



Board of Commissioners

Jason W. Boyd, Administrator

lakecountyohio.gov

MEMO

TO: Mayor Vanni

FROM: Jason W. Boyd, County Administrator

RE: *ARPA project approval memo: E 327th Sewer Rehab: Next Steps*

DATE: Thursday, May 04, 2023

Please find the following documents and instructions for the administration of the approved ARPA project:

1. Subrecipient Agreement
 - a. Please sign the Subrecipient Agreement where noted.
 - i. Please fill in pertinent information on p. 2 and p. 3 where applicable.
 - b. Exhibit C shall be incorporated in each contract of subcontract entered into in connection with the Project.
 - i. All contracts and Subcontracts shall be submitted to the County for review by legal counsel to ensure ARPA compliance. Of note, this included the requirement to follow Federal Procurement guidelines and State Prevailing Wage (see Exhibit B).
 - c. Please complete the "American Rescue Plan Procurement Checklist" during the process.
2. Funds will be provided to the City on a reimbursement basis. The City will be required to ensure the appropriate support material and prevailing wage information is correct prior to payment. The County has a prevailing wage officer should you need assistance.
3. Please include the County Administrator in initial project coordination meetings.
4. **Please return the executed original document to the County Administrator.**

**AGREEMENT BETWEEN LAKE COUNTY, OHIO AND THE CITY OF WILLOWICK, OHIO
FOR THE EAST 327TH STREET SEWER REHABILITATION, PHASE II PROJECT**

THIS AGREEMENT, is entered this 4/11 day of May, 2023 by and between the County of Lake, Ohio (herein called the “Grantee”) and the City of Willowick, Ohio (herein called the “Subrecipient”).

WHEREAS, the Grantee has applied for and received funds from the U.S. Department of Treasury under the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”), established by the American Rescue Plan Act of 2021 (“ARPA”); and

WHEREAS, the U.S. Department of Treasury has issued its Final Rule (the “Rule”) to implement the SLFRF under ARPA, which among other provisions, sets forth the eligible purposes for which ARPA funds may be used and conditions under which the expenditures may be made; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing its ARPA funds to carry out part of the Grantee’s award; and

WHEREAS, the ARPA funds made available for use by the Subrecipient under this Agreement constitute a subaward of the Grantee’s federal award, and the use of such ARPA funds must be in accordance with requirements imposed by the Rule and any other related Federal statutes, regulations, and the terms and conditions of the Grantee’s federal award;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. Activities

As a condition to receiving the subaward under this Agreement, the Subrecipient shall administer the ARPA funds granted hereunder, which includes performing all of the work described in this Section. The Subrecipient will be responsible to work with and under the direction of the Lake County Commissioners in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing the ARPA funds provided for herein. Subrecipient shall only carry out the activities described in this Agreement. Such program will include the following activities eligible under the American Rescue Plan Act of 2021:

The Subrecipient has caused to be submitted to the Grantee a funding request to pay a portion of the costs of constructing and installing improvements to rehabilitate the existing sanitary sewer main and sanitary sewer laterals within the right-of-way of East 327th Street in the City of Willowick and necessary related appurtenances thereto and further described in Exhibit A, attached hereto and incorporated herein by reference, in Lake County, Ohio (such improvements described in Exhibit A referred to herein as the “Activity” or the “Improvements”).

B. General Administration/Eligibility for ARPA Funding

Eligible Use Category. The parties agree that the Activity is eligible for ARPA funding under the category referred to under the Rule under the category: “Making necessary investments in water, sewer and broadband infrastructure”. The estimated cost of the Improvements to be funded by ARPA funding is \$410,000.00. Eligibility for the Activity under ARPA is further defined and described in the Memorandum set forth in Attachment I hereto and incorporated by reference hereby.

C. Program Delivery

The Subrecipient hereby agrees to utilize funds made available to it under this Agreement for the construction and installation of the sanitary sewer improvements (comprising the Improvements) as detailed in Exhibit A attached hereto.

All activities funded with ARPA funds must meet one of the ARPA program’s objectives:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control.
- Replace lost revenue for eligible state, local, territorial, and Tribal governments to strengthen support for vital public services and help retain jobs.
- Support immediate economic stabilization for households and businesses.
- Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic.
- As further described above, the parties hereby agree that the Activity meets the goal of the third and fourth bullet points above.

D. Levels of Accomplishment – Goals and Performance Measures

The levels of accomplishment may include such measures as units rehabbed, persons or households assisted, or meals served, building improvements installed and should also include timeframes for performance.

The Subrecipient agrees to provide the following:

<u>Activity</u>	<u>Performance Goal</u>	<u>Timeframe for Completion</u>
Activity #1	Construction of the Improvements	December 2024

E. Staffing

The staff of the Grantee will work closely with the key personnel from the Subrecipient assigned to carry out the activities under this Agreement to ensure program compliance. The Lake County Commissioners’ Office and Lake County Planning and Community Development Department will be responsible for the training of said personnel in the administration of said program.

Key Personnel:

Mayor Michael Vanni, City of Willowick, Ohio

F. Performance Monitoring and Reporting

The Grantee will monitor the performance of the Subrecipient against goals and performance standards as stated above and in accordance with regulations on Subrecipient Monitoring and management (2 CFR 200.330- 2CFR 200.332), to ensure Subrecipient compliance with all of the requirements of this Agreement. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures may be initiated.

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The Subrecipient shall submit regular progress and financial reports to the Grantee on a quarterly basis, or such other periodic basis as mutually agreed to in writing by the parties hereto.

II. TIME OF PERFORMANCE

The period of performance for Subrecipient, meaning the time during which Subrecipient may incur new obligations to carry out the Activity under this Agreement, shall start on the 1st day of June 2023 and end on the 31st day of December 2024. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Subrecipient remains in control of ARPA funds.

III. BUDGET

<u>Line Items</u>	<u>Amount ARPA Funds:</u>
Salaries	\$ 0.00
Fringe	0.00
Office Space	0.00
Communications	0.00
Reproduction/Printing	0.00
Supplies and Materials	0.00
Mileage	0.00
Audit	0.00
Indirect Costs (Specify)	0.00
Construction	\$410,000.00
Administrative	\$0.00
TOTAL	\$410,000.00

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C)(2) of this Agreement. In addition, the Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to the budget must be approved in writing by both the Grantee and the Subrecipient. [No amounts in the budget shall be used to pay architectural or engineering services related to the Project.]

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed \$410,000.00. Drawdowns for the payment of eligible expenses will be made on a reimbursement basis (a "Reimbursement Draw"), or Subrecipient shall submit to Grantee requests for payment of Activities under this Agreement and consistent with the approved budget (a "Request for Payment"). Each Reimbursement Draw or Request for Payment shall be broken down into requested draws and shall be made against the line-item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line-item budgets specified in Paragraph III and in accordance with performance.

The Grantee shall pay to the Subrecipient ARPA funds available under this Agreement based on information submitted by the Subrecipient for allowable costs permitted under this Agreement and

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consistent with the approved budget. With the exception of advances, payments will be made for eligible expenses actually incurred by Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts.

Payment will be made upon submission by the Subrecipient of a properly executed Reimbursement Draw or Request for Payment, as applicable, together with all supporting invoices, bills, time sheets or other documents necessary to justify and substantiate payment. This includes verification of prevailing wage compliance. The Reimbursement Draw or Request for Payment must also be accompanied by documentation from the Subrecipient demonstrating that all procurements for which payment is requested have been made in accordance with this Agreement.

Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 CFR 200.302-305, 200.327, 200.402-411 and 24 CFR 570.502.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via commercial courier, or personal delivery or sent by electronic mail. Any notice delivered or sent as aforesaid shall be effective on the date of delivery. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

Grantee
Jason Boyd
County Administrator
County of Lake, Ohio
105 Main Street, Suite 513
Painesville, OH 44077
440-350-2745
Jason.boyd@lakecountyohio.gov

Subrecipient
Michael Vanni
Mayor
City of Willowick, Ohio
30435 Lake Shore Blvd.
Willowick, OH 44095
440-585-3700
email: mvanni@cityofwillowick.com

VI. SPECIAL CONDITIONS (N/A)

VII. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of the Rule and the "Lake County, Ohio American Rescue Plan Act Guidance: Uniform Administrative Requirements" and "Lake County ARP Procurement Policy" attached hereto as Exhibit B and incorporated by reference hereby.

