

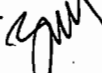


Interoffice Memorandum

AGENDA ITEM

August 21, 2020

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

THRU: Yolanda G. Martinez, EdPhD., PhD., Director 
Health Services Department

FROM: John Goodrich, Deputy Director
Health Services Department

SUBJECT: Federal Subrecipient Agreement between Orange County, Florida and State of Florida, Department of Health, Orange County Health Department
Consent Agenda – September 1, 2020

Orange County Health Department (OCHD) is the primary agency responsible for COVID-19 contact tracing in Orange County. Contact tracing is the process of identifying individuals who have come in contact with a COVID-19 positive person. Depending on the exposure, those individuals may be tested, quarantined, or self-isolated.

Using CARES Act funding, we will provide assistance to enhance the Health Department's contact tracing efforts, in the amount of \$869,620.20 with a not to exceed amount of \$3,000,000. This will be used to fund 26 positions, laptops, and supplies necessary to conduct COVID-19 contact tracing. The period of performance for this agreement will be June 15, 2020 to December 30, 2020.

We are requesting approval and execution of the subrecipient agreement with OCHD in the amount of \$869,620.20 with a not to exceed amount of \$3,000,000 for COVID-19 contact tracing and approval for the Mayor or designee to sign and execute any related modifications or amendments that have been approved by the County Attorney's Office, Risk Management, and County Administration.

ACTION REQUESTED: Approval and execution of 1) Federal Subrecipient Agreement between Orange County, Florida and the State of Florida, Department of Health, Orange County Health Department for a federal subaward of an amount not to exceed \$3,000,000 from a federal award issued by U.S. Department of the Treasury for the specific purpose of hiring of additional positions to conduct COVID-19 Contact Tracing County Contract No.: Y20-2331; 2) Form 1 Standard Form Amendments; and 3) Form 2 Small and Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Labor Surplus Area Firm Affidavit; and authorization for the Mayor or designee to execute any related modifications or amendments. **(Health Services Department)**

Attachments

FEDERAL SUBRECIPIENT AGREEMENT

between

Orange County, Florida and the State of Florida, Department of Health, Orange County Health Department

for a federal subaward of an amount not to exceed \$3,000,000

from a federal award issued by U.S. Department of the Treasury

for the specific purpose of

Hiring of Additional Positions to Conduct COVID-19 Contact Tracing.

SUBAWARD COVERSHEET

County Contract No.:	Y20-2331
County Department/Division:	Health Services Department
Subaward Budget Line:	5895-019-8018-8120
Coronavirus Relief Funded?	Yes
If Coronavirus Relief Funded, which program?	Direct Assistance to Social Services Agencies

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Article 1: Notice of Federal Subaward

- A. **This is a Federal Subrecipient Agreement for a Federal Subaward.** Documentation of the County's Receipt of the Federal Award is attached as "Attachment 1." The amount of the Federal Award Received by the County is: \$243,146,628.50.
- B. All references to the Code of Federal Regulations ("CFR") are either to 2 CFR Part 200 or, when the United States Department of Health and Human Services ("HHS") is the Federal Awarding Agency (as later defined), 45 CFR Part 75.
- C. This Subrecipient Agreement is a "Standard Form Agreement." Any changes to this standard form shall be noted separately using the *Standard Form Amendments* form attached as "Form 1," which must be separately executed by the parties to this Agreement in order to be binding upon the parties. **This is the 06/22/2020 version of the Standard Form Agreement.**

Article 2: The Parties

- A. The tables in **Article 2, Paragraph B**, below detail the information for the parties to this Subrecipient Agreement ("Agreement"), the CFR references are as required by 2 CFR § 200.331(a)(1) (or, for HHS awards: 45 CFR § 75.352(a)(1)).
- B. This Agreement is entered into by and between the following parties:

		CFR
Pass-Through Name:	Orange County, Florida (the "County")	(x)
Entity Type:	Political Subdivision of the State of Florida	N/A
Principal Address:	201 South Rosalind Avenue Orlando, Florida 32801	N/A
Awarding Official Contact:	Name: John Goodrich Email Address: John.Goodrich@ocfl.net	(x)

AND

		CFR
Subrecipient Name:	Florida Department of Health (the "Subrecipient")	(i)
Entity Type:	Florida State Agency	N/A
Principal Address:	6101 Lake Ellenor Drive Orlando, FL 32809	N/A
D-U-N-S® No.:	364215061	(ii)
Subrecipient Contact Person:	Name: Derrick Nealey Email Address: Derrick.Nealey@flhealth.gov	N/A

- C. The County and the Subrecipient may unilaterally re-designate their respective points of contact by providing written notice of such change to the other party pursuant to **Article 5 ("Notice")** below.

- D. Both the County and the Subrecipient may be individually referred to as “party” or collectively referred to as “parties” in this Agreement.

Article 3: Federal Award Information

- A. The following table details the general Federal Award information, as required per 2 CFR § 200.331(a)(1) (or, for HHS awards: 45 CFR § 75.352(a)(1)):

		CFR
Fed Award Project Description:	COVID-19 Contact Tracing	(ix)
Fed Awarding Agency:	U.S. Department of the Treasury (the “Federal Awarding Agency”)	(x)
Fed Award ID No.:	H.R 748, Title V, Section 5001 (the “Federal Award”)	(iii)
Fed Award Date:	04/22/2020	(iv)
CFDA No.:	21.019	(xi)
CFDA Name:	Coronavirus Relief Fund	(xi)

- B. Pursuant to 2 CFR § 200.331(a)(1)(xii) (or, for HHS awards: 45 CFR § 75.352(a)(1)(xii)), this Subrecipient Agreement must state whether the Subaward (as later defined) is for Research and Development. **Is this Subaward related to Research and Development as defined in 2 CFR § 200.87 (or, for HHS awards: 45 CFR § 75.2)? “Yes” or “No”:** No

Article 4: Federal Subaward Information

- A. The following table details the funding-related Federal Subaward information, as required per 2 CFR § 200.331(a)(1), or 45 CFR § 75.352(a)(1) when HHS is the Federal Awarding Agency:

		CFR
Subaward Amount:	An amount not to exceed: \$3,000,000	(vi)
Total Amount of Fed Award Provided to Subrecipient by Pass-Through:	None	(vii)
Total Amount of Federal Funds Obligated to Subrecipient by Pass-Through	\$810,000 (Ryan White)	(viii)

- B. Pursuant to 2 CFR § 200.331(a)(1)(xiii) (or, for HHS awards: 45 CFR § 75.352(a)(1)(xiii)), this Agreement must state whether there is an indirect cost rate for the Federal Award. **Is there an Indirect Cost Rate included in the Federal Award? “Yes” or “No”:** No

- C. The Subrecipient understands and agrees that the Subaward amount referred to in this Agreement is “an amount not to exceed” and does not in any way constitute a guarantee payment of the total maximum amount payable.

Article 5: Notice

Service of all notices under this Agreement shall be in writing and sent by certified or registered mail or courier service, postage prepaid, and addressed to the addresses set forth below until such addresses are changed by written notice. Notices sent by certified/registered mail or courier with signature receipt requested shall be deemed effective as of date of receipt.

To the County:	Health Services Department Attn: John Goodrich 2002A East Michigan St. Orlando, FL 32806 AND Orange County Administration Attn: Danny Banks, Deputy County Administrator Administration Building, 5th Floor 201 S Rosalind Avenue Orlando, Florida 32801
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To the Subrecipient:	Florida Department of Health Attn: Assistant Director 6101 Lake Ellenor Drive Orlando, FL 32809
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Article 6: Term of Agreement, Subaward Period of Performance, and Extensions

- A. **Term of Agreement.** The term of this Agreement begins on the date that it is fully executed by both parties (the “Effective Date”) and shall conclude on: **12/30/2020.**
- B. **Subaward Period of Performance.**
 - 1. The “**Subaward Period of Performance**” is the time during which the Subrecipient may incur obligations to carry out the work or services authorized under this Agreement. The

Subrecipient may not invoice for any work completed, or services rendered, outside of the Subaward Period of Performance. This provision is required pursuant to 2 CFR § 200.331(a)(1)(v) (or, for HHS awards: 45 CFR § 75.352(a)(1)(v)).

2. The Subaward Period of Performance of this Agreement is: **06/15/2020 to 12/30/2020**. If the date range provided in this provision exceeds the Period of Performance provided in the Federal Award, the Federal Award's Period of Performance shall prevail.
- C. **Extensions.** Should there be Subaward funds remaining at the conclusion of the Subaward Period of Performance, the Subrecipient and the County may agree to a modification of the Subaward Period of Performance, so long as such modification does not supersede, or conflict in any way with, the Federal Award or the Federal Award's Period of Performance. Such modification must be in writing and signed by authorized representatives of both parties.

Article 7: Subrecipient's Obligations and Responsibilities

- A. As a subrecipient of the Federal Award, the Subrecipient shall be responsible for meeting the objectives of this Subaward, as detailed in the *Scope of Services* attached to this Agreement as "**Exhibit A**," in a manner that is satisfactory to the County and consistent with the standards set forth in this Agreement, the Federal Award, and any directives issued by the Federal Awarding Agency.
- B. The Subrecipient shall ensure that the Subrecipient Contact Person identified in **Article 2, Paragraph B. ("The Parties")** above is available to communicate and meet with the County's staff to review activities on an "as needed" basis or as otherwise reasonably requested by the County.
- C. **Authority to Practice.** The Subrecipient hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to meet its obligations under the *Scope of Services*, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the County upon request, however, failure by the County to request such proof shall in no manner be construed to alleviate the Subrecipient's obligations pursuant to this paragraph.
- D. **Employees of the Subrecipient.**
1. All services or work provided pursuant to this Agreement shall be performed in a professional and skillful manner. The County may require, in writing, that the Subrecipient removes any employee, volunteer, associate, or agent of the Subrecipient that the County deems incompetent, careless, or otherwise objectionable from performing work or services related to this Agreement. The County shall not be responsible for any costs related to such removal.
 2. Only those employees determined eligible to work within the United States shall be employed under this Agreement. The County shall consider the employment by the Subrecipient of unauthorized workers a violation of Section 274A of the Immigration and Naturalization Act. Such violation by the Subrecipient shall be grounds for unilateral termination of this Agreement by the County. Moreover, the Subrecipient shall:
 - a. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees performing work or services related to this Agreement; and

- b. Include an express requirement in its subcontracts that any subcontractor providing services, or otherwise performing, pursuant to this Agreement shall utilize the E-Verify system to verify the employment eligibility of all employees performing work or services related to this Agreement.

