will Not Be Audit Worthy in Whole or in Part
3. Any Future Substitute Projects/Uses that Can Be Phased Now or Procured, Authorized, Obligated, Audit Worthy, and Expended by ARPA Deadlines

View from the Rear View Mirror Practical Applications: RJJ

WHY: <u>To Determine (continued) :</u>

4. What Your City Charter, Code, State Laws, Other Laws (as applicable) Require Now for Next Steps

5. Do Your City's Budget, Capital Plan, Master Plan, Strategic Plan, Comprehensive Annual Financial Reports, Municipal Bond Disclosures, Intergovernmental Agreements, Loans, Community Commitments, or Other Items Need to be Updated, Amended and/or Supplemented?

HOW: <u>To Proceed:</u>

1. In Consultation with Your First Internal Re-Review Team, Begin Education of Your Office, City Staff, Officials, Intergovernmental Partners, Community Partners:
   a. Explain Ramifications of Recoupment/Claw Backs of ARPA Funding

   b. Explain Downsides of Frequently Changing or Abandoning Projects/Uses Already in ARPA List

   c. Explain Broader Ramifications of Failing the ARPA Audit: Triggering Other Audits, Investigations, and Disclosures, Losses of Other Federal Funds, Downgrades of Credit Ratings, Lender Requirements

View from the Rear View Mirror Practical Applications: RJJ

HOW: <u>To Proceed (continued):</u>

2. Determine Whether Current Projects/Uses That No Longer Meeting ARPA Requirements Be Removed from ARPA Funding List/Backed Out of Systems with Removal Request/Substitution of Project(s)/Uses(s) Letters Where Possible?

3. Create Focused Second Re-Review/Action Teams to Undertake Necessary Actions for Specific Current Projects/Uses Needing Help to Meet Deadlines and Be Audit Compliant

4. Begin Legislation, Procurement, Staffing, Pre-Audit Processes for Future Projects/Uses.

5. Plan Schedules for Necessary Amendments and/or Supplements to Budget, Capital Plan, Master Plan, Strategic Plan, Comprehensive Annual Financial Report, Municipal Bond Disclosures, Loans, Other Debts, Intergovernmental Agreements, Assistance Commitments, Community Commitments, and Other Items.

Four (4) Broad Categories for Eligible Expense Uses for Which Local Government Recipients May Use SLFRF Funds:

1. **<u>To Replace Lost Public Sector Revenues:</u>**
   a. Costs incurred on or after date of March 3, 2021
   b. Revenue losses calculated at four (4) distinct points in time either at end of calendar years or end of fiscal years for years 2020, 2021, 2022, 2023
   c. By Selecting One (1) of Two (2) Options:
      (1) Standard Allowance Method of up to $10 Million (see additional slide for example, dates)
      (2) Selecting Actual Calculation Method (see additional slide for example, dates, and Appendix B for City of Miami, FL Legislation Examples)

2. **<u>To Support COVID-19 Public Health and Economic Responses:</u>**

   a. From date of March 3, 2021

   b. Costs Obligated by December 31, 2024 and Expended by December 31, 2026

   c. See separate slides for Eligible Uses Examples of Public Health

Four (4) Broad Categories for Eligible Expense Uses for Which Local Government Recipients May Use SLFRF Funds:

d**. Discussion of Public Health Eligible Uses:**

(1) Procurement Considerations: Surgical Gloves Example – Open Processes, Apparent Authority, and Reasonable Price

(2) Shared Sports Stadiums and Parking Areas for Testing and Vaccination Sites

(3) Quarantine Areas – Open Procurement, Reasonable Price, Community Locations, Homeless Populations Transportation

e. City of Miami, FL Examples addressing Negative Economic Impacts:

(1) Overtown Youth Center, Inc. ("OYC") STEM Program (Legislation Example and Grant Agreement Example: Appendix C and Appendix D)

(2) Assistance to the Elderly, Inc. ("ATTE") (Legislation for Capital Repairs in Appendix E)

(3) The BakeHouse Art Complex, Inc. Capital Repairs (Grant Agreement Example in Appendix F)

Four (4) Broad Categories for Eligible Expense Uses for Which Local Government Recipients May Use SLFRF Funds:

3. Premium Pay to Local Government Eligible Workers Performing Essential Work:
    a. For Payroll and Covered Benefits incurred on or after March 3, 2021
    b. To Expenditure Date cutoff on **April 10, 2023**.
    c. City of Miami, FL Examples (Appendix G Legislation and Memorandum of Understanding with Unions).
    d. Discuss Layoffs and Rehires of Public Sector Staff for positions as of January 27, 2020 but unfilled/eliminated as of March 3, 2021.