The Subrecipient hereby acknowledges that the Project is subject to Ohio Prevailing Wage Laws. Further, Subrecipient shall include or cause to be included in each contract and subcontract issued in connection with the construction of the Project the provisions set forth in Exhibit C hereof, such provisions, to the extent not otherwise provided for herein, are deemed incorporated herein by reference.

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The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Contractor

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance, as the Subrecipient is an independent contractor.

C. Hold Harmless

The Subrecipient shall be responsible for any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient’s performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers’ Compensation

The Subrecipient shall provide Workers’ Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

Workers Compensation Insurance coverage is required for all contractors involved with projects utilizing funds from this grant.

E. Insurance & Bonding

The Subrecipient shall carry or cause to be carried sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Subrecipient shall comply with or cause its construction agent to comply with the bonding and insurance requirements of 2 CFR 200.310, and 2 CFR 200.326, Bonding and Insurance.

F. Grantee Recognition

The Subrecipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee’s governing

body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

H. Suspension or Termination

In accordance with Department of Treasury and local guidance, the Grantee may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and ARPA guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Subrecipient to the Grantee reports that are incorrect or incomplete in any material respect.

I. Subrogation

In consideration of Subrecipient's receipt of funds from the Grantee, Subrecipient hereby assigns to the Grantee all of its future rights to reimbursement and all payments received from any grant, subsidized loan, or insurance policies of any type or coverage or under any reimbursement or relief under any federal program to the extent of proceeds paid to Subrecipient under this Agreement and that are determined in the sole discretion of the Grantee to be a "Duplication of Benefits" ("DOB"). Upon receiving any DOB proceeds, Subrecipient agrees to immediately notify the Grantee. If some or all of the proceeds are determined to be a DOB, the portion that is a DOB shall be paid to the Grantee forthwith.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with 2 CFR 200.302-305, 200.327, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles [Reserved]

3. Documentation and Record Keeping

The Subrecipient shall maintain all records required by the Federal regulations that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets the objectives of the ARPA program;
- c. Records required to determine the eligibility of activities;
- d. Records documenting compliance with the fair housing and equal opportunity, as applicable;
- e. Financial records as required by 2 CFR 200.302-305, 200.327; and
- f. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.
- g. Where applicable, the subrecipient shall be responsible for contractor/ subcontractor activity on HUD forms (2516).
- h. Subrecipient is responsible for submitting performance reports and accomplishments on forms provided by Grantee.
- i. Records demonstrating adherence to the ARPA procurement policies.

4. Retention

The Subrecipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years.

Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

5. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

6. Close-outs

The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts

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receivable to the Grantee), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over ARPA funds, including program income.

7. Audits & Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning subrecipient audits and 2 CFR Part 200, Subpart F.

B. Reporting and Payment Procedures

1. Program Income

Where applicable, the Subrecipient shall report “monthly” all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with ARPA funds made available under this contract. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504 and 2 CFR 200.307. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient’s share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

Payment hereunder shall be made in accordance with the provisions of Paragraph IV. hereof.

4. Progress Reports

The Subrecipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee. These reports shall accompany any Request for Payment or Reimbursement Draw as noted in Paragraph IV hereof.

C. Procurement

1. Compliance

The Subrecipient shall comply with Federal Procurement under 2 C.F.R. Part 200/Uniform Guidance Conformity and current Grantee policy (“Lake County, Ohio American Rescue Plan Act Guidance: Uniform Administrative Requirements” and “Lake County ARP Procurement Policy”) and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this Agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 570.502, and 2 CFR 200.317-327.

3. Travel

The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

D. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR 570.502, 570.503, 570.504 and 2 CFR 200.310-311, as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the Grantee any ARPA funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment).

Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Grantee for the ARPA program or (b) retained after compensating the Grantee an amount equal to the current fair market value of the equipment less the percentage of non-ARPA funds used to acquire the equipment.

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

If applicable, the Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing

the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086, and all applicable state and local laws.

2. Nondiscrimination

The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279, and 2 CFR 200.300.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Subrecipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action

1. Approved Plan

The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

2. Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract as specified in 2 CFR 200.321. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

Where applicable, the Subrecipient is also required to submit Form U.S. Department of Housing and Urban Development Form 2516 ("Contract and Subcontract Activity").

3. Access to Records

The Subrecipient shall furnish and cause each of its own construction agents, subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, ARPA or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Subrecipient agrees to comply with the requirements of Ohio Prevailing Wage guidelines and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

Where applicable, the Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. “Section 3” Clause

The parties hereto do not anticipate any activities under the Programs will entail a need to comply with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 75.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of the construction agency agreement with the Construction Agent and any subcontract executed in the performance of this Agreement.

d. Selection Process

The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611, and 2 CFR 200.112, 200.318, which include (but are not limited to) the following:

- a. The Subrecipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to ARPA-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the ARPA-assisted activity, or with respect to the proceeds from the ARPA-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

5. Lobbying

The Subrecipient hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 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 will 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, it will

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complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions; and

- c. It will require that the language of paragraph (d) 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. Lobbying Certification

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.C. 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.

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization, and activities will be consistent with 24 CFR 5.109.

8. Debarment, Suspension, Ineligibility, and Voluntary Exclusion

In order to participate in this Agreement, the Subrecipient hereby certifies that it and/or its owners/officers have not been debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by a federal department or agency.

The Subrecipient shall, include without modification the Certification language, entitled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions” with all subgrantees or other contractors; in all lower tier covered transactions and in all solicitations for lower tier covered transactions in accordance with 45 CFR part 76.

XI. ENVIRONMENTAL CONDITIONS

All construction or rehabilitation projects shall receive approval from the Grantee prior to begin the activities described in this contract to ensure the proper environmental and historic documentation is completed. The Subrecipient shall provide the location of all construction or rehabilitation activities.

A. Air and Water

When applicable, the Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Grantee and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Subrecipient with respect to this Agreement.

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SUBRECIPIENT AGREEMENT:
AMERICAN RESCUE PLAN ACT OF 2021

Date May 4, 2025

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

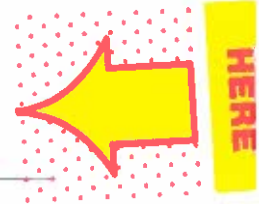
Board of Lake County Commissioners, County of Lake, Ohio **City of Willowick, Ohio**

By: *John R. Hamercheck*

Name: John R. Hamercheck
Its: President

By: _____

Name: Michael Vanni
Its: Mayor



Attest: *Jennifer Bell*

Attest: _____

Countersigned: *Michael Vanni*
Budget Director (attesting that ARPA funds are available for this eligible activity)

Countersigned: *[Signature]*
Lake County Assistant County Prosecutor (attesting that project is eligible under ARPA funds)

EXHIBIT A

Improvements Description

EXHIBIT B

**Lake County, Ohio American Rescue Plan Act Guidance: Uniform Administrative Requirements
and Lake County ARP Procurement Policy**





Lake County, Ohio American Rescue Plan Act (ARP) Guidance:

Uniform Administrative Requirements

July 2021

Overview

The SLFRF awards are generally subject to the requirements set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200

Financial Management

The County identifies, in its accounts, of all Federal Awards received and expended and the Federal Programs under which they were received. Federal program and Federal Award identification must include, as applicable, the Assistance Listings title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements.

Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

Effective control over, and accountability for, all funds, property, and other assets. The County will adequately safeguard all assets and assure that they are used solely for authorized purposes.

Comparison of expenditures with budget amounts for each Federal award.