Article 8: Compliance with the Uniform Administrative Requirements

- A. **Compliance with the Federal Uniform Administrative Requirements.** As a subrecipient of the Federal Award, the Subrecipient shall comply with all applicable provisions of the *Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* as found in 2 CFR Part 200. If the Federal Awarding Agency is HHS, the Subrecipient shall instead comply with all applicable provisions of the *Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards for HHS Awards* as found in 45 CFR Part 75.
- B. The Subrecipient hereby acknowledges and understands that the specific provisions of the Federal Uniform Administrative Requirements referenced in this Agreement are referenced only for emphasis. The exclusion of a specific applicable provision of 2 CFR Part 200 (or, for HHS awards: 45 CFR Part 75) from this Agreement does not alleviate the Subrecipient from its obligation to comply with such applicable provisions.
- C. **By executing this Agreement, the Subrecipient hereby certifies that it has reviewed 2 CFR Part 200 (or, for HHS awards: 45 CFR Part 75), and any relevant Federal Awarding Agency guidance, and that it understands its obligations pursuant to such federal regulations and directives.**

Article 9: Procurement Standards

- A. **Procurement.** The Subrecipient must comply with 2 CFR §§ 200.317-200.326 (or, for HHS awards: 45 CFR §§ 75.327-75.335) ("**Procurement Standards**") and must use such procedures when expending the Subaward. **Does the Subrecipient maintain written purchasing procedures in compliance with the aforementioned federal Procurement Standards? "Yes" or "No":** **Yes**
 - If "**Yes,**" then: By executing this Agreement, the Subrecipient hereby certifies that it maintains written purchasing procedures in compliance with 2 CFR §§ 200.317-200.326 (or, for HHS awards: 45 CFR §§ 75.327-75.335) ("**Procurement Standards**") and will use such procedures when expending the Subaward.
 - If "**No,**" then: By executing this Agreement, the Subrecipient hereby certifies that it does not maintain written purchasing procedures that are in compliance with 2 CFR §§ 200.317-200.326 (or, for HHS awards: 45 CFR §§ 75.327-75.335) ("**Procurement Standards**"). As such, the Subrecipient hereby agrees to use the County's purchasing procedures when expending the Subaward, which can be found at this link: <http://www.ocfl.net/vendorservices>.
- B. **Simplified Acquisition Threshold.**
 - 1. "**Simplified Acquisition Threshold**" means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. For the purposes of this Subaward, the Simplified Acquisition Threshold is: \$250,000.

2. The Simplified Acquisition provided for in this Agreement is the one that the Subrecipient must use when making its expenditures of the Subaward, as it is the County-approved Simplified Acquisition Threshold for this Agreement.
- C. **Required Contract Provisions.** As a subrecipient of the Federal Award, the Subrecipient shall insert the relevant contract provisions found in Appendix II of 2 CFR Part 200 (or, for HHS awards: Appendix II of 45 CFR Part 200) ("**Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**") in all contracts into which it enters while expending the Subaward.
- D. **Small and Minority Business Enterprise (MBE), Women Business Enterprises (WBE), and Labor Surplus Area Firms.**
1. If the Subrecipient wishes to engage in sub-contracting or make any procurements pursuant to this Agreement, the Subrecipient understands that it must first:
 - a. Get written permission from the County's Awarding Official Contact to enter into such a subcontract or make such procurement; and
 - b. Execute the *Small and Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Labor Surplus Area Firm Affidavit* attached as "**Form 2**" stating that the Subrecipient shall take the "Five Affirmative Steps" regarding Small and Minority Business Enterprise, Women Business Enterprises, and Labor Surplus Area Firms as required by the Federal Government in 2 CFR §200.321 (or, for HHS awards: 45 CFR § 75.330) in the solicitation and selection of such subcontractor(s) or procurements.
 2. Engaging in sub-contracting, pursuant to this Agreement without complying with both of these requirements is strictly prohibited.
 3. Procurements specifically accounted for by line item in the *Budget* attached as "**Exhibit B**" are considered "approved in writing" by the County. However, the Subrecipient shall still be required to execute the *Small and Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Labor Surplus Area Firm Affidavit* for such budgeted procurements.

Article 10: Property Standards

- A. By executing this Agreement, the Subrecipient hereby certifies that it shall comply with 2 CFR §§ 200.310-200.316 (or, for HHS awards: 45 CFR §§ 75.316-75.323) ("**Property Standards**") and will use such procedures when handling and managing property procured with the Subaward.
- B. The Subrecipient shall maintain inventory records of all non-expendable property as may be procured with the Subaward funds provided pursuant to this Agreement not to sell, transfer, encumber, or otherwise dispose of property acquired with the Subaward without the written permission of the County.
- C. Title to "**Equipment**" as defined in 2 CFR 200.33 (or, for HHS awards: 45 CFR 75.2) that is purchased under this Agreement shall vest in the Subrecipient, subject to the conditions specified in 2 CFR 200.313 (or, for HHS awards: 45 CFR Part 75.320).

- D. **Coronavirus Relief Fund.** Pursuant to the guidance provided by the Department of the Treasury, all purchases made with Coronavirus Relief Fund funds may be kept by the non-Federal entity. **Is this Agreement funded by the Coronavirus Relief Fund? Yes or No:** **Yes**

If "Yes," then: The above "Property Standards" provisions do not apply, however, the Subrecipient still must keep an account of all purchases made for the County's review for compliance with this Agreement, the Federal Award, and any directives issued by the Federal Awarding Agency.

If "No," then: The above "Property Standards" provisions apply as written and as provided in the applicable provisions of 2 CFR Part 200 (or, for HHS awards: 45 CFR Part 75).

Article 11: Budget and Invoicing [See: "Amended Article 11" attached to Form 1.]

A. Budget.

1. ~~The County approved Budget for the Subaward is attached to this Agreement as "Exhibit B" and shall be the basis for which the County provides payment to the Subrecipient.~~
2. ~~Any changes to the Budget must be approved, in writing, by the County. The cost of any changes, modifications, change orders, and all other constructive changes to the Budget must be allowable, allocable, within the scope of the Federal Award, and reasonable for the completion of the Scope of Services attached as "Exhibit A."~~
3. ~~The Awarding Official Contact noted in Article 2, Paragraph B ("The Parties"), or as later re-designated pursuant to Paragraph C of that same Article, may, in writing, approve any amendments to the Budget that are requested by the Subrecipient so long as:~~
 - a. ~~If the Budget was drafted with approval of the Federal Awarding Agency, any such requested amendments do not increase the Subaward amount and are approved, in writing, by the Federal Awarding Agency; or~~
 - b. ~~If the Budget was drafted without the Federal Awarding Agency pursuant to a discretionary Federal Award, any such requested amendments do not increase the Subaward amount and are deemed by the Awarding Official Contact as being consistent with the Scope of Services.~~
4. ~~Budget amendments that do not meet either requirement of Article 11, Paragraph A.2. above must be made by formal written amendment to this Agreement.~~

B. Invoices.

1. ~~**General Invoices.** Invoices shall be delivered to the County in a form approved, in writing, by the Awarding Official Contact noted in Article 2, Paragraph B ("The Parties"), or as later re-designated pursuant to Paragraph C of that same Article. Unless otherwise stated in the Scope of Services, which hereby overwrites the frequency and due date of invoices noted in this provision if there is a conflict between the two, invoices are due as followed:~~

- a. ~~The period for submission of general invoices shall be monthly with such invoices due to the County by the 15th of the month subsequent to the provision of services for which the County is being invoiced; and~~
- b. ~~Final Invoices. Final invoices shall be due to the County by the 15th of the month subsequent to the expiration or termination of this Agreement.~~

2. ~~**Federal Attestation.** Pursuant to 2 CFR § 200.415(a) (or, for HHS awards: 45 CFR § 75.415) (“Required Certifications”), the County is required to attest to the Federal Awarding Agency that all expenditures (including those made pursuant to this Subaward) were proper and in accordance with the terms and conditions of the Federal award and approved project budgets (if any). Accordingly, all invoices from the Subrecipient to the County must include the following executed attestation:~~

~~“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal Award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Sections 3729-3730 and 3801-3812).”~~

- 3. ~~The County reserves the right to withhold or deny payment of any invoice if such invoice:~~
 - a. ~~Is incomplete or fails to provide the requisite supporting documentation;~~
 - b. ~~Fails to be provided in a timely fashion as determined by the terms of this Agreement; or~~
 - c. ~~Indicates expenditures that are not compliant with this Agreement, the Federal Award, or any directives issued by the Federal Awarding Agency.~~

C. ~~**Coronavirus Relief Fund.** Pursuant to the guidance provided by the Department of the Treasury, if this Agreement is funded by the Coronavirus Relief Fund created pursuant to Section 5001(a) of the CARES Act, payment must be issued by the County prior to December 30, 2020. Is this Agreement funded by the Coronavirus Relief Fund? Yes or No:~~

~~If “Yes,” then: Final invoices for services under this Agreement must be received by the County no later than November 15, 2020. The County shall not be responsible for paying any invoices received after such date. This provision supersedes any other provision regarding final invoicing in this Agreement.~~

~~If “No,” then: Final invoices shall be due as otherwise contemplated in this Agreement.~~

Article 12: Payment Terms

A. **Local Government Prompt Payment Act.** The County shall make payments to the Subrecipient for work performed, or services provided, pursuant to this Agreement, in accordance with the Local Government Prompt Payment Act, Section 218.70 et. seq, Florida Statutes.

- B. The County is only responsible for payments to the Subrecipient for which the County is provided funding by the Federal Awarding Agency. If the Federal Awarding Agency determines that a specific cost or expense invoiced by the Subrecipient to the County is not permitted to be reimbursed under the terms and conditions of the Federal Award, the County shall not be responsible for making payment to the Subrecipient for that specific cost or expense.
- C. Should the Federal Awarding Agency withhold or deny funding to the County for any reason, the County may subsequently withhold or deny funding to the Subrecipient.
- D. The County shall not make payments for, or in any way be responsible for, payment to the Subrecipient for:
1. Any goods or services provided that do not fall within the *Scope of Services* attached as "**Exhibit A**";
 2. Any goods or services that fall within the *Scope of Services*, but that such payment by the County would supplant current available, or already budgeted, funding for those goods or services; or
 3. Any goods or services that fall within the attached *Scope of Services*, but that such payment can be made through a third party program or insurance provider.
- E. The Subrecipient shall not obligate, encumber, spend, or otherwise utilize funds provided pursuant to this Agreement for any activity or purpose not included in, or in conformance with, the *Scope of Services*.
- F. The Subrecipient may not accept duplicate funding for any cost, position, service, or deliverable funded by the Federal Award. Duplicative funding is defined as more than one hundred percent (100%) payment from all funding sources for any cost, position, service, or deliverable. If duplicate funding is discovered, this Agreement may be suspended while the extent of the overpayment is determined, or may be terminated. Such suspension or termination may be initiated at the sole discretion of the County.
- G. Any costs or expenses incurred by the Subrecipient that exceed the overall Subaward amount set forth in this Agreement, or which are incurred outside of the term of this Agreement, shall be the sole responsibility of the Subrecipient.
- H. **At no point shall the County be expected to, or responsible for, using general fund dollars or any non-Federal Award monies to make payment to the Subrecipient for any costs or expenses incurred by the Subrecipient pursuant or related to this Agreement or the Federal Award.**
- I. **Funds Paid in Advance.** If the Subrecipient is provided Subaward funds in advance pursuant to this Agreement, the Subrecipient and the County must agree to and execute the *Subaward Advance Terms and Affidavit* attached to this Agreement as "**Form 3.**" Additionally, the Subrecipient hereby certifies to the County that, if received an advance of the Subaward:
1. It shall comply with 2 CFR 200.305(b) (or, for HHS awards: 45 CFR § 75.305(b)) ("**Payment**") and therefore shall:
 - a. Maintain written procedures that minimize the time elapsing between: (i) the transfer of funds by the County to the Subrecipient, and (ii) the Subrecipient's disbursement of

those funds for direct project costs and the proportionate share of any allowable indirect costs;

- b. Review 2 CFR 200.305(b) (or, for HHS awards: 45 CFR § 75.305(b)) and maintain financial management systems that comply with the standards therein for fund control and accountability; and
 - c. Make timely payment to its contractors and vendors.
2. **Fidelity & Employee Dishonesty Insurance.** If paid in advance, the Subrecipient shall present the following proof of insurance Fidelity & Employee Dishonesty Insurance with a limit of not less than the Subaward amount awarded under this Agreement. This insurance may be waived at the discretion of the County's Risk Management Division if the Subrecipient is a "state agency or subdivision" as defined by Section 768.28(2), Florida Statutes.