4. Investing in Other Eligible Infrastructure Projects When No Water, Sewer, Broadband Projects under Jurisdiction's Control:
    a. From date of March 3, 2021
    b. To obligate by December 31, 2024, and to expend by December 31, 2026
    c. Discuss Storm Drainage Example: Coordinating Intergovernmental Agreements, Procurements, Schedules

Procurements Challenges: Different Jurisdictions

1. **<u>Sec. 18-121. - Procurements, grants, subgrants, and compliance utilizing requirements for federal disaster assistance</u>** (Appendix H)
    (a) Discussion of Two-Tiered System
    (b) Discussion of Local Preference Issues
    (c) Discussion of Insurance, Bonding, Financial Issues
    (d) Discussion of Budgeting for City Advances
    (e) Other Considerations: Negative Impacts of Last Minute Changes

2. **<u>Sec. 18-90. - Emergency procurements</u>** (Appendix I)
    (a) Established Originally for Urban Search and Rescue ("USAR") Team
    (b) Discussion of Regional Considerations and Courtesies
    (c) Discussion of Community Disparities Considerations
    (d) Other Considerations: Negative Impacts of Last Minute Changes

(City of Miami, FL Examples from City Code):

Procurements Challenges: Different Jurisdictions

3. **Sec. 18-111. - Contracts of other governmental entities.** (Appendix J)
   (a) Discussion of Local Considerations
   (b) Other Considerations

4. **Sec. 18-112. - Contracts with other governmental agencies or state funded public institutions.** (Appendix K)
   (a) Discussion of Local Considerations
   (b) Other Considerations

5. **Sec. 18-113. - Cooperative purchasing.** (Appendix L)
   (a) Discussion of Local Considerations
   (b) Other Considerations

(City of Miami, FL Examples from City Code)

Most Urgent “Do’s” and “Don’ts” from the Rear View Mirror:

Pull Your First Re-Review Team together Now to review what has been expended and what has not:

- ❑ Remember: This may be a different team than the original: See details in earlier slides of Who, What, Where, When, Why and How.
- ❑ Review Budgeting Updates of Legal Eligibility vs. Community Needs
- ❑ Considerations if Expenditures are not “Audit Ready”.
- ❑ Considerations if not enough funding to complete a current Project/Use
- ❑ Other Considerations for Avoiding Recoupments/Claw Backs
- ❑ Don’t Wait: Do this NOW!

From RJJ:

Remember How Wide Your View Must Be in Hindsight, And Constantly Re-Adjust!



Best Practices for Federal Compliance



- ❑ Educate local government staff and attorneys now
- ❑ Make sure projects meet the eligibility criteria
- ❑ Have a solid understanding of the grant guidelines and compliance requirements, the Uniform Guidance and specific reporting requirements
- ❑ Develop grant policies and procedures
- ❑ Develop internal controls and governance over grant administration and sub-recipient monitoring
- ❑ Prepare for a Single Audit or Attestation

Useful Tools

Procurement Checklist (1)

	Request for Qualifications (RFQ)	Request for Proposals (RFP)	Invitation for Bid (IFB)	Small Order Purchase (SOP)	Micro Purchase	Non-Compete
INITIAL PLANNING						
Identify Need	✓	✓	✓	✓	✓	✓
Determine Budget	✓	✓	✓	✓	✓	✓
Rationale for Procurement Method (if not apparen	✓	✓	✓			✓
Rationale for Contract Type (if not apparent	✓	✓	✓			✓
Define Requirements (Scope of Work / Services)	✓	✓	✓	✓	✓	✓
Develop Independent Cost Estimate (ICE)	✓	✓	✓	✓	✓	✓
Determine Whether Sufficient Competition Availa	✓	✓	✓	✓		
Evaluation Plan	✓	✓				
SOLICITATION						
Documentation of Vendor Outreach	✓	✓	✓	✓		
Publicly Advertise	✓	✓	✓			
Outreach to HUB, M/W/DBE, & Section 3 Vendors	✓	✓	✓	✓	✓	✓
Bid Bond Required		✓	✓			
Prevailing Wage Applicability		✓ *Depending on type of w ork	✓	✓	✓ *Depending on type of w ork	✓ *Depending on type of w ork

Procurement Checklist (2)