Written procedures to implement the requirements.

Written procedures for determining the allowability of costs in accordance with the terms and conditions of the Federal award.

Internal Controls

Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the County is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.

Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.

Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.

Cost Sharing or Matching

For all Federal awards, any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, must be accepted as part of the County's cost sharing or matching when such contributions meet all of the following criteria:

- (1) Are verifiable from the non-Federal entity's records;
- (2) Are not included as contributions for any other Federal award;
- (3) Are necessary and reasonable for accomplishment of project or program objectives;
- (4) Are allowable under subpart E of this part;
- (5) Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
- (6) Are provided for in the approved budget when required by the Federal awarding agency; and
- (7) Conform to other provisions of this part, as applicable.

(b) Unrecovered indirect costs, including indirect costs on cost sharing or matching may be included as part of cost sharing or matching only with the prior approval of the Federal awarding agency. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under the non-Federal entity's approved negotiated indirect cost rate.

(c) Values for non-Federal entity contributions of services and property must be established in accordance with the cost principles in subpart E of this part. If a Federal awarding agency authorizes the non-Federal entity to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching must be the lesser of paragraph (c)(1) or (2) of this section.

(1) The value of the remaining life of the property recorded in the non-Federal entity's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, the Federal awarding agency may approve the use of the current fair market value of the donated property, even if it exceeds the value described in paragraph (d)(1) of this section at the time of donation.

(d) Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for third-party volunteer services must be consistent with those paid for similar work by the non-Federal entity. In those instances in which the required skills are not found in the non-Federal entity, rates must be consistent with those paid for similar work in the labor market in which the non-Federal entity competes for the kind of services involved. In

either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation.

(e) When a third-party organization furnishes the services of an employee, these services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and indirect costs at either the third-party organization's approved federally-negotiated indirect cost rate or provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made.

(f) Donated property from third parties may include such items as equipment, office supplies, laboratory supplies, or workshop and classroom supplies. Value assessed to donated property included in the cost sharing or matching share must not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for third-party-donated equipment, buildings and land for which title passes to the non-Federal entity may differ according to the purpose of the Federal award, if paragraph (g)(1) or (2) of this section applies.

(1) If the purpose of the Federal award is to assist the non-Federal entity in the acquisition of equipment, buildings or land, the aggregate value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the Federal award is to support activities that require the use of equipment, buildings or land, normally only depreciation charges for equipment and buildings may be made. However, the fair market value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the Federal awarding agency has approved the charges. .

(h) The value of donated property must be determined in accordance with the usual accounting policies of the non-Federal entity, with the following qualifications:

(1) The value of donated land and buildings must not exceed its fair market value at the time of donation to the non-Federal entity as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the non-Federal entity as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) (Uniform Act) except as provided in the implementing regulations at 49 CFR part 24, "Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally-Assisted Programs".

(2) The value of donated equipment must not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment must not exceed its fair rental value.

(i) For third-party in-kind contributions, the fair market value of goods and services must be documented and to the extent feasible supported by the same methods used internally by the non-Federal entity.

(j) For IHEs, see also OMB memorandum M-01-06, dated January 5, 2001, Clarification of OMB A-21 Treatment of Voluntary Uncommitted Cost Sharing and Tuition Remission Costs.

Program Income

(a) General. Non-Federal entities are encouraged to earn income to defray program costs where appropriate.

(b) Cost of generating program income. If authorized by Federal regulations or the Federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the Federal award.

(c) Governmental revenues. Taxes, special assessments, levies, fines, and other such revenues raised by a non-Federal entity are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income.

(d) Property. Proceeds from the sale of real property, equipment, or supplies are not program income; such proceeds will be handled in accordance with the requirements of the Property Standards or as specifically identified in Federal statutes, regulations, or the terms and conditions of the Federal award.

(e) Use of program income. If the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award, or give prior approval for how program income is to be used, paragraph (e)(1) of this section must apply. For Federal awards made to IHEs and nonprofit research institutions, if the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award how program income is to be used, paragraph (e)(2) of this section must apply. In specifying alternatives to paragraphs (e)(1) and (2) of this section, the Federal awarding agency may distinguish between income earned by the recipient and income earned by subrecipients and between the sources, kinds, or amounts of income. When the Federal awarding agency authorizes the approaches in paragraphs (e)(2) and (3) of this section, program income in excess of any amounts specified must also be deducted from expenditures.

(1) Deduction. Ordinarily program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the Federal awarding agency authorizes otherwise. Program income that the non-Federal entity did not anticipate at the time of the Federal award must be used to reduce the Federal award and non-Federal entity contributions rather than to increase the funds committed to the project.

(2) Addition. With prior approval of the Federal awarding agency (except for IHEs and nonprofit research institutions, as described in this paragraph (e)) program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award.

(3) Cost sharing or matching. With prior approval of the Federal awarding agency, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award remains the same.

(f) Income after the period of performance. There are no Federal requirements governing the disposition of income earned after the end of the period of performance for the Federal award, unless the Federal awarding agency regulations or the terms and conditions of the Federal award provide otherwise. The Federal awarding agency may negotiate agreements with recipients regarding appropriate uses of income earned after the period of performance as part of the grant closeout process.

(g) License fees and royalties. Unless the Federal statute, regulations, or terms and conditions for the Federal award provide otherwise, the non-Federal entity is not accountable to the Federal awarding agency with respect to program income earned from license fees and royalties for copyrighted material,

patents, patent applications, trademarks, and inventions made under a Federal award to which 37 CFR part 401 is applicable.

Insurance Coverage

The non-Federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.

Real Property

(a) Title. Subject to the requirements and conditions set forth in this section, title to real property acquired or improved under a Federal award will vest upon acquisition in the non-Federal entity.

(b) Use. Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests.

(c) Disposition. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:

(1) Retain title after compensating the Federal awarding agency. The amount paid to the Federal awarding agency will be computed by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where the non-Federal entity is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) Sell the property and compensate the Federal awarding agency. The amount due to the Federal awarding agency will be calculated by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When the non-Federal entity is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.

(3) Transfer title to the Federal awarding agency or to a third party designated/approved by the Federal awarding agency. The non-Federal entity is entitled to be paid an amount calculated by applying the non-Federal entity's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

Federal-Owned and Exempt Property

(a) Title to federally-owned property remains vested in the Federal Government. The non-Federal entity must submit annually an inventory listing of federally-owned property in its custody to the Federal awarding agency. Upon completion of the Federal award or when the property is no longer needed, the non-Federal entity must report the property to the Federal awarding agency for further Federal agency utilization.

(b) If the Federal awarding agency has no further need for the property, it must declare the property excess and report it for disposal to the appropriate Federal disposal authority, unless the Federal awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (i)) to donate research equipment to educational and nonprofit organizations in accordance with Executive Order 12999, "Educational Technology: Ensuring Opportunity for All Children in the Next Century."). The Federal awarding agency must issue appropriate instructions to the non-Federal entity.

(c) Exempt property means property acquired under a Federal award where the Federal awarding agency has chosen to vest title to the property to the non-Federal entity without further responsibility to the Federal Government, based upon the explicit terms and conditions of the Federal award. The Federal awarding agency may exercise this option when statutory authority exists. Absent statutory authority and specific terms and conditions of the Federal award, title to exempt property acquired under the Federal award remains with the Federal Government.

Equipment

(a) Title. Subject to the requirements and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the County. Unless a statute specifically authorizes the Federal agency to vest title in the County without further responsibility to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the County subject to the following conditions:

- (1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
- (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.
- (3) Use and dispose of the property in accordance with paragraphs (b), (c), and (e) of this section.

(b) General. A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.

(c) Use. (1) Equipment must be used by the County in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the County must not encumber the property without prior approval of the Federal awarding agency. The Federal awarding agency may require the submission of the applicable common form for equipment. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

- (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then
- (ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

(2) During the time that equipment is used on the project or program for which it was acquired, the County must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal

awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in §200.307 to earn program income, the County must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.