Article 13: Return of Funds

- A. **Unauthorized Expenditures.** The Subrecipient shall reimburse the County for all unauthorized expenditures.
- B. **Payment(s) in Error.** The Subrecipient shall return to the County any payments made to the Subrecipient that were made in error or were in any manner fraudulent or inconsistent with the *Scope of Work* attached as "**Exhibit A**" or the Federal Award ("**Payment(s) in Error**").
1. In the event that the Subrecipient, or any outside accountant or auditor, determines that a Payment in Error was made, the Subrecipient shall return to the County any associated funds no later than ten (10) business days from when the Subrecipient became aware of such Payment in Error.
 2. In the event that the County discovers a Payment in Error, the County shall notify the Subrecipient and the Subrecipient shall return any associated funds to the County no later than ten (10) business days of the Subrecipient's receipt of such notice.
- C. **Federal Disallowance(s).** If the federal government demands reimbursement from the County due to a disallowance or finding that an expense or cost that the County provided to the Subrecipient was in any way improper or not in compliance with the Federal Award, the Subrecipient shall return any associated funds to the County within a reasonable time period as mutually agreed upon by the County and the Subrecipient, or within six (6) months, whichever is the later of the two dates.
- D. **Delay or Failure to Return Funds.** Should the Subrecipient fail to reimburse the County for any Payment in Error or Federal Disallowance within the time designated, the County may respond with any number of the following actions:
1. Charge an interest rate as determined by the State of Florida, Chief Financial Officer, pursuant to Chapter 55, Florida Statutes, on the amount of the overpayment or outstanding balance thereof. Interest shall accrue from the date of the Subrecipient's initial receipt of overpayment funds up to the date of reimbursement of said overpayment funds to the County;
 2. Withhold any or all future payments until the amount of such overpayment has been recovered by the County;

3. Terminate this Agreement; or
4. Bar the Subrecipient from being considered when issuing future Federal Subawards or other County agreements.

Article 14: Progress Reporting

- A. Progress reports shall be delivered to the County on a form approved by the in writing, by the Awarding Official Contact noted in **Article 2, Paragraph B ("The Parties")**, or as later re-designated pursuant to **Paragraph C** of that same Article.
- B. At minimum, such progress reports must detail the outputs, outcomes, and progress the Subrecipient has made in accomplishing the objectives of the *Scope of Services* attached as "**Exhibit A.**" The County reserves the right to reasonably and unilaterally revise such approved form and request any additional supporting documentation from the Subrecipient as it deems necessary to meet its federal reporting requirements and monitoring obligations.
- C. Unless otherwise stated in the *Scope of Services*, which hereby overwrites the frequency and due date of progress reports noted in this provision if there is a conflict between the two, progress reports shall be submitted on a **monthly** basis and **are due by the 15th of the month subsequent to the provision of services of which the Subrecipient is reporting.**
- D. Failure to provide the required progress reports in accordance with this Article may necessitate the County's withholding of payment on any subsequent invoices and shall be considered cause for termination by the County pursuant to the terms of termination in this Agreement.
- E. If a portion of the Subaward was advanced, failure to provide the required Progress Reports in accordance with this Article will obligate the Subrecipient to, at the County's written request, return to the County the balance of any unexpended advanced Subaward funds.

Article 15: Maintenance, Retention, and Access to Records

- A. The Subrecipient, and its subcontractors (if any) that are providing services, or otherwise performing, pursuant to this Agreement shall abide by the requirements of this Article.
 1. The Subrecipient shall establish and utilize generally accepted accounting principles in the maintenance of all records relating to this Agreement. Such practices shall be in compliance with the general acceptable accounting principles and shall fully and accurately reflect, track, and document the Subrecipient's financial activities.
 2. The Subrecipient shall establish and maintain separate accounting records for the Subrecipient's activities in meeting its obligations pursuant to this Agreement with sufficient documentation to identify the associated expenditures (e.g. detailed invoices, cancelled checks, payroll journals, bank statement reconciliations, etc.) and establish that such expenditures are allowable, necessary, and reasonable under this Agreement, the Federal Award, and any directives issued by the Federal Awarding Agency.
 3. The Subrecipient shall furnish the County with any and all data needed for the purpose of monitoring, evaluation, auditing, and quality assurance. This data shall include information on the services provided or work performed, and any other data that may be required by the

County, in its sole discretion, to adequately evaluate the Subrecipient's performance under this Agreement.

4. All records that were created, utilized, or maintained for the purpose of fulfillment of the Subrecipient's obligations pursuant to this Agreement, whether paper or electronic ("**Relevant Records**"), shall be retained by the respective record holder for a period of five (5) years after termination of this Agreement, including any extensions or renewals of this Agreement.
 5. In the event of litigation, claims, or audit findings, all Relevant Records shall be retained for a period of five (5) years after the resolution of any such event.
 6. The Subrecipient shall permit the County, the Comptroller of Orange County (the "**Comptroller**"), the Federal Awarding Agency, the Comptroller General of the United States, or any of their authorized representatives to access, review, or reproduce any and all Relevant Records.
 7. If the *Scope of Services* in "**Exhibit A**" is site-specific, or construction-related, access to the stated construction or work site shall be provided to the County, the Comptroller, the Federal Awarding Agency, the Comptroller General of the United States, or any of their authorized representatives.
- B. **The Subrecipient shall ensure that the provisions of this Article are incorporated into any agreements into which it enters that are related to this Agreement and the Federal Award.**

Article 16: Monitoring Requirements

- A. **Monitoring.** The Subrecipient hereby acknowledges that the County has an obligation to monitor the Subrecipient's programmatic and financial activities, pursuant to the requirements found in 2 CFR § 200.331 (or, for HHS awards: 45 CFR § 75.352) ("**Requirements for pass-through entities**"). By executing this Agreement, the Subrecipient hereby agrees to permit the County, the Comptroller, or the designee of either, to perform such program and financial monitoring periodically.
- B. **Letter of Findings.**
1. If during a monitoring session the County, the Comptroller, or the designee of either, discovers any defect in the Subrecipient's performance under this Agreement (whether programmatic, financial, etc.), a "Letter of Findings" shall be provided to the Subrecipient.
 2. The Subrecipient shall respond to any such Letter of Findings with a Corrective Action Plan and Implementation Schedule, as instructed by the County, the Comptroller, or the designee of either, within thirty (30) calendar days of the date of the Letter of Findings. Failure to submit a Correction Action Plan and Implementation Schedule shall constitute a material breach and may result in termination of this Agreement.

Article 17: Audit Requirements

- A. **Auditing.** As a subrecipient of the Federal Award, the Subrecipient is obligated to comply with the federal auditing requirements found in 2 CFR 200 Subpart F (or, for HHS awards: 45 CFR § Subpart F) ("**Audit Requirements**").

B. **Authorization to Audit.** The County, the Comptroller, the Federal Awarding Agency, the Comptroller General of the United States, or any of their authorized representatives shall have the right to audit Subrecipient's:

1. Disbursement of the Subaward;
2. Service or program delivery; and
3. Compliance with the terms, conditions, and obligations set forth in this Agreement and the Federal Award.

C. **Mandatory Audit, Certification, and Audited Financial Statement.** In determining the federal award amounts expended during its fiscal year, the Subrecipient shall consider all sources of federal awards including federal resources received from the State or other agencies.

1. If the Subrecipient expends seven hundred and fifty thousand dollars (\$750,000) or more in federal awards during its fiscal year, the Subrecipient must have a single audit completed and conducted in accordance with 2 CFR § 200.514 (or, for HHS awards: 45 CFR § 75.514), unless the Subrecipient elects to have a program-specific audit in accordance with 2 CFR § 200.501(c) (or, for HHS awards: 45 CFR § 75.501(c)).
2. If the Subrecipient expends less than seven hundred and fifty thousand dollars (\$750,000) in federal awards during the fiscal year, the Agency agrees to:
 - a. Provide an annual certification to the County that a single audit was not required; and
 - b. Annually submit an Audited Financial Statement to the County.
3. If the Subrecipient is mandated to have an audit performed due to its expenditure of seven hundred and fifty thousand dollars (\$750,000) or more in federal awards within one fiscal year, that audit shall be completed no later than one-hundred and eighty (180) calendar days after the close of the Subrecipient's fiscal year.

D. **Submission of Audits and Audited Financial Statements.**

1. The Subrecipient shall submit to the Comptroller and the County any and all auditor's report received by the Subrecipient related to its obligations under this Agreement within ten (10) business days of receipt.
2. A copy of the Single Audit Reporting Package, including the associated management letter, which was conducted in accordance with 2 CFR § 200.512 (or, for HHS awards: 45 CFR § 75.512), or the applicable Audited Financial Statements, shall be forwarded to the County pursuant to the notice provision in this Agreement, with a copy provided to the Orange County Comptroller's Office, at the following:

**Orange County Comptroller's Office
Finance and Accounting Department
Attn: Grants Section
P.O. Box 38
Orlando, Florida 32802**

- E. **The Federal Audit Clearinghouse.** Audits must be submitted to the Federal Audit Clearinghouse either thirty (30) calendar days after receipt of the auditor's report, or nine (9) months after the end of the entity's fiscal year end date. Such audits shall be submitted electronically via the following website: <https://harvester.census.gov/facweb/>.
- F. **Failure to comply with any requirements in this Article shall be deemed as a breach of this Agreement and may result in the withholding or denial of any requests for payment or reimbursement to the Subrecipient.**

Article 18: Insurance

- A. The Subrecipient agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this Agreement the following types of insurance coverage with limits and on forms (including endorsements) as described in this "Insurance" subsection. These requirements, as well as the County's review or acceptance of insurance maintained by the Subrecipient is not intended to, and shall not in any manner, limit or qualify the liabilities or obligations assumed by the Subrecipient under this Agreement.
- B. The Subrecipient shall require and ensure that each of its sub-contractors/consultants providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified in this "Insurance" subsection.
- C. The Subrecipient shall have in full force the following insurance coverage, and will provide Certificates of Insurance to the Subrecipient prior to commencing operations under this Agreement to verify such coverage:

1. **All Subrecipients:**

Commercial General Liability – The Subrecipient shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than one million dollars (\$1,000,000) per occurrence. Subrecipient further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insured. The General Aggregate limit either shall apply separately to this contract or shall be at least twice the required occurrence limit.

The Subrecipient agrees to endorse the County as an Additional Insured with a CG 20 26 Additional Insured–Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The certificate holder and additional insured shall be listed in the name of the Orange County, Florida.

2. **Subrecipients providing services at County facilities:**

Workers' Compensation – The Subrecipient shall maintain coverage for its employees with statutory workers' compensation limits and no less than one hundred thousand dollars (\$100,000) each incident of bodily injury or disease for Employer's Liability. Said coverage shall include a waiver of subrogation in favor of the County if services are being provided at County facilities. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any Agency using an employee leasing arrangement shall complete the *Leased Employee Affidavit* attached as "Form 4."