	Request for Qualifications (RFQ)	Request for Proposals (RFP)	Invitation for Bid (IFB)	Small Order Purchase (SOP)	Micro Purchase	Non-Compete
AWARD						
Publicly Open Bids			✓			
Determination of Vendor Responsbility (sam.gov,	✓	✓	✓	✓	✓	✓
Establish Competitive Range		✓				
Technical Evaluation	✓	✓				
Price Evaluation		✓	✓	✓	✓	✓
Vendor Presentations	✓	✓				
Price Analysis		✓	✓	✓	✓	
Cost Analysis	✓	✓				✓
Negotiation	✓	✓		✓	✓	✓
Negotiation of Profit						✓
Written Notice of Award	✓	✓	✓	✓	✓	✓
Notification to Unsuccessful Offerors	✓	✓	✓	✓		
Notice to Proceed	✓	✓	✓			✓
Execution of Formal Contract	✓	✓	✓	✓		✓

Procurement Checklist (3)

	Request for Qualifications (RFQ)	Request for Proposals (RFP)	Invitation for Bid (IFB)	Small Order Purchase (SOP)	Micro Purchase	Non-Compete
POST-AWARD						
Obtain Insurance Documents	✓	✓	✓	✓	✓	✓
Payment & Performance Bonds Required		✓	✓			
Monitor Performance	✓	✓	✓	✓	✓	✓
Final Inspection		✓	✓	✓	✓	✓
Davis-Bacon Interviews		✓ *Depending on type of work	✓ *Depending on type of work	✓ *Depending on type of work	✓ *Depending on type of work	✓ *Depending on type of work
Certified Payroll Review		✓ *Depending on type of work	✓ *Depending on type of work	✓ *Depending on type of work	✓ *Depending on type of work	✓ *Depending on type of work
Certificate of Completion		✓	✓	✓	✓	✓

Appendices

Appendices Index for Legislation and Agreements from City of Miami, FL

Appendix A: Original ARPA Acceptance Legislation and Amendment with Categories Designations

Appendix B: ARPA Revenue Loss Replacement Legislation with Calculations and Categories

Appendix C: ARPA Funding/Grant Authorization Legislation for Overtown Youth Center, Inc. ("OYC") STEM Programs Waiving Competitive Bidding pursuant to Procurement Code after Advertised Public Hearing

Appendix D: ARPA Funding Grant Agreement for OYC STEM Program

Appendix E: ARPA Funding/Grant Authorization Legislation for Assistance to the Elderly, Inc. for Capital Repairs, Waiving Competitive Bidding pursuant to Procurement Code after Advertised Public Hearing

Appendix F: ARPA Funding Grant Agreement for The Bakehouse Art Complex, Inc. for Capital Repairs

Appendix G: ARPA Premium Pay Legislation with Categories of Employees and Memoranda of Understanding with Unions

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Appendix H

- **Sec. 18-121. - Procurements, grants, subgrants, and compliance utilizing requirements for federal disaster assistance.**

  (a) Notwithstanding any conflicting provisions in the City Code and/or the laws of the state, as amended, all procurements of goods, services, equipment, projects, personnel, grants, subgrants, or other resources for which the city intends to seek federal disaster assistance (as defined below) shall follow the federal disaster requirements (as defined below).

  (b) As used herein:

  Federal disaster assistance means the collective multiple types of major disaster assistance in funding, personnel, equipment, facilities, goods, services, projects, grants, processes, coordination, resources, and other recovery assistance and efforts created and authorized from time to time by the federal government.

  Federal government means the government of the United States of America.

  Federal requirements means collectively, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S. C. 5121 et seq., as amended ("Stafford Act"), and all other federal rules, procurement thresholds, compliance, audit and reporting procedures, regulations, and guidelines established for federal disaster assistance from time to time.

  (c) The city commission delegates authority to and authorizes the city manager or designee to procure, negotiate, execute, and approve, in a form acceptable to the city attorney, all necessary procurements, awards, and purchases for the city's recovery from any federally declared disaster for which the city intends to seek federal disaster assistance. The city manager shall provide to the city commission on a bi-monthly basis a report of such procurements, awards, and purchases through the recovery period and until the completion of recovery, including but not limited to all audit periods related to such federal disaster assistance.

  (Ord. No. 13783, § 2, 7-26-18)

Appendix I

- **Sec. 18-90. - Emergency procurements.**

  In case of emergency, it is not advantageous or practicable for the city to use competitive bidding methods. Therefore, the city may purchase directly those goods or services whose immediate procurement is essential to the life, health, welfare, safety or convenience of the city. Such emergency procurements shall nevertheless be made with such competition as may be practicable under the circumstances.

  (1) In seeking a waiver of competitive bidding methods for emergency procurements that do not exceed $25,000.00, the head of the using department or office shall submit to the chief procurement officer in writing a full explanation of the circumstances of the emergency and the reasons for selection of a particular firm, along with a list of others which may have been solicited, with an approved requisition by the director of the requesting department.