(4) When acquiring replacement equipment, the County may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the County is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

(1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further responsibility to the Federal awarding agency.

(2) If the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair market value in excess of \$5,000 may be retained by the County or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.

(3) The County may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.

(4) In cases where a County fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

Supplies

(a) Title to supplies will vest in the County upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the County must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment.

(b) As long as the Federal Government retains an interest in the supplies, the County must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

Property Trust Relationship

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the County as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Federal awarding agency may require the County to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.

General Procurement Standards

(a) The County must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or sub-award. The County's documented procurement procedures must conform to the procurement standards.

(b) The County must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The County must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the County may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the County.

(2) If the County has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the County must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent

company, affiliate, or subsidiary organization, the County is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The County procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the County is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The County is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The County is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The County must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.214.

(i) The County must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The County may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The County alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

Competition

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and Methods of Procurement.

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(c) The County must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(d) The County must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
- (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The County must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the County must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with Methods of Procurement.

Methods of Procurement

The County must have and use documented procurement procedures, consistent with the standards of this document for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(A) A qualification as a low-risk auditee

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

The County is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures.

(b) Formal procurement methods. When the value of the procurement for property or services under a Federal financial assistance award the bidding threshold formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising. The following formal methods of procurement are used for procurement of property or services above the bidding threshold

(1) Sealed bids. A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, the invitation for bids must be publicly advertised;

(B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(2) Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(ii) The County must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the County, with price and other factors considered; and

(iv) The County may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

(c) Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

(a) The County must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) 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;

(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; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

Domestic Preferences for Procurements

(a) As appropriate and to the extent consistent with law, the County should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all sub awards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Contract Cost and Price

(a) The County must perform a cost or price analysis in connection with every procurement including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the County must make independent estimates before receiving bids or proposals.

(b) The County must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the County. The County entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

Federal Awarding Agency or Pass-Through Entity Review

(a) The County must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The County must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The County's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the bidding thresholds and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the bidding threshold, specifies a "brand name" product;

(4) The proposed contract is more than the bidding threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the bidding threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding the bidding threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity provided that the Federal awarding agency or County has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

Monitoring and Reporting Program Performance

(a) Monitoring by the County. The County is responsible for oversight of the operations of the Federal award supported activities. The County must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved.

(b) Reporting program performance. The Federal awarding agency must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information. As appropriate and in accordance with above mentioned information collections, the Federal awarding agency must require the recipient to relate financial data and accomplishments to performance goals and objectives of the Federal award. Also, in accordance with above mentioned common information collections, and when required by the terms and conditions of the Federal award, recipients must provide cost information to demonstrate cost effective practices (e.g., through unit cost data). In some instances (e.g., discretionary research awards), this will be limited to the requirement to submit technical performance reports (to be evaluated in accordance with Federal awarding agency policy). Reporting requirements must be clearly articulated such that, where appropriate, performance during the execution of the Federal award has a standard against which non-Federal entity performance can be measured.

(c) Non-construction performance reports. The Federal awarding agency must use standard, government wide OMB-approved data elements for collection of performance information including performance progress reports, Research Performance Progress Reports.

(1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Reports submitted annually by the County and/or pass-through entity must be due no later than 90 calendar days after the reporting period. Reports submitted quarterly or semiannually must be due no later than 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report submitted by the County and/or pass-through entity must be due no later than 120 calendar days after the period of performance end date. A subrecipient must submit to the pass-through entity, no later than 90 calendar days after the period of performance end date, all final performance reports. If a justified request is submitted by the County, the Federal agency may extend the due date for any performance report.

(2) As appropriate in accordance with above mentioned performance reporting, these reports will contain, for each Federal award, brief information on the following unless other data elements are approved by OMB in the agency information collection request:

(i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.

(ii) The reasons why established goals were not met, if appropriate.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(d) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and sub awards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.

(e) Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

(f) Site visits. The Federal awarding agency may make site visits as warranted by program needs.

(g) Performance report requirement waiver. The Federal awarding agency may waive any performance report required by this part if not needed.

Reporting on Real Property

The Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports at least annually on the status of real property in which the Federal Government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

Subrecipient and Contractor Determinations

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) Subrecipients. A sub award is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision-making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a sub award or a procurement contract.

Requirements for Pass-Through Entities

All pass-through entities must:

(a) Ensure that every sub award is clearly identified to the subrecipient as a sub award and includes the following information at the time of the sub award and if any of these data elements change, include the changes in subsequent sub award modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and sub award. Required information includes:

(1) Federal award identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);

(ii) Subrecipient's unique entity identifier;

(iii) Federal Award Identification Number (FAIN);

(iv) Federal Award Date of award to the recipient by the Federal agency;

(v) Sub award Period of Performance Start and End Date;

(vi) Sub award Budget Period Start and End Date;

(vii) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;

(viii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation;

(ix) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;

(x) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

(xi) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;

(xii) Assistance Listings number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement;

(xiii) Identification of whether the award is R&D; and

(xiv) Indirect cost rate for the Federal award (including if the de minimis rate is charged)

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;

(4)(i) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government. If no approved rate exists, the pass-through entity must determine the appropriate rate in collaboration with the subrecipient, which is either:

(A) The negotiated indirect cost rate between the pass-through entity and the subrecipient; which can be based on a prior negotiated rate between a different PTE and the same subrecipient. If basing the rate on a previously negotiated rate, the pass-through entity is not required to collect information justifying this rate, but may elect to do so;

(B) The de minimis indirect cost rate.

(ii) The pass-through entity must not require use of a de minimis indirect cost rate if the subrecipient has a Federally approved rate.

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and

(6) Appropriate terms and conditions concerning closeout of the sub award.

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the sub award for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar sub awards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar sub award has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

(c) Consider imposing specific sub award conditions upon a subrecipient if appropriate.

(d) Monitor the activities of the subrecipient as necessary to ensure that the sub award is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the sub award; and that sub award performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular sub award.

(3) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity.

(4) The pass-through entity is responsible for resolving audit findings specifically related to the sub award and not responsible for resolving crosscutting findings

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements.

(f) Verify that every subrecipient is audited as required when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients of this part and in program regulations.

Retention Requirements for Records

Financial records, supporting documents, statistical records, and all other County records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Access to Records

(a) Records of the County. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

(b) Extraordinary and rare circumstances. Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) Expiration of right of access. The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

Restrictions on Public Access to Records

No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will

be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's. Unless required by Federal, state, local, and tribal statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

Notification of Termination Requirement

(a) The Federal agency or pass-through entity must provide to the non-Federal entity a notice of termination.

(b) If the Federal award is terminated for the non-Federal entity's material failure to comply with the U.S. Constitution, Federal statutes, regulations, or terms and conditions of the Federal award, the notification must state that—

(1) The termination decision will be reported to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS);

(2) The information will be available in the OMB-designated integrity and performance system for a period of five years from the date of the termination, then archived;

(3) Federal awarding agencies that consider making a Federal award to the non-Federal entity during that five year period must consider that information in judging whether the non-Federal entity is qualified to receive the Federal award, when the Federal share of the Federal award is expected to exceed the simplified acquisition threshold over the period of performance;

(4) The non-Federal entity may comment on any information the OMB-designated integrity and performance system contains about the non-Federal entity for future consideration by Federal awarding agencies. The non-Federal entity may submit comments to the awardee integrity and performance portal accessible through SAM (currently (CPARS).

(5) Federal awarding agencies will consider non-Federal entity comments when determining whether the non-Federal entity is qualified for a future Federal award.

(c) Upon termination of a Federal award, the Federal awarding agency must provide the information required under FFATA to the Federal website established to fulfill the requirements of FFATA, and update or notify any other relevant government wide systems or entities of any indications of poor performance as required by 41 U.S.C. 417b and 31 U.S.C. 3321 and implementing guidance at 2 CFR part 77 (forthcoming at time of publication). See also the requirements for Suspension and Debarment at 2 CFR part 180.