Business Automobile Liability– The Subrecipient shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of ISO form as filed for use in Florida or its equivalent, with limits of not less than five hundred thousand dollars (\$500,000) per accident. In the event the Subrecipient does not own automobiles, the Subrecipient shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

3. **Subrecipients providing services to vulnerable populations:**

Sexual Abuse and Molestation Coverage with limits of not less than one hundred thousand dollars (\$100,000) per occurrence shall also be included for those programs that provide services directly to Vulnerable Person(s). "Vulnerable Person(s)" are minors as defined in Section 1.01(13), Florida Statutes, or vulnerable adults as defined in Section 415.102, Florida Statutes.

4. **Subrecipients providing services that are of a professional nature:**

Professional Liability with a limit of not less than one million dollars (\$1,000,000) per wrongful act or claim. For policies written on a claims-made basis, the Subrecipient agrees to maintain a retroactive date prior to or equal to the effective date of this Agreement. In the event the policy is cancelled, non-renewed, switched to occurrence form or any other event that triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Agreement the Subrecipient agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Subrecipient of the obligation to provide replacement coverage.

- D. Insurance carriers providing coverage required in this "Insurance" subsection must be authorized or eligible to conduct business in the State of Florida and must possess a current A.M. Best Financial Strength Rating of A-Class VIII.
- E. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.
- F. The Subrecipient shall provide to the County current certificates of insurance evidencing all required coverage prior to execution and commencement of any operations/services provided under this Agreement. In addition to the certificate(s) of insurance the Subrecipient shall also provide copies of any applicable endorsements as required above.
- G. For continuing service contracts, renewal certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that the Subrecipient has obtained insurance of the type, amount and classification as required for certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that the Subrecipient has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) calendar days prior written notice to the County. Certificates shall specifically reference the respective Agreement number. The certificate holder shall read:

**Orange County, Florida
Attention: Risk Management Division**

**109 E Church Street, Suite 200
Orlando, FL 32801**

- H. **State Agencies or Subdivisions.** If the Subrecipient is a "state agency or subdivision" (as defined by Section 768.28(2), Florida Statutes):
1. **Article 18, Paragraphs A-G** are not applicable. However, such paragraphs do apply to any of the Subrecipient's subcontractors that are not agencies or political subdivisions of the State of Florida.
 2. Without waiving its right to sovereign immunity as provided in Section 768.28, Florida Statutes, the Subrecipient may self-insure its liability with coverage limits of \$200,000 per person and \$300,000 per occurrence or such other limited sovereign immunity as set forth by the Florida legislature. A statement of self-insurance shall be provided to the County's Risk Management Division at the address in **Article 18, Paragraph G** above.

Article 19: Indemnification, Sovereign Immunity, and Liability

- A. **Indemnification.** Each party agrees to defend, indemnify, and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) arising from the indemnifying party's own negligent acts or omissions, or those negligent acts or omissions of the indemnifying party's officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, or negligence of the other party, its officers, officials, employees, agents, or contractors.
- B. **Sovereign Immunity.**
1. The County's above indemnification is expressly limited to the amount set forth in Section 768.28(5), Florida Statutes, as amended by the Florida State Legislature. Nothing contained in this Article, or in any part of this Agreement, shall constitute a waiver of the County's sovereign immunity provisions or protections pursuant to Section 768.28, Florida Statutes.
 2. **State Agencies or Subdivisions.** If the Subrecipient is a "state agency or subdivision" (as defined by Section 768.28(2), Florida Statutes), then **Article 19, Paragraph B.1.** above applies to the Subrecipient in the same manner in which it applies to the County.
- C. **Liability.**
1. Unless otherwise explicitly stated in this Agreement, in no event shall either party be responsible to the other for any indirect damages, incidental damages, consequential damages, exemplary damages of any kind, lost goods, lost profits, lost business, or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty, or a breach of term of this Agreement.
 2. Without waiving any of the provisions or protections under this Agreement or pursuant to Florida law, under no circumstances shall the County be liable to the Subrecipient under any contract, negligence, strict liability, or other legal or equitable theory for any amounts in excess of those limits per claim and per occurrence set forth for tort liability in Section 768.28 of the

Florida Statutes, which limits are hereby made applicable to all manner of claims against the County related to this Agreement and are not confined to tort liability.

- D. **State Agencies or Subdivisions.** If the Subrecipient is a "state agency or subdivision" (as defined by Section 768.28(2), Florida Statutes), then **Article 19, Paragraph C.2.** above applies to the Subrecipient in the same manner in which it applies to the County.

Article 20: Independent Contractor and Third Parties

- A. **Independent Contractor.** It is understood and agreed that nothing contained in this Agreement is intended or should be construed as creating or establishing the relationship of copartners between the parties, or as constituting the Subrecipient as the agent, representative, or employee of the County for any purpose or in any manner whatsoever. The Subrecipient is to be, and shall remain, an independent contractor with respect to all services performed under this Agreement, and that any individuals hired, or performing services or work, pursuant to this Agreement shall be considered to be the employee of the Subrecipient for all purposes, including but not limited to for any worker's compensation matters.
- B. **No Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to, or in any manner be construed to, confer upon any person other than the parties, their respective successors and permitted assigns, or the Federal Government, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

Article 21: Confidentiality

- A. **Health Insurance Portability and Accountability Act ("HIPAA")**
1. Under this Agreement, each party shall limit its transmission of data to the other party only to data that either:
 - a. Is not "**Protected Health Information,**" as defined in 45 CFR § 160.103; or
 - b. Has been "de-identified" in compliance with the HIPAA Safe Harbor Standard, 45 CFR § 164.514.
 2. Should the need for the transmission of Protected Health Information arise pursuant to this Agreement, the party transmitting that Protected Health Information shall, prior to such transmission, ensure that:
 - a. A Business Associate Agreement (or an adequate patient/client/individual release) has been executed; and
 - b. All the protections of the HIPAA Privacy and Security Rules found in 45 CFR Part 164 are properly followed.
- B. **Florida Information Protection Act ("FIPA")**
1. Pursuant to Section 501.171(g)1., Florida Statutes, "**Personal Information**" means either of the following:
 - a. An individual's first name or first initial and last name in combination with any one or more of the following data elements for that individual:

- (1) A social security number;
 - (2) A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;
 - (3) A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to an individual's financial account;
 - (4) Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
 - (5) An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
- b. A user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.
2. If, pursuant to this Agreement, the Subrecipient is maintaining, storing, or processing personal information on behalf of the County, the Subrecipient is the County's "Third-Party Agent" under FIPA and hereby agrees to comply with all obligations for such "Third-Party Agents" as detailed in Section 501.171, Florida Statutes. These obligations include, but are not limited to:
- a. Taking reasonable measures to protect and secure data in electronic form containing personal information; and
 - b. Providing notice to the County in the event of a breach of security of the Subrecipient's system as expeditiously as practicable, but no later than ten (10) calendar days following the determination of the breach of security or reason to believe the breach occurred.
3. The Subrecipient shall be responsible and liable for all costs associated with any required notices, fines, or fees assessed against the County for any breach of Personal Information that is the fault of the Subrecipient.

C. Florida Trade Secret Protections

1. Pursuant to Section 815.045, Florida Statutes, "**Trade Secret Information**," as defined in Section 812.081, Florida Statutes, and as provided for in Section 815.04(3), Florida Statutes, is expressly confidential and exempt from the public records law because it is a felony to disclose such records.
2. If the *Scope of Services* attached as "**Exhibit A**" includes storing, collecting, reviewing, or accessing information related to business entities that could be considered Trade Secret Information, the Subrecipient hereby certifies that it will hold any such information confidential and will not release or disclose it to any third party without express, written permission from either: (a) the County; or (b) the business entity in question.

Article 22: Termination

- A. **Termination for Convenience.** Pursuant to 2 CFR Part 200, Appendix II, Paragraph B (or, for HHS Awards: 45 CFR Part 75, Appendix II, Paragraph B), contracts made pursuant to a Federal Award must address termination for convenience by the County including the manner by which it will be effected and the basis for settlement. As such, the County may terminate this Agreement at any time for any reason by providing a written thirty (30) calendar day notice to the Subrecipient. If this Agreement is terminated by the County for convenience, the Subrecipient shall only be paid for the funding-applicable work completed as of the date of the Subrecipient's receipt of such termination, unless otherwise specified in the County's termination notice. No other damages, fees, or costs may be assessed against the County for its termination of this Agreement for convenience.
- B. **Termination for Cause.**
1. **Immediate Termination.**
 - a. The County reserves the right to terminate this Agreement immediately, to be effectuated as of the Subrecipient's receipt of written notice which may be hand-delivered or transmitted by electronic mail to the Subrecipient Contact Person noted in **Article 2, Paragraph B ("The Parties")**, or as later re-designated pursuant to **Paragraph C** of that same Article. Notwithstanding the foregoing, the County, as a courtesy, will additionally provide the Subrecipient with such notice in the manner provided in **Article 5 ("Notices")** of this Agreement.
 - b. Immediate Termination pursuant to this provision shall be permitted for any of the following reasons:
 - (1) The Federal Awarding Agency terminates the Federal Award;
 - (2) Any circumstance under which the County is no longer receiving Federal Award funds to reimburse the Subrecipient occurs;
 - (3) The amount invoiced by the Subrecipient meets or exceeds the amount of the Subaward provided for in this Agreement;
 - (4) The Subrecipient files bankruptcy or otherwise becomes insolvent;
 - (5) The Subrecipient is determined to be ineligible to do business in the State of Florida;
 - (6) If the Subrecipient is a non-profit agency, loss of the Subrecipient's non-profit status;
 - (7) If the County has a Business Associate Agreement with the Subrecipient, the County has terminated that Business Associate Agreement for cause; or
 - (8) As otherwise expressly provided for in this Agreement.
 2. **Standard Termination for Cause.** The County may terminate this Agreement for cause upon providing a written fourteen (14) calendar day breach of contract and termination notice. Such

termination for cause may be for any material breach of this Agreement, or if the County, using its sole discretion, determines that the Subrecipient is unable to perform under this Agreement.

3. **Opportunity to Cure.** Without creating an obligation to provide an opportunity to cure or accept the Subrecipient's proposed cure if such an opportunity is provided, the County reserves the right to provide the Subrecipient the opportunity to cure any stated breach. If the County provides such opportunity to cure, shall:

- a. Provide the opportunity to cure as a part of the County's breach of contract and termination notice; and
- b. Allot an appropriate deadline by which the Subrecipient must provide its proposed cure to the County.

4. **In the Event of Wrongful Termination for Cause.** If a court of competent jurisdiction determines that this Agreement was wrongfully terminated for cause, then the Subrecipient's damages for such termination, if any, shall be the same as if the County terminated this Agreement for convenience.

C. **In the Event of Termination.** After receipt of a notice of termination, except as otherwise directed, the Subrecipient shall take all of the following actions:

1. Within fourteen (14) calendar days, remit to the County any advanced funds paid that have not yet been recouped by the County (if any);
2. Stop working under this Agreement on the date of receipt of the notice of termination unless otherwise stated in such notice;
3. Place no further orders and enter into no further agreements to the extent that either relate to the performance of the work which was terminated and direct any subcontractors to do the same;
4. Terminate all orders and subcontracts to the extent that they relate to the performance of the work, which was terminated;
5. Finalize all necessary reports, invoices, and other documentation required under the terms of this Agreement up to the date of termination, up to and including the final invoice due at the end of the project without reimbursement beyond that due as of the date of termination for services rendered to the termination date;
6. Take any other actions as reasonably directed in writing by the County; and
7. If the *Scope of Services* attached as "**Exhibit A**" includes the provision of care to individuals, take any reasonable steps to, in good faith, assist the County in transferring care of such individuals to another organization, if necessary.