  (2) In seeking the waiver of competitive sealed bidding methods for emergency procurements exceeding $25,000.00, the head of the using department or office shall submit to the chief procurement officer and the city manager in writing a full explanation of the circumstances of the emergency and the reasons for selection of a particular firm, along with a list of others which may have been solicited, and certification of fund availability from the director of the department of management and budget. The city manager may then waive competitive sealed bidding requirements after making a written finding, supported by reasons, that an emergency exists. Such finding must be ratified by an affirmative four-fifths vote of the city commission or an unanimous vote of the quorum that exists because of either abstentions or vacancies resulting from resignation, death, suspension, or physical incapacitation at the next available city commission meeting.

Appendix I - continued

(3) Notwithstanding anything to the contrary contained in this Code, the city manager may direct the chief procurement officer to purchase directly those goods and/or services required by the urban search and rescue task force when activated to perform its obligations under the existing provisions of the memorandum of understanding with the state and/or the Federal Emergency Management Agency (FEMA). Such emergency procurements shall nevertheless be made with such competition as may be practicable under the circumstances. If necessary, the city manager may waive competitive sealed bidding methods for such emergency procurements, after making a written finding, supported by documentation that the urban search and rescue task force has been officially activated. Such finding and waiver must be ratified by an affirmative four-fifths vote of the city commission or an unanimous vote of the quorum that exists because of either abstentions or vacancies resulting from resignation, death, suspension, or physical incapacitation at the next regularly available city commission meeting for contracts exceeding $25,000.00.

All emergency awards shall be filed and maintained by the purchasing department as a permanent and public record of the purchase.

(Ord. No. 12271, § 2, 8-22-02; Ord. No. 13170, § 2, 5-13-10)

Appendix J

- **Sec. 18-111. - Contracts of other governmental entities.**

  Notwithstanding all other provisions of this article, in the purchase of necessary goods and/or services the city may, in lieu of other city competitive bidding procedures, accept a competitive bid which has been secured by or on behalf of any federal, state, county or municipal government or from any other governmental entity, state funded institutions and not-for-profit organizations, subject to a determination by the chief procurement officer that the contract was entered into pursuant to a competitive process in compliance with city laws, policies and procedures; provided, however, that in the purchase of goods or services in excess of $25,000.00, such contracts shall be approved by the city manager, and purchases of goods or services in excess of $50,000.00, shall be subject to approval by the city commission.

  (Ord. No. 12271, § 2, 8-22-02)

Appendix K

- **Sec. 18-112. - Contracts with other governmental agencies or state funded public institutions.**

  Notwithstanding all other provisions of this article, the city shall be exempt from all competitive bidding procedures when it enters into an agreement with other governmental agencies or state funded institutions for the purchase or acquisition of goods or services; provided, however, that in the purchase or acquisition of said goods or services in excess of $25,000.00, such agreement shall be approved by the city manager, and purchases of goods or services in excess of $50,000.00 shall be subject to approval by the city commission.

  (Ord. No. 12271, § 2, 8-22-02)

Appendix L

- **Sec. 18-113. - Cooperative purchasing.**

  Notwithstanding all other provisions of this article, the city's purchasing department may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any goods or services with one or more public entities. Such cooperative purchasing may include, but is not limited to joint or multiparty contracts between public entities.

  (Ord. No. 12271, § 2, 8-22-02)

Example for De-Obligation, Substitution, and Re-Obligation of ARPA Funds in order to meet December 31, 2024 Obligation Deadline and December 31, 2026 Expenditure Deadline

- Date: _____
- Re: Notice from City of _____, __(State)_ ("City"), ___(Federal ID#___) ,of De-Obligation, Substitution, and Re-Obligation of American Rescue Plan Act ("ARPA") Funds as set forth below
- Old Project ID#_____
- New Project ID#_____
- To: (Federal ARPA Funds Coordinator, His/Her Address, and Email)
- Dear _____:
- Please assist the City with de-obligating, substituting, and re-obligating ARPA funds as follow due to ___(discuss)_____:
- **De-Obligating:** Old Project ID# _____, previously obligated on _____, 202_ in the amount of $_____(partial or total?)_____, for ___(Old Project/Program/Grant description).
- **Substituting and Re-Obligating:** New Project ID#_____, being substituted effective as of _____, 202_ and with funding re-obligated in the amount of $_____ for _____(New Project/Program/Grant description).
- The City's authorization for this de-obligation, substitution, and re-obligation is attached.
- Please by response email, acknowledge that you have received this Notice from the City. We appreciate your thoughtful assistance with de-obligating, substituting, and re-obligating ARPA funds for the City as set forth above. If you have any questions, please contact me as indicated below. Thank you.
- Sincerely,
- (Your City's ARPA Administrator, His/Her Address, Email, Telephone)
- Attachment: City's Authorization

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