The County is also responsible for review and determination for sections §200.400 to §200.520 in regards to cost principles and audit requirements. The County shall review the Uniform Administrative Requirements Part 200 on an as needed basis and make changes when deem needed.



Lake County, Ohio American Rescue Plan Act (ARP) Procurement Guidance Document:

PREAMBLE

Lake County has received approximately \$44 million in Federal ARPA funds. According to the [home.treasury.gov](https://www.home.treasury.gov), the ARPA has the following project objectives:

1. Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control.
2. Replace lost revenue for eligible state, local, territorial, and Tribal governments to strengthen support for vital public services and help retain jobs.
3. Support immediate economic stabilization for households and businesses.
4. Address systematic public health and economic challenges that have contributed to the unequal impact of the pandemic.

Lake County, via subrecipient agreements, may distribute funds to private businesses, local governmental entities, and/or non-profits in accordance with state and federal law, policies, and guidance.

This procurement policy was developed by the Lake County Commissioner's Office. It was created to guide personnel who are involved in the County's administration of American Rescue Plan funds in the County's role as a grant recipient of the US Treasury.

The contents of this publication are intended to convey general information only and do not constitute legal advice. This publication does not constitute or create an attorney-client relationship. If you need legal advice, please contact an attorney directly. This procurement policy is intended to help County actors and any sub-recipients of ARP funds comply with federal rules and regulations related to procurement transactions. You should review this policy thoroughly.

This policy is formed by the following legal requirements/sources:

- Federal laws/regulations: Federal rules/guidance, that dictate when competitive procurement processes are required, avoidance of conflicts of interest and other ethical concerns, including but not limited to 2 C.F.R. § 200.318(c) and other regulations noted in the following section.
- Uniform Guidance and ARP-specific award terms: Like with all federal awards of funds, ARP funds come with terms specific to that award. In addition, the US Treasury as provided and continues to provide guidance, rules, and assistance in the form of formalized rules (initially an "Interim Final Rule" IFR) codified at 31 CFR Part 35, and answers to Frequently Asked Questions (FAQ), and most recently the Final Rule, 31 CFR Part 35, RIN 1505-AC77, that must be followed. Moreover, the award of ARP funds are specifically conditioned upon compliance with all the following:
 - Federal regulations applicable to this award include, without limitation, the following:
 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may

be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act.

- Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25.
- Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170.
- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XIII to Part 200.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- Generally applicable federal environmental laws and regulations.
- Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22 which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - Section 504 of Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6010 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in program or activities receiving federal financial assistance; and
 - Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- Ohio state laws: Supplementing federal rules/guidance, are state provisions that dictate the competitive procurement processes are required, avoidance of conflicts of interest and other ethical concerns. These include competitive procurement laws included in R.C. 307.86, and R.C.153.66, and related statutes. These also include laws prohibiting conduct that amounts to fraud, theft, embezzlement or the like and include, but are not limited to, any conduct covered by R.C. 2921.41 Theft in Office; R.C. 2921.42 Having an Unlawful

Interest in a Public Contract; R.C. 2921.43 Soliciting or Receiving Improper Compensation; and, R.C. 2921.431 Soliciting Political Contributions from Public Employees.

- County policy: Policies contained in the Lake County Personnel Manual apply to the conduct of county employees engaged in ARP-eligible procurement processes. Those include prohibitions against: unlawful discrimination and harassment; engaging in unethical conduct; acts constituting conflicts of interest; and nepotism. These policies are public records maintained by the Lake County Commissioners.

To assure compliance with the law, all parties involved in the procurement process expected to document the basis for their decisions, retain all records related to those acts/decisions for a period of no less than five (5) years after all funds are expended, and be ready to make those records available to the federal awarding authority an any state or federal auditing authority, including but not necessarily limited to the US Treasury, the US Government Accountability Office, the Ohio Auditor of State.

1. Introduction and Purpose.

In keeping with its commitment to maintain the highest standards of conduct and ethics in all of its conduct, including distribution of ARP funds, Lake County (The "County") has adopted this Procurement Policy ("Policy") to ensure that goods and services paid for by the County through ARP funding, and any other revenue sources lawfully "pooled" with an ARP-eligible project are obtained in a cost-effective manner and in compliance with applicable federal and state laws.

The acquisition processes described in this Policy apply to all purchases made by any county actor involved in the procurement, contracting for, or completion of any ARP-eligible project. Subrecipients may also be subject to prior funding source approval and additional requirements imposed by grants or contracts. Project Directors are responsible for reviewing any such additional requirements, bringing them to the attention of the County Commissioners' office, and ensuring that contractors and vendors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

2. Code of Conduct.

Lake County employees and any of its agents shall not participate in the selection, award, or administration of a contract if they have a real or apparent conflict of interest. Such a conflict arises when the employee or agent has any immediate family member (spouse, child, parent, parent-in-law, sibling, or sibling-in-law); partner; or an organization that employs, or is about to employ, and of the above who has a direct or indirect financial or other interest in or will receive a tangible personal benefit from a firm or individual considered for the contract award. If in doubt, the employee should consult all of the legal sources referenced in the Preamble hereto and/or consult legal counsel.

In addition, Employees and their agents shall not solicit or accept gifts, money, gratuities, favors, or anything of monetary value from vendors, prospective vendors, parties to subcontracts, or any other person or entity that receives, or may receive, compensation for providing goods or performing services for the County. All award recipients shall be provided with, and expected to review, this policy for disclosing, reviewing and addressing actual and potential conflicts of interest.

3. Procurement Requirements and Considerations.

A. Competition. All procurements shall be conducted in a manner that complies with law as it relates to competitive procurement processes thus allowing, to the maximum extent practical, fair and open competition. Procurements shall:

i. Avoid noncompetitive practices that may restrict or eliminate competition, including but not limited to:

- a. Unreasonable qualification requirements.
- b. Unnecessary experience and excessive bonding requirements.
- c. Noncompetitive pricing practices between firms or affiliated companies.
- d. Noncompetitive contracts to consultants on retainer contracts.
- e. Organizational conflicts of interest.
- f. Specifying "brand name" only instead of allowing "an equal to" product.

g. Arbitrary actions.

h. Utilizing a prequalified firm or company, even if under a monetary threshold that would permit procurement without other competitive processes, excessively and to the exclusion of other prequalified firms or companies.

ii. Not intentionally split a single purchase into two or more separate purchases to avoid dollar thresholds that require more formal procurement methods.

iii. Exclude contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for a proposal from competing for such procurement.

iv. Include in any prequalified list an adequate number of current, qualified vendors, firms, or products. Prequalification of firms or companies shall be done not less frequently than every eighteen (18) months.

v. Not preclude potential bidders from qualifying during the solicitation period unless required by law due to being lawfully barred from being considered.

vi. Not use any geographic preferences (state, local, or tribal) in the evaluation of bids or proposals, except where expressly mandated or encouraged by applicable Federal statutes.

vii. Any procurement to be made based upon a representation that the vendor is a sole source of the product or services shall be accompanied by a written explanation and a price/cost justification as to why a different supply/product/improvement that would avoid need for a sole-source vendor is not practical.

B. Profit. For sole source procurements or when cost analysis is used, profit must be negotiated as a separate element of the procurement price.

i. To establish a fair and reasonable profit, consider: complexity of work performed, risk borne by contractor, contractor's investment, amount of subcontracting, quality of contractor's record and past performance, and industry profit rates in surrounding geographical area for similar work.

ii. The County may not use either the cost plus a percentage of cost, or percentage of construction cost methods of contracting.

C. Minority Owned, Women Owned, and Small Business Vendors. The County is committed to taking all necessary affirmative steps to assure that minority businesses, women's business enterprises and labor surplus area firms ("MWSB Vendors") are used whenever possible. Such steps include:

i. Placing qualified MWSB Vendors on solicitation lists when such vendors submit sufficient documentation of qualifications;

ii. Soliciting MWSB Vendors whenever they are potential sources;

iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MWSB Vendors;

iv. Establishing delivery schedules, where requirement permits, which encourage participation by MWSB Vendors;

v. Using services and assistance, as appropriate, of such organizations as Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

vi. Requiring the prime contractor, if subcontracts are used, to take affirmative steps listed in paragraphs (i) through (v) of this section as noted just above.