D. **Payment in Event of Termination.** If this Agreement is terminated before performance is completed, the Subrecipient shall be paid for the work or services satisfactorily performed. In the event the Agreement is terminated for cause, any funds owed to the County due to any overages paid to, or breach of contract by, the Subrecipient shall be deducted from the amount due the Subrecipient. No

other damages, fees, or costs may be assessed against the County for its termination of the Agreement.

E. Force Majeure.

1. The Subrecipient shall not be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by explosion, war, embargo, government requirement, civil or military authority, pandemic, act of God, or other similar causes beyond the Subrecipient's control so long as the Subrecipient's delay is not caused by the Subrecipient's own fault or negligence. Notwithstanding the foregoing, the Subrecipient cannot claim *Force Majeure* under this provision for any emergency, exigency, or "Act of God" that is specifically contemplated within the *Scope of Services* of this Agreement.
2. The above notwithstanding, in order to claim delay pursuant to this provision, the Subrecipient shall notify the County in writing within seven (7) business days after the beginning of any such cause that would affect its performance under this Agreement. Failure to notify the County in a timely manner of any claim of Force Majeure made pursuant to this provision is cause for termination of this Agreement.
3. If the Subrecipient's performance is delayed pursuant to this provision for a period exceeding seven (7) business days from the date the County receives the required Force Majeure notice, the County shall have the right to terminate this contract thereafter and shall only be liable to the Subrecipient for any work performed pursuant to this Agreement prior to the date of the County's termination.
4. No other damages, fees, or costs may be assessed against the County for its termination of this Agreement pursuant to this provision. Nothing in this provision shall prevent the County from terminating this Agreement for any purpose otherwise expressly stated in this Agreement.

Article 23: Florida State Terms

A. Public Records.

1. Pursuant to Section 119.0701, Florida Statutes, the Subrecipient shall:
 - a. Keep and maintain public records required by the County to perform the service.
 - b. Upon request from the County, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the amount set by the County.
 - c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement's term and following completion of this Agreement if the Subrecipient does not transfer the records to the County.
 - d. Upon completion, or termination, of this Agreement, transfer, at no cost, to the County all public records in possession of the Subrecipient or keep and maintain public records required by the Subrecipient to perform the service in accordance with Florida law.

- e. If the Subrecipient transfers all public records to the County upon completion of the Agreement, the Subrecipient shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Subrecipient keeps and maintains public records upon completion of this Agreement, the Subrecipient shall meet all applicable requirements for retaining public records in accordance with applicable federal and Florida law.
- f. All records stored electronically shall be provided to the County, upon request from the County, in a format that is compatible with the information technology systems of the County.

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE SUBRECIPIENT SHALL CONTACT THE PROCUREMENT PUBLIC RECORDS LIAISON AT 400 EAST SOUTH STREET, 2ND FLOOR, ORLANDO, FLORIDA 32801, PROCUREMENTRECORDS@OCFL.NET, (407) 836-5897.

- 2. **Florida Agencies.** If the Subrecipient is an "Agency" as defined by Section 119.011, Florida Statutes, then the Subrecipient shall comply with its own obligations under Chapter 119, Florida Statutes. The Subrecipient additionally agrees to cooperate in good faith with the County in the handling of public records created under this Agreement. Notwithstanding anything set forth in any provision of this Agreement to the contrary, the Subrecipient will not be required to destroy any records in its custody in violation of Chapter 119, Florida Statutes.

B. Scrutinized Companies.

- 1. By executing this Agreement, the Subrecipient certifies that it is eligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes.
- 2. Specifically, by executing this Agreement, the Subrecipient certifies that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel.
- 3. Additionally, if this Agreement is for an amount of one million dollars (\$1,000,000) or more, by executing this Agreement, the Subrecipient certifies that it is not:
 - a. On the "Scrutinized Companies with Activities in Sudan List" or the "Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List," created pursuant to Section 215.473, Florida Statutes; or
 - b. Engaged in business operations in Cuba or Syria.
- 4. The County reserves the right to terminate this Agreement immediately should the Subrecipient be found to:

- a. Have falsified its certification of eligibility to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes; or
 - b. Have become ineligible to bid on, submit a proposal for, or enter into or renew a contract with the County for goods or services pursuant to Section 287.135, Florida Statutes, subsequent to entering into this Agreement with the County.
5. If this Agreement is terminated by the County as provided in **Article 23, Paragraph B.4.a.** above, the County reserves the right to pursue any and all available legal remedies against the Subrecipient, including but not limited to the remedies as described in Section 287.135, Florida Statutes. If this Agreement is terminated by the County as provided in **Article 23, Paragraph B.4.b.** above, the Subrecipient shall be paid only for the funding-applicable work completed as of the date of the County's termination.
 6. Unless explicitly stated in this Article, no other damages, fees, or costs may be assessed against the County for its termination of the Agreement pursuant to this Article.

Article 24: Federal Contract Terms

Section 1: Federal Terms (For: All Contracts)

- A. **Non-Obligation by Federal Government.** The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the County, the Subrecipient, or any other party pertaining to any matter resulting from this Agreement.
- B. **Federal Awarding Agency Seal, Logo, and Flags.** The Subrecipient shall not use the seal(s), crest(s), or reproduction of flags or likenesses of the Federal Awarding Agency without specific pre-approval therefrom.
- C. **Suspension and Debarment.**
 1. The Subrecipient acknowledges and understands that the regulations at 2 CFR Part 180 ("**OMB Guidelines to Agencies on Governmentwide Debarment And Suspension**") specifically prohibit the County from entering into a "**Covered Transaction,**" as defined in 2 CFR § 180.200, with a party listed on the System for Award Management ("**SAM**") Exclusions list.
 2. By executing this Agreement, the Subrecipient hereby certifies that:
 - a. It does not appear on the SAM Exclusions list;
 - b. It shall maintain an active registration with SAM for the entire Term of this Agreement; and
 - c. It shall notify the County within five (5) business days if is added to the SAM Exclusions list, or should its status under the SAM system change in any way, during the Term of this Agreement.
 3. The Subrecipient shall comply with 2 CFR Part 180, Subpart C and shall include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

4. The County reserves the right to institute additional restrictions and conditions to this Agreement, terminate this Agreement, and pursue any other remedy available under local, state, and federal law, should the Subrecipient:
 - a. Be found to have misrepresented its SAM system status in any manner; or
 - b. Fail to notify the County of any change in its status under the SAM system.
5. By executing this Agreement, the Subrecipient certifies is in compliance with the terms of this Article and 2 CFR Part 180, Subpart C ("**Responsibilities of Participants Regarding Transactions Doing Business with Other Persons**"). This certification is a material representation of fact relied upon by the County. If it is later determined that the Subrecipient fails to comply with 2 CFR Part 180, Subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to, suspension or debarment.

D. Non-Discrimination.

1. The Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, English proficiency, or disability.
2. The Subrecipient shall not, on the grounds of race, color, creed, national origin, sex, age, English proficiency, or disability, exclude a person from participation in, deny him/her benefits, or subject him/her to discrimination.
3. The Subrecipient shall adhere to any and all federal implementing regulations and other requirements that the Funding Agency has with respect to nondiscrimination.
4. The Subrecipient shall ensure that any and all of its subcontractors are bound to the terms of this Non-Discrimination provision.

E. Rights to Inventions Made Under this Agreement. If the Federal Award or this Agreement meet the definition of "**Funding Agreement**" under 37 CFR § 401.2(a), and the Subrecipient is a small business firm or nonprofit organization, then the Subrecipient hereby acknowledges and understands that the County is obligated to comply with the requirements of 37 CFR § 401 ("**Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements**"), and any implementing regulations issued by the Federal Awarding Agency.

F. Program Fraud and False or Fraudulent Statements or Related Acts. The Subrecipient acknowledges that 31 USC Chapter 38 ("**Administrative Remedies for False Claims and Statements**") applies to the Subrecipient's actions pertaining to this Agreement.

G. Procurement of Recovered Materials. If the Subrecipient is a state agency or agency of a political subdivision of the state, then pursuant to 2 CFR § 200.322 (or, for HHS awards: 45 CFR § 75.331) ("**Procurement of Recovered Materials**"):

1. The Subrecipient understands that in the performance of this Agreement, it must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 USC § 6962) should it purchase:

- a. An item that has a value that meets or exceeds ten thousand dollars (\$10,000); or
 - b. Items, the quantity of which acquired by the preceding fiscal year met or exceeded ten thousand dollars (\$10,000).
2. The Subrecipient, when making purchases that meet the thresholds listed in subparagraphs "1a" and "1b" of this provision, shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - b. Meeting contract performance requirements; or
 - c. At a reasonable price.
 3. The Subrecipient shall document what it considered when making its decision to use, or not use, recovered materials in purchases that meet the thresholds listed in subparagraph "1a" and "1b" of this provision.
 4. The Subrecipient shall make the above-stated documentation available to the County upon request and shall maintain all of the above documentation for future verification for the duration of this Agreement and any extension to this Agreement. Not doing so shall jeopardize the Subrecipient's ability to be awarded federally-funded contracts by the County in the future.
 5. The Subrecipient shall procure solid waste management services in a manner that maximizes energy and resource recovery.
 6. The Subrecipient shall establish an affirmative procurement program which contains the four elements detailed in 40 CFR § 247.6 ("**Affirmative Procurement Programs**").
 7. The Subrecipient acknowledges that for further information about this requirement, along with the list of EPA-designated items, it should refer to the EPA's Comprehensive Procurement Guidelines web site: <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cp-g-program>.

Section 2: Federal Terms (For: Contracts that Exceed \$100,000)

- A. **Byrd Anti-Lobbying Amendment, 31 USC § 1352 (as amended).** If this Agreement exceeds one-hundred thousand dollars (\$100,000) in value, the Subrecipient shall:
 1. File a *Certification Regarding Lobbying* attached to this Agreement as "**Form 5**" (if applicable);
 2. Certify to the County that it shall not use, and has not used, federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 USC § 1352; and

3. Disclose to the County any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures will be forwarded to the Federal Awarding Agency.

B. **Contract Work Hours and Safety Standards Act.** If the value of this Agreement exceeds one hundred thousand dollars (\$100,000) in value and involves the employment of mechanics or laborers (not related to transportation or transmission of intelligence), then the Subrecipient must comply with 40 U.S.C. 3702 as supplemented by Department of Labor regulations (29 CFR Part 5). Specifically:

1. **Overtime requirements.** No subrecipient or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph 1 of this provision, the Subrecipient and any of its subcontractors that are responsible therefor shall be liable for the unpaid wages. In addition, the Subrecipient and its subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph 1 of this provision, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph 1 of this provision.
3. **Withholding for unpaid wages and liquidated damages.** The Federal Awarding Agency shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the Subrecipient or its subcontractor under this Agreement, or any other Federal contract with the same Subrecipient, or any other federally-assisted contract subject to the "Contract Work Hours and Safety Standards Act," which is held by the Subrecipient, such sums as may be determined to be necessary to satisfy any liabilities of such Subrecipient or its subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph 2 of this provision.
4. **Subcontracts.** The Subrecipient or its subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 4 of this provision and shall also insert a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Subrecipient shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs 1 through 4 of this provision.

Section 3: Federal Terms (For: Contracts that Exceed \$150,000)

- A. **Clean Air Act.** If this Agreement's value exceeds one hundred and fifty thousand dollars (\$150,000) in value, the Subrecipient agrees to:
1. Comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC § 7401 et seq.;

2. Report each violation to the County. Additionally, the Subrecipient hereby acknowledges that the County shall, in turn, report each violation as required to assure notification to the Federal Awarding Agency and the appropriate Environmental Protection Agency Regional Office; and
3. Include these requirements in each subcontract that exceeds one hundred and fifty thousand dollars (\$150,000) financed in whole, or in part, with federal assistance provided by the Federal Awarding Agency.

B. **Federal Water Pollution Control Act.** If this Agreement's value exceeds one hundred and fifty thousand dollars (\$150,000), the Subrecipient agrees to:

1. Comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq.;
2. Report each violation to the County. Additionally, the Subrecipient hereby acknowledges that the County shall, in turn, report each violation as required to assure notification to the Federal Awarding Agency and the appropriate Environmental Protection Agency Regional Office; and
3. Include these requirements in each subcontract that exceeds one hundred and fifty thousand dollars (\$150,000) financed in whole, or in part, with federal assistance provided by the Federal Awarding Agency.

Section 4: Federal Terms (For: Contracts that Exceed the Simplified Acquisition Threshold)

A. **Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014).** If this Agreement exceeds the Simplified Acquisition Threshold, the following applies:

1. This Agreement and employees working on this Agreement shall be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 USC § 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
2. The Subrecipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 USC § 4712, as described in section 3.908 of the Federal Acquisition Regulation.
3. The Subrecipient shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the Simplified Acquisition Threshold, which for the purposes of this Agreement is: \$250,000.

Article 25: General Provisions (Alphabetical)

A. **Assignments and Successors.** The parties deem the services to be rendered pursuant to this Agreement to be personal in nature. Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither party shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.

- B. **Attorneys' Fees and Costs.** Unless otherwise expressly stated in this Agreement, the parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Agreement and any action or proceeding arising out of or relating to this Agreement (an "Action").
- C. **Conflicts.** The Subrecipient shall comply with all applicable local, state, and federal laws, regulations, executive orders, and the policies, procedures, and directives of the Federal Awarding Agency. Should there be conflict between the various applicable laws and this Agreement, the most restrictive shall govern.
- D. **Construction and Representations.** Each party acknowledges that it has had the opportunity to be represented by counsel of such party's choice with respect to this Agreement. In view of the foregoing, and notwithstanding any otherwise applicable principles of construction or interpretation, this Agreement shall be deemed to have been drafted jointly by the parties and in the event of any ambiguity, shall not be construed or interpreted against the drafting party. Neither party has relied upon any representations or statements made by the other party to this Agreement which are not specifically set forth in this Agreement.
- E. **Counterparts and Electronic Transmission of Signatures.** This Agreement may be executed in counterparts, both of which shall be deemed an original and which taken together shall constitute one agreement. Any counterpart may be delivered by any party by electronic transmission of the full Agreement as executed by that party to the other party as mutually agreed upon by the parties, and delivery shall be effective and complete upon completion of such transmission.
- F. **Governing Law.** This Agreement shall be considered as having been entered into in the State of Florida, United States of America, and shall be construed and interpreted in accordance with the laws of that state.
- G. **Headings.** The headings or captions of articles, sections, or subsections used in this Agreement, including the Table of Contents or Table of Terms and Provisions, are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.
- H. **Jury Waiver.** Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right that party does or might have to a trial by jury related to any Action.
- I. **Remedies.** No remedy conferred upon any party in this Agreement is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.
- J. **Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant, or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

- K. **Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform under this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.
- L. **Survivorship.** Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Agreement, including, by way of example only, the indemnification and public records provisions, shall survive the expiration, cancellation, or termination of this Agreement.
- M. **Use of County and Subrecipient Logos.** Both parties are prohibited from use of any and all of the other party's emblems, logos, or identifiers without written permission from that party. For more information about the use of the County's logos, refer to Section 2-3, Orange County Code.
- N. **Venue.** Each of the parties hereby irrevocably submits to the jurisdiction of any federal or state court of competent jurisdiction sitting in Orange County, Florida, regarding any Action, and further agrees that any such Action shall be heard and determined in such Florida federal or state court. Each party hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of any Action in Orange County, Florida.
- O. **Waiver.** No delay or failure on the part of any party to this Agreement to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.
- P. **Written Modification.**
1. No modification of this Agreement shall be binding upon any party to this Agreement unless it is reduced to writing and is signed by a duly authorized representative of each party to this Agreement.
 2. Notwithstanding the above subparagraph, the parties hereby recognize that the Federal Awarding Agency may issue unilateral changes to the Federal Award that the County is permitted to unilaterally "pass-down" to the Subrecipient without formal amendment to this Agreement.
 - a. By execution of this Agreement, the parties hereby agree that the contents of the *Required Information for Federal Subawards Table* found in "Exhibit C," and as located in **Article 3 ("Federal Award Information")** and **Article 4 ("Federal Subaward Information")** are able to be unilaterally amended by the County and that such unilateral amendment shall be binding upon the parties of this Agreement so long as they are based on the Federal Awarding Agency's Notice of Award or a Federal Grant Adjustment Notice issued by the Federal Awarding Agency.
 - b. The County shall provide notice such unilateral amendments to the Subrecipient in a timely fashion to both by electronic mail to the Subrecipient Contact Person noted in **Article 2, Paragraph B ("The Parties")**, or as later re-designated pursuant to **Paragraph C** of that same Article, and in compliance with **Article 5 ("Notice")**.

3. The Subrecipient hereby agrees to work with the County in good faith to make any additional amendments to this Agreement as may be necessary pursuant to directive provided by the Federal Awarding Agency.

Article 26: Attachments

The documents provided for in the table below are hereby incorporated by both reference and attachment and therefore form a material part of this Agreement.

Attachment Name	Attachment Title
Exhibit A	Scope of Services
Exhibit B	Budget
Exhibit C	Required Information for Federal Subawards Table
Form 1	Standard Form Amendments
Form 2	Small and Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Labor Surplus Area Firm Affidavit
Form 3	Subaward Advance Terms and Affidavit
Form 4	Leased Employee Affidavit
Form 5	Certification Regarding Lobbying
Appendix Coversheet	Any additional attachments required by the Federal Awarding Agency or the County.
Attachment 1	Documentation of the County's Receipt of the Federal Award

Article 27: Entire Agreement

This Agreement, and any documents incorporated, referenced, or attached to this Agreement, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement. In regards to such subject matter, this Agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Agreement.

[SIGNATURES ON FOLLOWING PAGES]

ORANGE COUNTY, FLORIDA SIGNATURE PAGE

The County has executed this Agreement on the date set forth below.

ORANGE COUNTY, FLORIDA
By: The Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings, Orange County Mayor
Date: SEP 01 2020

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of the County Commissioners

By: *Phil Diamond*
Date: SEP 01 2020



**SUBRECIPIENT SIGNATURE
ON PAGE 32 OF 32**

SUBRECIPIENT SIGNATURE PAGE

**ORANGE COUNTY, FLORIDA'S SIGNATURE
ON PAGE 31 OF 32**

The Subrecipient has executed this Agreement on the date set forth below.

**State of Florida, Department of Health, Orange County Health
Department**

By: 
Raul Pino, MD, MPH
Administrator/Health Officer

Date: 07/31/2020

**Exhibit A
Scope of Services**

Part 1: Introduction – Social Services and Community Needs Program

On May 19, 2020, the Orange County Board of County Commissioners launched a Social Services and Community Needs Program (the “**Program**”) related to the COVID-19 pandemic. One element of the Program is to provide direct assistance to non-profit Social Services Agencies that provide necessary supplementation to the County’s response to the pandemic.

Such agencies provide social services to the Orange County, Florida community, which include, but are not limited to: child care, job retraining, homelessness, mental health services, food pantries, and other necessary social services that are in need of expansion to respond to COVID-19.

Part 2: Subrecipient Responsibilities

The Subrecipient shall use the Subaward provided by the County pursuant to this Agreement to support the “**COVID-19 Contract Tracing Project,**” which the County finds to serve as a necessary supplement to its own COVID-19 response.

1. **Project Title: COVID-19 Contact Tracing**
2. **Project Purpose and Description:**

The Florida Department of Health shall use the funding provided by the County in order to hire staff and equipment to support its COVID-19 Contract Tracing Program in Orange County, Florida (see: *Budget* attached as “**Exhibit B**” for more information).

The Contract Tracing Program staff shall:

- a. Have the responsibility of providing case interviews and contact tracing to support the county wide COVID-19 response, using a culturally respectable approach that builds trust and facilitates sharing of information between county residents, in efforts to stop the transmission of COVID-19; and
- b. Be hired or transferred from existing areas and trained to work as part of the Florida Department of Health in Orange County.

Contact Tracing Program staff will conduct phone interviews with people diagnosed with COVID-19 in Orange County, Florida. During the case interviews, such staff will gather information about the case, the case’s contacts, notify and educate any household/close contacts and/or employer and access cases and household contact needs for services to support isolation and quarantine.

Additionally, the Florida Department of Health will deploy testing, tracing, and investigation Strike Teams to areas of Orange County to limit and mitigate the spread of COVID-19.

3. **Project Goal(s):** To provide quality reporting, tracing and review of COVID-19 infected numbers (cases) within Orange County Florida in attempt to further flatten the exposure and infection curves.
4. **Objective(s):** Provide comprehensive contact tracing for reported COVID-19 positive cases in Orange County.
5. **Subrecipient Information:** Florida Department of Health – Orange (Epidemiology Program)

**Exhibit B
Budget**

Staff	Quantity	Hourly/Salary	6 month (1080 hours)	Fringe (32%)	Total
Registered Nurse	3	\$ 30.00	\$ 32,400.00	\$ 10,368.00	\$ 128,304.00
Biological Scientist III	7	25.00	\$ 27,000.00	\$ 8,640.00	\$ 249,480.00
Biological Scientist II	7	21.00	\$ 22,680.00	\$ 7,257.60	\$ 209,563.20
Government Op Consultant I	5	20.00	\$ 21,600.00	\$ 6,912.00	\$ 142,560.00
Clerks	4	15.00	\$ 16,200.00	\$ 5,184.00	\$ 85,536.00
Subtotal	26				\$ 815,443.20
Equipment:		Cost	Frequency		
Computers/Laptops	26	1,400.00	once		\$ 36,400.00
Copier	6	249.00	monthly		\$ 1,494.00
Phones	26	40.00	monthly		\$ 1,040.00
Supplies					\$ -
General Office Supplies		1,325.00	monthly		\$ 7,950.00
Miscellaneous					\$ 5,993.00
Background screening	26	50.00	once		\$ 1,300.00
					\$ -
Total					\$ 869,620.20

**Exhibit C
Required Information for Federal Subawards Table**

ALL "CFR" REFERENCES IN THE TABLE BELOW ARE TO EITHER 2 CFR § 200.331(a)(1) OR, WHEN HHS IS THE FEDERAL AWARDING AGENCY, 45 CFR § 75.352(a)(1):

CFR	Requirement	Subaward-Specific Information
(i)	Subrecipient Name	Florida Department of Health
(ii)	Subrecipient DUNS® Number:	364215061
(iii)	Federal Award Identification Number:	H.R 748, Title V, Section 5001
(iv)	Federal Award Date:	04/22/2020
(v)	Subaward Period of Performance Start and End Date:	Start: 06/15/2020 End: 12/30/2020
(vi)	Amount of Federal Funds Obligated by this action by the Pass-Through Entity to the Subrecipient:	An amount not to exceed: \$3,000,000
(vii)	Total Amount of Federal Funds Obligated to the Subrecipient by the Pass-Through entity including the current obligation:	None
(viii)	Total Amount of the Federal Award committed to the Subrecipient by the Pass-Through Entity:	This award plus \$810,000 (Ryan White).
(ix)	Federal Award project description:	COVID-19 Contact Tracing
(x)	Federal Awarding Agency	U.S. Department of the Treasury
	Pass-Through Entity:	Orange County, Florida
	Contact Information for Awarding Official of the Pass-Through Entity:	John Goodrich John.Goodrich@ocfl.net
(xi)	CFDA Number:	21.019
	CFDA Name:	Coronavirus Relief Fund
	Total amount made available to Pass-Through Entity under Federal Award:	\$243,146,628.50
(xii)	Is Federal Award for Research & Development?	No
(xiii)	Is there an Indirect Cost Rate for the Federal Award?	No

**Form 1
 Standard Form Amendments**

Please select one of the choices below.