D. Minimum Bonding Requirements. For construction or facility improvement contracts or subcontracts exceeding \$250,000, the requirements for bonding shall, at a minimum, be as follows:

i. A bid guarantee from each bidder is equivalent to five percent of the bid price.

ii. A performance bond on the part of the contractor is for 100% of the contract price.

iii. A payment bond on the part of the contractor is for 100% of the contract price.

iv. All bonds required in this section are obtained from companies holding certificates of authority as acceptable sureties pursuant to the surety requirements for companies doing business with the United States (31 CFR Part 223).

E. Solicitations. All Solicitations shall incorporate a clear and accurate description of the technical requirements for products or services to be procured. Descriptions:

i. Must not contain features which unduly restrict competition.

ii. May include a statement of the qualitative nature of material, product or service to be procured.

iii. When necessary, must set forth minimum essential characteristics and standards necessary to satisfy its intended use.

iv. Must avoid detailed product specifications if at all possible.

v. May use a "brand name or equivalent" description to define performance or other salient requirements when impractical or uneconomical to make a clear and accurate description of technical requirements. Specific named brand features required to be met must be clearly stated.

vi. Must identify all requirements which offerors must fulfill and all other factors to be used in evaluating bids and proposals.

F. Considerations. The County should consider taking the following actions when procuring goods and services:

i. Conduct a lease vs. purchase analysis, when appropriate, including for property and large equipment.

ii. Consolidate or break out procurements to obtain a more economical purchase, if possible.

iii. Use state and local intergovernmental or inter-entity agreements, or common or shared goods and services, where appropriate. Provided, however, that steps are first taken to make sure that the process used by these other entities comply with federal procurement processes applicable to ARP procurements and obtaining documentation of that fact so that it can be properly accounted for and put in the County's federal schedule.

iv. Use federal excess and surplus property in lieu of purchasing new equipment and property, if feasible and reduces project costs.

v. Use value engineering clauses to offer reasonable opportunities for cost reductions in construction contracts for projects of sufficient size.

vi. Use time and materials contracts only if no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at his/her/their own risk. If such contract is negotiated and awarded, the County must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

4. Procurement Methods

A. All procurements. All procurements made under this policy shall:

i. Be necessary, at a reasonable cost, documented, not prohibited by law or the applicable funding source, and made in accordance with this Policy.

ii. Avoid acquiring unnecessary or duplicative items.

iii. Engage responsible vendors who possess the ability to perform successfully under the terms and conditions of a proposed procurement. The County shall consider: vendor integrity, public policy compliance, past performance record and financial and technical resources.

B. Standard Methods. For transactions meeting the specifications set forth in Exhibit 1 "Standard Methods of Procurement", the County shall follow the applicable procurement method set forth therein.

C. Exceptions to Standard Methods.

i. *Sole Source.* Procurement by Solicitation of a proposal from a single source may only be used if one of the following apply and are documented to the satisfaction of Lake County Administrator:

- a. The amount of the procurement does not exceed the micro-purchase threshold of \$50,000 and to the maximum extent practicable efforts are made to distribute such purchases equitably among qualified suppliers;
- b. Item is only available from a single source;
- c. Public exigency or emergency will not permit any delay;
- d. Federal awarding agency or pass-through expressly authorizes in response to a request; or
- e. After soliciting a number of sources, competition is determined inadequate.

ii. *Other.* Recognized acquisition methods acceptable for federal procurement, whereby competitive process has been done by others (cooperative purchase agreements, etc.) ***Provided, however,*** that steps are first taken to make sure that the process used by these other entities comply with federal procurement processes applicable to ARP procurements and obtaining documentation of that fact so that it can be properly accounted for and put in the County's federal schedule. [Note: Ohio "state contract" procurement is not competitive for federal procurement.]

5. Procurement Procedures, Generally.

See Exhibit 2 for a simplified version of Lake County's Procurement process.

6. Selection Process.

Documentation shall be maintained in order to reconstruct how a selection of a vendor was made. This includes retention of all rating/ranking materials, pre-qualified vendor submittals, as well as all bid documents. Formal/final selection of a vendor shall be documented by a notation explaining the selection decision that shall include factors favoring the selection and/or disfavoring a vendor not granted the contract.

The department/office seeking the procurement/contract shall document the factors it considered and weighed in the selection process and who did the selection review unless the basis for the selection is obvious, for example clearly the lowest bid.

7. Contract Provisions.

All ARP County procurement contracts that exceed the self-certified micro purchase amount (i.e. \$50,000) shall use the standard contract attached hereto as Exhibit 4 as this is the most expeditious manner to assure that all contracts comply with the Uniform Guidance's mandate for required contractual terms. This contract should generally be used for all smaller amounts should the contract envision vendors being expected to provide engineering, construction or installation services. Only the Lake County Administrator shall permit any deviation from this practice.

Any vendors shall assume the responsibility for being knowledgeable of which terms apply to these funds by accessing relevant information from the US Treasury's website, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds> and/or consulting their own counsel.

8. Contract Disputes.

The Lake County Administrator shall be notified as soon as any County employee becomes aware that a dispute about a contracted purchase or construction has surfaced. At that point, the Lake County Administrator shall work with the vendor to address the dispute in an informal way rather than resort to a formal process outlined in the contract. Any resolution shall be documented and reviewed for legality.

9. Miscellaneous Documentation

Unless these provisions are already included in a contract signed by a vendor, the County shall assure all of the following.

- A. Debarment/Exclusion. The County shall confirm and document that the vendor is not excluded from doing business with the federal government (see www.sam.gov/SAM/) or state government (ohioauditor.gov/findings.html) before entering into a contract. If the County enters into a contract and thereafter were to learn that the vendor has become barred, the County shall terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source.
- B. Never Contract with the Enemy. The County shall exercise due diligence to ensure that none of the funds, including supplies and services, received under the County's ARP grant or cooperative agreement is provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities. If the County enters into a contract and thereafter were to learn that the vendor has become barred, the County shall terminate or void in whole or in part any subaward or contract with such person or entity.
- C. Lobbying Certificate. The County shall obtain signed Lobbying Certificates substantially in the form that appears as part of Exhibit 5.
- D. Civil Right, Equal Opportunity, etc. The County shall obtain signed Certificates addressing these matters substantially in the form that appears as part of Exhibit 5.

- E. “Huawei ban”. The County shall make reasonable efforts to not obligate or loan or expend funds received through ARP to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services or systems that uses covered telecommunications equipment or services a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunication equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) including:
- i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Handzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- F. Domestic preferences for procurements. As appropriate and to the extent consistent with law, the County should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section: (i) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings occurred in the United States. (iii) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- G. Records. The County shall maintain records sufficient to detail history of each procurement transaction. These records must include, but are not limited to:
- i. A description and supporting documentation showing rationale for procurement method including a cost-price analysis (unless vendor is lowest price);
 - ii. Selection of contract type;
 - iii. Written price or rate quotations (such as catalog price, online price, email or written quote), if applicable;
 - iv. Copies of advertisements, requests for proposals, bid sheets or bid proposal packets;
 - v. Reasons for vendor selection or rejection, including Finance Committee and Board minutes, rejection letters and award letter; and
 - vi. The basis for the contract price.

10. Compliance with this Policy

Program Directors and, where applicable, the Lake County Administrator, shall maintain oversight to ensure that contractors and vendors perform in accordance with the terms, conditions, and specifications of contracts or purchase orders. Violations of this policy may result in disciplinary action, up to and including termination.

EXHIBIT 1

Standard Methods of Procurement

WARNING: Ohio and Federal procurement procedures are different. Compliance with one will not assure compliance with the other. For ARP procurements, the County needs to follow most restrictive. Legal Review by the Prosecutor's Office and/or Lake County Administrator required.