- There are no amendments or additional provisions to the Standard Form Agreement found in this Agreement. Continue to "Form 2."
- There are amendments and/or additional provisions to the Standard Form Agreement found in this Agreement. They are as followed:

Amendments		
Article	Paragraph	Amendment
11	Entire Article	All of the terms and conditions in Article 11 ("Budget and Invoicing") as presented in this Standard Form Agreement are hereby removed and replaced with the terms and conditions found in the Amended Article 11 ("Budget and Invoicing") as attached to this form and labeled: "Form 1 Standard Form Amendments (continued)."

Additional Provisions

Pursuant to Article 1, Paragraph C, of this Agreement, the parties have agreed to the above-provided amendments to the Standard Form Agreement. Such amendments shall be held as binding upon the parties with the remainder of the Agreement remaining in full force and effect.

Burton W. Brooks
 Signature
Burton W. Brooks
 Printed Name
County Administrator
 Official Title
Orange County, Florida
 County Name
SEP 01 2020
 Date

Raul Pino
 Signature
Raul Pino, MD, MPH
 Printed Name
Administrator/Health Officer
 Official Title
Florida Department of Health
 Subrecipient Name
07/31/2020
 Date



Form 1
Standard Form Amendments (continued)

Amended Article 11: Budget and Invoicing

- A. **In General.** Budget amendments or modifications that do not meet the requirements of this Article must be made by formal written amendment to this Agreement, unless otherwise provided for in this Agreement.
- B. **Subaward Modifications.**
1. As stated in **Article 4, Paragraph A (“Federal Subaward Information”)** above, the Subaward is for an amount not to exceed **\$3,000,000**. The Subrecipient understands and agrees that the Subaward amount referred to in this Agreement is “an amount not to exceed” and does not in any way constitute a guarantee payment of that total maximum amount.
 2. The Subrecipient hereby acknowledges that the County reserves the right to unilaterally issue modifications reducing the Subaward Amount in order to ensure that the Federal Award dollars are timely spent in the most efficient and effective manner prior to the Federal Awarding Agency’s **December 30, 2020** deadline.
 3. By execution of this Agreement, the Orange County Board of County Commissioners hereby delegates the authority to make and issue such Subaward amount modifications to the Orange County Mayor or designee. Such Subaward amount modifications shall be issued to the Subrecipient pursuant to the notice provisions set forth in **Article 5 (“Notice”)**.
 4. The County shall act reasonably and in good faith when utilizing this provision, taking into account the Subrecipient’s projected fixed obligations for the remaining contract term, but the final decision shall be made in its sole discretion.
- C. **Budget.** The County has approved a *Budget* for the complete performance of the *Scope of Services* attached as **“Exhibit A.”** Such *Budget* is attached as **“Exhibit B”** and contemplates the agreed-upon level of service.
- D. **Budgeted Amount.** The **“Budgeted Amount”** for this Agreement is: **\$869,260** and shall:
1. Be the basis for which the County provides payment to the Subrecipient; and
 2. Serve as an upper limit on the amount on the total Subaward that the Subrecipient can expend without further action from the County.
- E. **Reserve Fund.** The County hereby reserves the delta between the “amount not to exceed” Subaward amount and the Budgeted Amount as a **“Reserve Fund.”** This Reserve Fund may be added to the Budgeted Amount should:
1. The County deem the provision of additional funds for increased level of service as necessary; and
 2. The Subrecipient agree to provide such increased level of service pursuant to the same terms and rates as agreed upon.

Form 1
Standard Form Amendments (continued)

F. Additional Funding Request.

1. The Subrecipient is expected to provide the agreed upon level of service within the limits of the Budgeted Amount.
2. Should the Subrecipient be on course to expend more than the Budgeted Amount prior to the end of the Agreement's term due to an unanticipated increase demand in the level of service contemplated in the *Scope of Work*, the Subrecipient may request to have its Budgeted Amount amended to add an additional amount of funding from the Reserve Fund.
3. With the exception of exigent circumstances, a transfer from the Reserve Fund to the Budgeted Amount shall only be as payment for an increased level of service.
4. Any such Additional Funding Request shall be provided to the County no later than forty five (45) days prior to when the Subrecipient anticipates that its spending shall exceed the Budgeted Amount pursuant to **Article 5**.
5. The County Mayor or designee must provide written approval for the transfer of funding from the Reserve Fund to the Budgeted Amount and such written approval shall serve as a binding amendment to the Budgeted Amount.
6. The County shall not be responsible to the Subrecipient for any expenses that the Subrecipient incurred or made that were in excess of the most recently approved Budgeted Amount without the Subrecipient having first obtained the requisite written approval.
7. The Subrecipient shall not incur any obligations regarding the funds in the Reserve Fund.
8. The County has no obligation to agree to transfer any funding from the Reserve Fund to the Budgeted Amount.

G. Line Item Budget Amendments. The Subrecipient may, in writing, request line-item amendments to the *Budget* or any amended budget.

1. The Awarding Official Contact noted in **Article 2, Paragraph B ("The Parties")**, or as later re-designated pursuant to **Paragraph C** of that same Article, may, in writing, approve any line-item amendments to the Budget that are requested by the Subrecipient so long as:
 - a. Any such requested amendments do not increase the amount reflected in the budget; and
 - b. The cost of any changes, modifications, change orders, and all other constructive changes to the *Budget* must be allowable, allocable, within the scope of the Federal Award, and reasonable for the completion of the *Scope of Services* attached as "**Exhibit A.**"
2. The Awarding Official Contact is in no way obligated to approve any such line-item amendments.

Form 1
Standard Form Amendments (continued)

H. Invoices.

1. **General Invoices.** Invoices shall be delivered to the County in a form approved, in writing, by the Awarding Official Contact noted in **Article 2, Paragraph B (“The Parties”)**, or as later re-designated pursuant to **Paragraph C** of that same Article. Unless otherwise stated in the *Scope of Services*, which hereby overwrites the frequency and due date of invoices noted in this provision if there is a conflict between the two, invoices are due as followed:
 - a. The period for submission of general invoices shall be **monthly** with such invoices due to the County by the **15th of the month subsequent to the provision of services** for which the County is being invoiced; and
 - b. **Final Invoices.** Final invoices shall be due to the County by **January 15, 2020.**

2. **Federal Attestation.** Pursuant to 2 CFR § 200.415(a) (or, for HHS awards: 45 CFR § 75.415) (“**Required Certifications**”), the County is required to attest to the Federal Awarding Agency that all expenditures (including those made pursuant to this Subaward) were proper and in accordance with the terms and conditions of the Federal award and approved project budgets (if any). Accordingly, all invoices from the Subrecipient to the County must include the following executed attestation:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal Award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Sections 3729-3730 and 3801-3812).”

3. The County reserves the right to withhold or deny payment of any invoice if such invoice:
 - a. Is incomplete or fails to provide the requisite supporting documentation;
 - b. Fails to be provided in a timely fashion as determined by the terms of this Agreement; or
 - c. Indicates expenditures that are not compliant with this Agreement, the Federal Award, or any directives issued by the Federal Awarding Agency.

BCC Mtg. Date: September 1, 2020

Form 2
Small and Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Labor
Surplus Area Firm Affidavit

Please select one of the choices below.

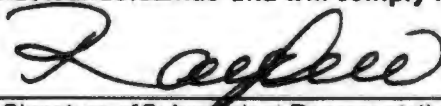
- The Subrecipient will not be subcontracting or making any procurements pursuant to this Agreement and understands that should that change during the course of the Subrecipient's performance under this Agreement, that it must receive written permission from the County Awarding Official and complete the affidavit below. Continue to "Form 3."
- The Subrecipient will be subcontracting, making procurements, or both, pursuant to this Agreement and therefore the Subrecipient hereby executes the following affidavit:

AFFIDAVIT OF COMPLIANCE WITH
2 CFR § 200.321 (or, for HHS awards: 45 CFR § 75.330)

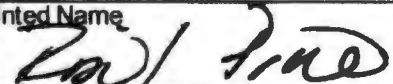
The undersigned hereby certifies on behalf of the Subrecipient, that:

- A. When selecting subcontractors and making procurements with the Subaward, the Subrecipient shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus firms are used whenever possible while expending the Subaward.
- B. Pursuant to 2 CFR § 200.321 (or, for HHS awards: 45 CFR § 75.330), such affirmative steps must include:
1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
 5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- C. The Subrecipient understands that it must pass this obligation down to its subcontractors (if any).

Pursuant to the binding authority granted to the undersigned, the Subrecipient hereby certifies that it understands and will comply with its obligations as stated in this affidavit.



Signature of Subrecipient Representative
Raul Pino, MD, MPH

Printed Name


Administrator/Health Officer

Official Title
09/01/2020

Date



Form 3
Subaward Advance Terms and Affidavit

Please select one of the choices below.

- The Subrecipient will not be receiving funds in advance pursuant to this Subrecipient Agreement. Continue to "Form 4."
- The Subrecipient will be receiving an advance of the Subaward pursuant to this Subrecipient Agreement and, therefore, the therefore hereby executes the following affidavit agreeing to the terms of such advance:

Part 1: Subaward Advance Terms

- A. 2 CFR 200.305(b) (or, for HHS awards: 45 CFR 75.305(b)) ("**Payment**") permits the County to issue advance payments of the Subaward to the Subrecipient as long as such advanced payments are: (1) limited to the minimum amounts needed; and (2) timed to be in accordance with the actual, immediate cash requirements of the Subrecipient in carrying out the *Scope of Work*.
- B. As such, the following "**Subaward Advance Budget**" was prepared:

- C. Based upon the foregoing, the County shall issue an advance of \$_____ at the beginning of the Agreement's term, or when such advance is agreed upon by the parties in writing. **All advanced Subaward funds must be spent no later than thirty (30) calendar days from the Subrecipient's receipt of the advance.**
- D. **Subaward Advance Reconciliation.**
1. The Subrecipient shall provide the County with a *Subaward Advance Reconciliation Report* with all documentation necessary (paid invoices, receipts, etc.) showing that the advance was appropriately spent no later than forty-five (45) calendar days after the Subrecipient receives the advance of the Subaward.
 2. Such *Subaward Advance Reconciliation Report* must be: (a) executed by the Subrecipient's authorized representative; and (b) include the federal attestation language outlined in **Article 11, Paragraph B.2. ("Budget and Invoicing")**.
 3. If the Subrecipient failed to expend all of the advanced Subaward funds within the thirty (30) days provided, the balance of unspent funds shall be deducted from subsequent invoices received by the County until it is fully exhausted. Any such advanced funds remaining at the end of the Agreement's term must be returned to the County.

Form 3
Subaward Advance Terms and Affidavit (Continued)

4. The County reserves its right to suspend any further payments to the Subrecipient until it receives a sufficient *Subaward Advance Reconciliation Report* from the Subrecipient. Nothing in this **Form 3** should be construed as limiting the County from pursuing any additional remedies contemplated in the Agreement or at law.
- E. The Subrecipient shall comply with all terms found in the Agreement regarding advances, including but not limited to, those found in **Article 12, Paragraph I ("Payment Terms")** and shall provide evidence to the County that it has obtained the Fidelity & Employee Dishonesty Insurance as contemplated therein.

Part 2: Subaward Advance Affidavit

The undersigned hereby certifies on behalf of the Subrecipient, that:

2. The Subrecipient understands and will comply with the *Subaward Advance Terms* provided in **Part 1** above.
3. The *Subaward Advance Budget* provided for in **Part 1** above is a true and accurate representation of the Subrecipient's actual, immediate cash requirements for carrying out the *Scope of Work*.
4. The Subrecipient shall comply with 2 CFR § 200.305(b) (or, for HHS awards: 45 CFR § 75.305(b)) and therefore shall maintain written procedures that minimize the time elapsing between: (1) the transfer of funds by the County to the Subrecipient, and (2) the Subrecipient's disbursement of such funds for direct project costs and the proportionate share of any allowable indirect costs.
5. The Subrecipient has reviewed 2 CFR § 200.305(b) (or, for HHS awards: 45 CFR § 75.305(b)) and maintains financial management systems that comply with the standards therein for fund control and accountability.
6. The Subrecipient shall make timely payment to its contractors, vendors, and any agencies providing services to the Subrecipient pursuant to the Agreement.
7. Should the Subrecipient be found to have mismanaged the Subaward advanced by the County, the County may consider such mismanagement cause for termination of the Agreement.

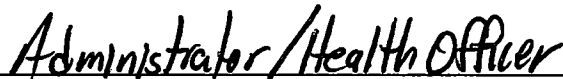
Pursuant to the binding authority granted to the undersigned, the Subrecipient hereby certifies that it understands and will comply with its obligations as stated in this affidavit.



Signature of Subrecipient Representative

Raul Pino

Printed Name



Official Title

7-31-2020

Date

**Form 4
Leased Employee Affidavit**

Please select one of the choices below.

- The Subrecipient will not be using an employee leasing arrangement and therefore is not obligated to complete the below Leased Employee Affidavit pursuant to **Article 18, Paragraph C.1.** of this Agreement. Continue to "Form 5."
- The Subrecipient will be using an employee leasing arrangement and therefore hereby executes the following affidavit:

LEASED EMPLOYEE AFFIDAVIT

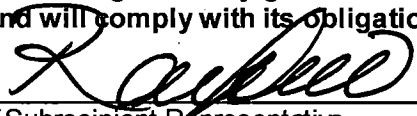
The undersigned hereby certifies on behalf of the Subrecipient, that:

- A. The Subrecipient hereby certifies that it has workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____
Workers' Compensation Carrier: _____
A.M. Best Rating of Carrier: _____
Inception Date of Leasing Arrangement: _____

- B. The Subrecipient understands that its contract with the employee leasing company limits its workers' compensation coverage to enrolled worksite employees only and that the Subrecipient's leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure. Accordingly, the Subrecipient affirms that 100% of its workers are covered as worksite employees with the employee leasing company.
- C. The Subrecipient further certifies that it does not hire any casual or uninsured labor outside the employee leasing arrangement and hereby agrees to notify the County in the event that it has any workers not covered by the employee leasing workers' compensation policy. In the event that the Subrecipient has any workers not subject to the employee leasing arrangement, the Subrecipient hereby agrees to obtain a separate workers' compensation policy to cover such workers. The Subrecipient further agrees to provide the County with a certificate of insurance providing proof of workers' compensation coverage prior to such workers entering the County's worksite or performing any obligation pursuant to this Agreement.
- D. The Subrecipient hereby agrees to notify the County if its employee leasing arrangement terminates with the employee leasing company and it understands that it is required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement and further agrees to notify the County in the event that it switches employee-leasing companies.
- E. The Subrecipient hereby acknowledges that it has an obligation to supply an updated workers' compensation certificate to the County that documents the change of carrier.

Pursuant to the binding authority granted to the undersigned, the Subrecipient hereby certifies that it understands and will comply with its obligations as stated in this affidavit.



Signature of Subrecipient Representative
Raul Pino

Printed Name

Administrator/Health Officer

Official Title
7-31-2020

Date

**Form 5
Certification Regarding Lobbying**

Please select one of the choices below.

- The Subaward does not exceed one hundred thousand dollars (\$100,000). Continue to the "Appendix."
- The Subaward does exceed one hundred thousand dollars (\$100,000) and therefore, the Subrecipient hereby executes the following *Certification Regarding Lobbying* as required by 31 USC § 1352:

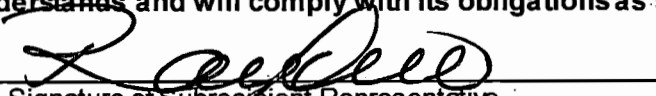
Part 1: Certification for Contracts, Grants, Loans, and Cooperative Agreements. The undersigned certifies on behalf of the Subrecipient that:

- A. No Federal appropriated funds have been paid or shall be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- C. The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Part 2: Statement for Loan Guarantees and Loan Insurance. The undersigned certifies on behalf of the Subrecipient that:

- A. If any funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- B. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Pursuant to the binding authority granted to the undersigned, the Subrecipient hereby certifies that it understands and will comply with its obligations as stated in both Part 1 and Part 2 this certification.



Signature of Subrecipient Representative
Raul Pino, MD, MPH
Raul Pino

Printed Name

Administrator/Health Officer

Official Title
07/31/2020

Date

Appendix Coversheet

Please select one of the choices below.

- There are no additional documents to be attached to this Agreement. Accordingly, there will be no Appendix to this Agreement.

- Attached to this “**Appendix Coversheet**” are any additional documents required by the Federal Awarding Agency or the County in regards to this Agreement. They are as followed:

Appendix No.	Document Title

Attachment 1
Documentation of the County's Receipt of the Federal Award

Please see the following pages marked "Attachment 1" for the Documentation of the County's Receipt of the Federal Award.

Attachment 1

Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments Updated June 30, 2020¹

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.²

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the

¹ This version updates the guidance provided under “Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020”.

² See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

Attachment 1

cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID-19 public health emergency during the covered period.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period, but not otherwise.

Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient’s usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, *e.g.*, the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19 public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient’s control.

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This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
 - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - Costs of providing COVID-19 testing, including serological testing.
 - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
 - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
 - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
 - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - Expenses for public safety measures undertaken in response to COVID-19.
 - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

Attachment 1

- Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
 6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures³

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.⁴
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

³ In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

⁴ See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

Attachment 1

Coronavirus Relief Fund Frequently Asked Questions Updated as of July 8, 2020

The following answers to frequently asked questions supplement Treasury's Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, ("Guidance").¹ Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

Eligible Expenditures

Are governments required to submit proposed expenditures to Treasury for approval?

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the "substantially dedicated" condition?

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a "substantially different use" for purposes of the Fund eligibility?

Costs incurred for a "substantially different use" include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

Note that a public function does not become a "substantially different use" merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

¹ The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

Attachment 1

May a State receiving a payment transfer funds to a local government?

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

May a unit of local government receiving a Fund payment transfer funds to another unit of government?

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

Are States permitted to use Fund payments to support state unemployment insurance funds generally?

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

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Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

Attachment 1

May Fund payments be used for COVID-19 public health emergency recovery planning?

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

Are expenses associated with contact tracing eligible?

Yes, expenses associated with contract tracing are eligible.

To what extent may a government use Fund payments to support the operations of private hospitals?

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

May recipients create a "payroll support program" for public employees?

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

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May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a "small business," and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

May Fund payments be used to assist impacted property owners with the payment of their property taxes?

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

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Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of "hazard pay"?

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

The Guidance provides that ineligible expenditures include "[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency." Is this intended to relate only to public employees?

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers' employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

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Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

May a State impose restrictions on transfers of funds to local governments?

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

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May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

May recipients use Fund payments to provide loans?

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

May funds be used to satisfy non-federal matching requirements under the Stafford Act?

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to

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the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?

The statute requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As stated in the Guidance, a cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.

Questions Related to Administration of Fund Payments

Do governments have to return unspent funds to Treasury?

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

What records must be kept by governments receiving payment?

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A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

May recipients deposit Fund payments into interest bearing accounts?

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

May governments retain assets purchased with payments from the Fund?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

Are Fund payments to State, territorial, local, and tribal governments considered grants?

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are "other financial assistance" under 2 C.F.R. § 200.40.

Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Are Fund payments subject to other requirements of the Uniform Guidance?

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?

Yes. The CFDA number assigned to the Fund is 21.019.

If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients' total funding received from the federal government for purposes of the Single Audit Act?

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-

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specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.

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Payments to States and Eligible Units of Local Government

Colorado	Total allocation	\$2,233,011,164.20
	<i>Eligible local governments that certified:</i>	
	Adams County	\$90,285,974.40
	Arapahoe County	\$114,569,891.70
	Denver city	\$126,892,711.70
	El Paso County	\$125,704,768.20
	Jefferson County	\$101,708,239.70
	Payment to the state	\$1,673,849,578.50
Connecticut	Total allocation and payment to the state	\$1,382,477,973.40
Delaware	Total allocation	\$1,250,000,000.00
	<i>Eligible local governments that certified:</i>	
	New Castle County	\$322,766,668.80
	Payment to the state	\$927,233,331.20
Florida	Total allocation	\$8,328,221,072.10
	<i>Eligible local governments that certified:</i>	
	Brevard County	\$105,034,237.20
	Broward County	\$340,744,702.30
	Hillsborough County	\$256,847,065.00
	Jacksonville city/Duval County	\$167,120,861.80
	Lee County	\$134,459,744.20
	Miami-Dade County	\$474,085,078.50
	Orange County	\$243,146,628.50
	Palm Beach County	\$261,174,822.80
	Pasco County	\$96,659,479.80
	Pinellas County	\$170,129,283.40
	Polk County	\$126,467,997.40
	Volusia County	\$96,543,791.40
	Payment to the state	\$5,855,807,379.80
Georgia	Total allocation	\$4,117,018,751.10
	<i>Eligible local governments that certified:</i>	
	Atlanta city	\$88,434,611.30
	Cobb County	\$132,638,742.70
	DeKalb County	\$125,341,475.20
	Fulton County	\$104,364,186.80
	Gwinnett County	\$163,368,405.20
	Payment to the state	\$3,502,871,329.90
Hawaii	Total allocation	\$1,250,000,000.00
	<i>Eligible local governments that certified:</i>	
	Honolulu County	\$387,176,021.20