Requirements of federal law

Type	Threshold	Method
<i>Micro-purchase</i>	<\$50,000	<ul style="list-style-type: none"> - Price must be reasonable based upon research, experience, history and/or comparison of other available prices - Must solicit some form of price or rate quotation - Periodically distribute purchases equitability among qualified vendors
<i>Small Purchase</i>	\$50,000.01<\$250,000	<ul style="list-style-type: none"> - Price must be reasonable based upon research, experience, history and/or comparison of other available prices - Obtain written price or rate quotations from at least two additional qualified vendors - Example documentation: catalog price, online price, email or written quote
<i>Sealed Bids</i>	>\$250,000 [To be used when	<p>Pre-Solicitation</p> <ul style="list-style-type: none"> - Conduct cost or price analysis <p>Solicitation</p> <ul style="list-style-type: none"> - Publicly advertise invitation for bids - Include specifications or information sufficient for bidders to respond - Provide adequate time to respond - Solicit a sufficient number of bids by use of prequalified lists, and/or publication <p>Bid Review/Selection</p> <ul style="list-style-type: none"> - Open bids at time and place set forth in invite - Award to lowest responsive and responsible bidder - May reject bids for sound, documented reason - Award written, fixed price contract
<i>Competitive Proposals</i>	>\$250,000	<p>Pre-Solicitation</p> <ul style="list-style-type: none"> - Conduct cost or price analysis <p>Solicitation</p> <ul style="list-style-type: none"> - Publicly advertise request for proposals - Identifies all evaluation factors and their relative importance - Solicit bids from at least 2 vendors <p>Proposal Review/Selection</p> <ul style="list-style-type: none"> - Consider all proposals to maximum extent practical - Use written method to conduct technical evaluations of the proposals. Such written methods should identify factors considered and weight given to factors

		<ul style="list-style-type: none"> - Award contract to bidder with most advantageous proposal, considering price and other factors - Award fixed price or cost-reimbursement contract
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Requirements of state law

Type	Threshold	Method
<i>Pre-Qualified Professional Design Services R.C 153.71</i>	<\$50,000	<ul style="list-style-type: none"> - Must be pre-qualified - Price must be reasonable and negotiated - Periodically distribute purchases equitably among qualified vendors
<i>Pre-Qualified Professional Design Services R.C 153.69</i>	\$50,000 +	<ul style="list-style-type: none"> - Must be pre-qualified - At least three qualified vendors must be ranked unless fewer than three vendors are not qualified and that conclusion is documented in writing - Price must be reasonable and negotiated - Periodically distribute purchases equitably among qualified vendors
<i>Professional Design Services by RFQ or RFP</i>	Any \$ amount	<p>Pre-Solicitation</p> <ul style="list-style-type: none"> - Conduct cost or price analysis <p>Solicitation</p> <ul style="list-style-type: none"> - Publicly advertise invitation for responses - Include specifications or information sufficient for interested parties to respond - Provide adequate time to respond - Solicit a sufficient number of responses by use of prequalified lists, and/or publication <p>Review/Selection</p> <ul style="list-style-type: none"> - Open responses at time and place set forth in invite - Award to most qualified after evaluation - May reject responses for sound, documented reason - Award written, fixed price contract
<i>Construction [Emergency] R.C. 307.86</i>	>\$50,000<\$100,000	<ul style="list-style-type: none"> - Emergency declaration by unanimous vote of the Board of County Commissioners - Conduct cost or price analysis in the form of three quotes
<i>Construction [Non-Emergency] R.C. 30786</i>	>\$50,000	<p>Pre-Solicitation</p> <ul style="list-style-type: none"> - Conduct cost or price analysis <p>Solicitation</p> <ul style="list-style-type: none"> - Publicly advertise invitation for bids - Include specifications or information sufficient for bidders to respond - Provide adequate time to respond - Solicit a sufficient number of bids by use of prequalified lists, and/or publication

		<p>Review/Selection</p> <ul style="list-style-type: none"> - Open bids at time and place set forth in invite - Award to lowest responsive and responsible bidder - May reject bids for sound, documented reason - Award written, fixed price contract
<p><i>Construction Project Initiated by Competitive Proposals</i></p>	<p>Any</p>	<p>Pre-Solicitation</p> <ul style="list-style-type: none"> - Conduct cost or price analysis <p>Solicitation</p> <ul style="list-style-type: none"> - Publicly advertise request for proposals - Identifies all evaluation factors and their relative importance - Solicit bids from at least two vendors <p>Review/Selection</p> <ul style="list-style-type: none"> - Consider all proposals to maximum extent practical - Use written method to conduct technical evaluations of the proposals - Award contract to bidder with most advantageous proposal, considering price and other factors - Award fixed price or cost-reimbursement contract

County ARPA Procurement Procedures**A. [Frequency of Procurement]**

1. A Procurement Period is the period of time after the initial procurement procedure, i.e., a quote or request for proposals, and before the County must conduct a new procurement process.
2. Unless otherwise stated, Procurement Periods can vary in length.
 - a. Factors to consider when setting a Procurement Period: length of funding source contract, complexity of funding source requirements, type of service to be provided, customization needed.
3. Generally, the County should conduct a procurement process for most goods and services every year unless a contract extending multiple years for the goods or services has already been entered into. In any event, the frequency at which the County conducts procurement processes should be reasonable and should take into account funding source requirements as well as the nature of the goods and services procured. Unless otherwise required to occur earlier, the default is for the County to conduct a procurement every five years.

B. [New Contract/Purchase Order]

1. The County determines the applicable and appropriate procurement method.
 - a. If micro-purchase or small purchase methods are appropriate, conduct procurement as outlined in this Policy and retain appropriate documentation of quotes and vendor selection, etc. If prior approval is required for the purchase, refer to step 2.
 - b. If sealed or competitive bid methods are required, complete steps 2 through 5.
2. If ARP funding source approval is required, work with Lake County Administrator to obtain. Depending on the procurement method used, the County department wishing to enter into a contract completes the Procurement Checklist form and submits the entire set of relevant documents to the Lake County Administrator as part of the approval process.
3. Designated Staff from the department wishing to enter into a contract or the Lake County Administrator formalizes completion of the process for final dedication of funds by assuring that the proposed action meets with approval of the Prosecutor, and if necessary, certification of available funds by the Auditor.
4. The Lake County Administrator will then arrange to have the Board of County Commissioners dedicate/obligate an appropriate amount of funds by formal resolution/purchase order.
5. Once a resolution is approved, Designated Staff from the department wishing to enter into a contract will formalize the completion of remaining steps (e.g. completion of a bid/RFQ and appropriate publications, etc.)

C. [Extension/Renewal of Existing Contract/Purchase Order]

1. For excess procurements of up to \$175,000, the County *may* amend or renew an existing contract/purchase order to extend its term if any adjustment in price is

deemed reasonable pursuant to a cost analysis and all other terms remain the same. This option should generally be limited to situations where there have been additional costs that were not reasonably anticipated.

- a. The Project Director should take steps to foresee when this is about to occur such that an amendment can be addressed prior to expenditure of the initially dedicated funds.
 - b. The Project Director shall document why this additional cost was not reasonably foreseeable.
 - c. This process may not be used to circumvent a proper competitive process by accepting a low-cost bid or proposal only to have it increased in this manner.
2. For excess procurements over \$175,000, a new procurement process will generally be undertaken whether by new bidding, RFQ/RFP, or new ranking of pre-qualified vendors as may be applicable.
 3. In instances where an extension of a contract causes the combined total of the contract (i.e. the original cost plus the cost of any extension(s)) to exceed a simplified acquisition threshold of \$250,000, a new/full procurement process shall be done, *except* in the event:
 - a. Where the initial contract was entered into without knowledge or expectation of it being funded by American Rescue Plan dollars and the extension of the contract in and of itself does not meet that threshold; **and**
 - b. Only if the US Treasury has by rule, or FAQ, expressly permitted this type of contract extension/modification to exclude consideration of the procurement process associated with the original contract.

Lake County Office of Planning & Community Development American Rescue Plan Procurement Checklist

Please complete and submit this form prior to work start and at the conclusion of the project. Submit this form and any attachments by email to: Jason.Boyd@lakecountyohio.gov or by mail to: Lake County Commissioners Office, 105 Main Street, Painesville, OH 44077.

1. General Information

Agency or Community Name	Contact Person & Title (Primary Grant Administrator)
Direct Telephone No.	E-Mail
Project Title	

2. Procurement Method Used (check one)

- Sealed Bids Competitive Proposals Small Purchases
 Non-Competitive Proposals (prior approval required for this method)

3. Project Milestones

Check if completed:

- Project specifications were prepared
- Bid advertisement appeared in newspaper
- Pre-bid meeting was conducted
- Affirmative steps were taken for contracting with small businesses, MBEs, WBEs, and labor surplus firms.
- Adequate number of responses received
- Contract was awarded
- Pre-construction meeting was conducted
- Construction has commenced
- Construction is completed
- Final walk-thru meeting was conducted
- Final payment was issued to the contractor
- Final pay request was submitted to the County
 - Final pay request includes: Pay request form, Contractor’s invoice, Proof of payment to contractor, Pictures of completed project

4. Documentation

Please submit the following documents as they become available (digital or hard-copy).

Check if provided:

- Project Specifications

- ___ Pre-bid meeting minutes or notes
- ___ List of Subcontractors
- ___ Bid package or RFP/RFO
- ___ Bid summary sheet
- ___ Print outs from review of the Federal debarred and suspended list at sam.gov (federal) and auditor.state.oh.us (state)
- ___ Contract between Subrecipient and General Contractor
- ___ Pre-construction meeting minutes or notes
- ___ Final walk-thru meeting minutes or notes
- ___ Proof of payment to Vendor(s) (cancelled checks)

5. **Adjusted Project Specific Information**

Have changes in the budget or scope developed since the Subrecipient Agreement was finalized?

- ___ No
- ___ Yes *(Please complete the section below.)*

- a) Amount of ARPA Funds Awarded \$ _____
- b) Matching Funds \$ _____
- c) Total Cost of Project \$ _____

Total # of persons project will serve: _____

Total # of households project will serve: _____

Modifications to project design (description): _____

6. **Additional Comments:**

7. **Sign Below:**

Signature

Title

Date

End of form

Exhibit 4

Insert contract template, if Prosecutor's office has a standard contract

Exhibit 5

**Acknowledgement of
Lake County Ohio Procurement Policy**

I acknowledge that I have reviewed and understand the policies and guidelines with the document provided by Lake County, Ohio. I understand it is my responsibility to comply with and implement all policies and procedures included in Lake County, Ohio's policy document.

Vendor Signature

Vendor Print Name

Date

EXHIBIT C

The following provisions entitled "Federal Grant Compliance – American Rescue Plan Act of 2021" shall be incorporated into each contract or subcontract entered into in connection with the Project.

Federal Grant Compliance - American Rescue Plan Act of 2021

All references to the Contractor shall include the Contractor, any construction manager and all subcontractors and suppliers at any tier.

All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through §200.327 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. All applicable local, state, and federal procurement requirements will be followed when expending federal funds. Should the State of Ohio have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. 41 C.F.R. 60-1.4(b).

The Contractor shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

The Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 - 3708) as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

The Contractor shall comply with the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

A contract with a Contractor will not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with OBM guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp. p.189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Contractor affirmatively represents and warrants that it

SUBRECIPIENT AGREEMENT:
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is not excluded from doing business with the federal government (see www.sam.gov/SAM/) or state government (ohioauditor.gov/findings.html), and neither it nor its owners/officers have been debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by a federal department or agency or state government or agency thereof. This contract shall become null and void if Contractor becomes barred as a person or entity listed in SAM as a prohibited or restricted source.

The Contractor shall comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal 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 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

The Contractor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

The Contractor shall comply with CFR §200.216, Prohibition on certain telecommunications and video surveillance services or equipment. The Contractor is prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, Section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115 -232, Section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and

customers is sustained.

See Public Law 115-232, Section 889 and § 200.471 for additional information.

Minority Owned, Women Owned, and Small Business Vendors. The Contractor shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises and labor surplus area firms ("MWSB Vendors") are used whenever possible. Such steps include:

- i. Placing qualified MWSB Vendors on solicitation lists when such vendors submit sufficient documentation of qualifications;
- ii. Soliciting MWSB Vendors whenever they are potential sources;
- iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MWSB Vendors;
- iv. Establishing delivery schedules, where requirement permits, which encourage participation by MWSB Vendors; and
- v. Using services and assistance, as appropriate, of such organizations as Small Business Administration and the Minority Business Development Agency of the Department of Commerce

The Contractor shall, as appropriate and to the extent consistent with law, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregate such as concrete; glass, including optical fiber; and lumber.

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ACKNOWLEDGEMENT OF
AMERICAN RESCUE PLAN ACT FUNDING AND
COMPLIANCE BY CONTRACTORS

The Contractor hereby acknowledges that this project is a federally funded project with funds from the American Rescue Plan Act of 2021 (“ARPA” or the “Act”), that funding is contingent upon compliance with all terms and conditions of the ARPA funding award, and that the bidder agrees to comply with all of the terms and conditions of the ARPA funding award and the terms and conditions in the Procurement Standards codified in 2 C.F.R. 200.317 through 200.327 and as outlined in the Federally Required Contract Provisions contained in Bid Document - Federal Grant Compliance - American Rescue Plan Act of 2021.

Signature

Date

Title

Company

EQUAL OPPORTUNITY EMPLOYMENT
ASSURANCE OF COMPLIANCE

_____ (hereinafter called "BIDDER") hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.S. 88-352) to the end that in accordance with Title VI of that Act and the regulation, no person in the United States shall, on the ground of race, color, creed or national origin be excluded from employment by the BIDDER and hereby gives assurance that it will immediately take any measure to effectuate this agreement.

This ASSURANCE is given in consideration of and for the purpose of complying with the Equal Opportunity Employment section in the Instructions to BIDDERS and to generally qualify the BIDDER for award of the contract. The BIDDER recognizes and agrees that such contracts or purchase agreement will be extended in reliance on the representations and agreements made in this assurance, and that the OWNER shall reserve the right to seek judicial enforcement of this assurance. This assurance is binding on the BIDDER, its successors, transfers, and assignees. Furthermore, the person whose signature appears below is authorized to sign this assurance on behalf of the BIDDER.

DATE

SIGNATURE

TITLE

FIRM

EQUAL EMPLOYMENT OPPORTUNITY AFFIDAVIT

STATE OF: **OHIO**

COUNTY OF: **LAKE**

_____ being first duly sworn, deposes and says that he is _____ (President, Secretary, etc.) of the party who made this proposal; that such party as BIDDER does not and shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. If awarded the BID and contract under this proposal, said party shall take affirmative action to insure that all applicants for employment shall be considered, without regard to their race, religion, color, sex or national origin. If successful as the lowest and best BIDDER under the foregoing proposals, this party shall post nondiscrimination notices in conspicuous places available to employees and applicants for employment setting forth the provisions of this affidavit.

Furthermore, said party agrees to abide by the assurances found in Section 153.54 of the Ohio Revised Code in the Contract Provisions with the OWNER if selected as the successful BIDDER by the OWNER.

Signature

Affiant

Company/Corporation

Address

City/State/Zip

Sworn to and subscribed before me this _____ day of _____, 20 ____ .

Notary

(Seal)

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AMERICAN RESCUE PLAN ACT OF 2021

BYRD ANTI-LOBBYING AMENDMENT
CERTIFICATION

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned, _____ of _____ (the "Company") hereby certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned 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.

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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

The Company certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of Company Authorized Official

Name and Title of Company Authorized Official

Date