



WELCOME

2021

OHIO GRANTS PARTNERSHIP

PRESENTS

2nd Annual Ohio Grants Summit



Opening Remarks

Messages from the honorable Mike DeWine, Governor of Ohio
and

Kimberly Murnieks, Director of the Ohio Office of Budget and Management





Welcome and Agenda

Stacie Massey

Ohio Office of Budget and Management



Today's Agenda



R. Kinney Poynter, CPA

Executive Director

National Association of State Auditors,
Comptrollers, and Treasurers

(NASACT)

Emerging Issues in Federal Grants

Today's Agenda



Peter Voderberg

Chief of Broadband Ohio

Ohio Department of Development

Current Accomplishments and
Looking Ahead

Today's Agenda



15-Minute Break

Today's Agenda



Jerry Rouch

Deputy Director for Infrastructure
Funding

Ohio Environmental Protection Agency

Allowable Uses of Fiscal Recovery Funds:
Water and Wastewater Infrastructure

Today's Agenda



Lunch Break

Today's Agenda



Marnie Frederickson

Assistant Chief Deputy Auditor

Teresa Hicks

Quality Assurance and Technical Specialist

Ohio Auditor of State

Preparing for a Single Audit and
Accounting for COVID Funds

Today's Agenda



Scott Sheffler
Partner

Feldesman Tucker Leifer Fidell LLP

Compliance Considerations with
COVID Funds

Today's Agenda



Break

Today's Agenda



Stacie Massey

Senior Financial Manager

Ohio Office of Budget and Management

Federal Procurement Standards &
Closing Remarks

Today's Agenda

9:00 – 9:15 Opening Remarks

9:15 – 10:15 Emerging Issues in Federal Grants

10:15 – 11:15 Broadband Ohio: Current Accomplishments and Looking Ahead

11:15 – 11:30 Break & Local Government Video

11:30 – 12:30 Allowable Use of Fiscal Recovery Funds: Water & Wastewater Infrastructure

12:30 – 1:00 Lunch Break & Local Government Video

1:00 – 2:00 Preparing for a Single Audit and Accounting for COVID Funds

2:00 – 3:00 Compliance Considerations with COVID Funds

3:00 – 3:15 Break & Local Government Video

3:15 – 4:00 Federal Procurement Standards and Closing Remarks



R. Kinney Poynter, CPA

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Emerging Issues in Federal Grants

Emerging Issues in Federal Grants

Ohio Grants Summit
December 7, 2021

R. Kinney Poynter, Executive Director



NASACT

National Association of State
**Auditors, Comptrollers
and Treasurers**

Today's Agenda

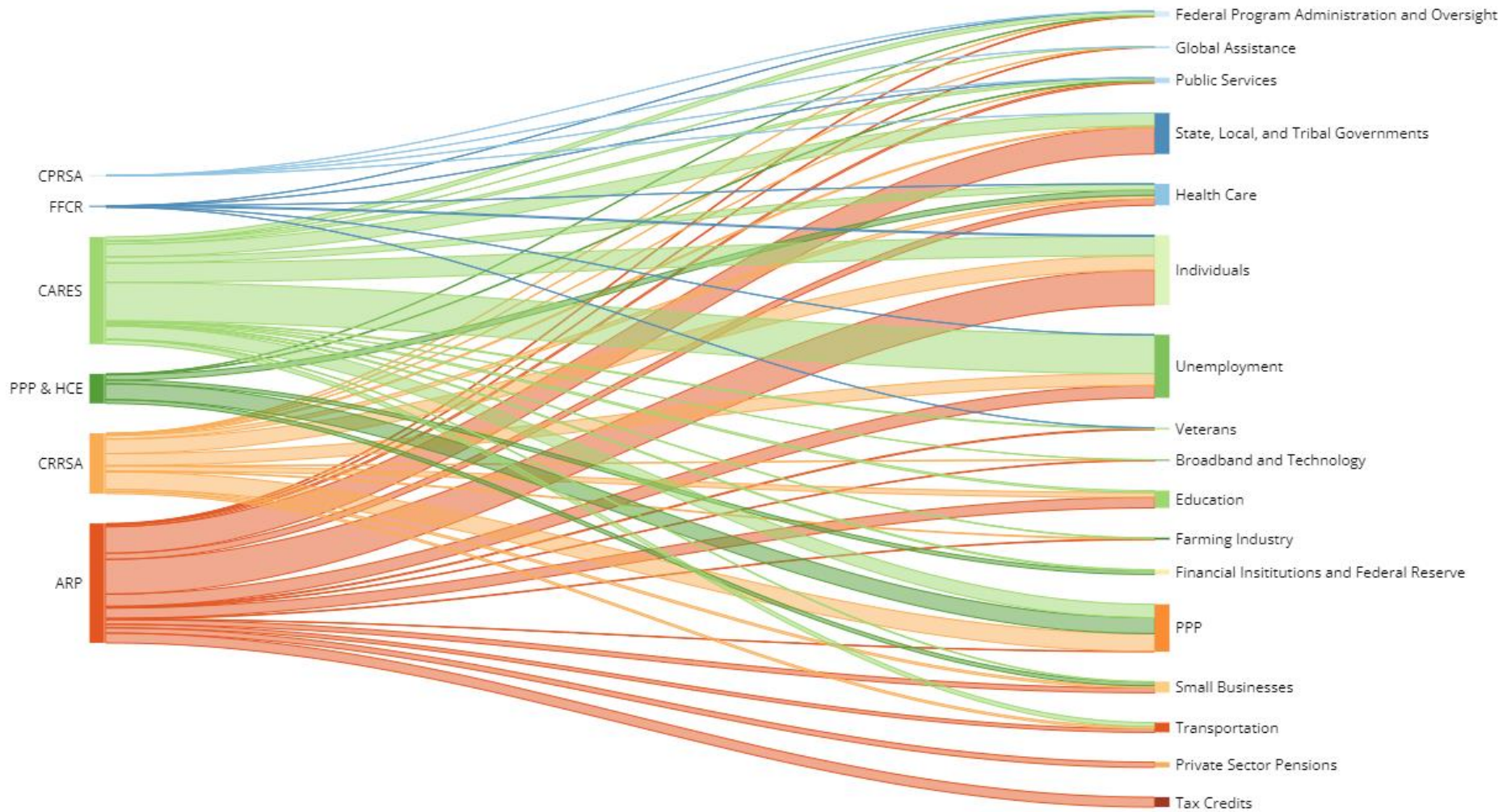
- Legislative and Regulatory Issues
 - Coronavirus Aid, Relief, and Economic Security Act (CARES)
 - Consolidated Appropriations Act 2021
 - American Rescue Plan Act (ARPA)
- Uniform Guidance Implementation

Legislative and Regulatory Issues: COVID-19

COVID-19: Congressional Response

- Six wide-ranging laws have been enacted:
 - March 6, 2020: Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 ([Public Law 116-123](#)) – \$8.3B
 - March 18, 2020: Families First Coronavirus Response Act ([Public Law 116-127](#)) – \$192B
 - March 27, 2020: Coronavirus Aid, Relief, and Economic Security Act ([Public Law 116-136](#)) – \$2.2T
 - April 24, 2020: Paycheck Protection Program and Health Care Enhancement Act ([Public Law 116-139](#)) – \$484B
 - December 27, 2020: Consolidated Appropriations Act 2021 ([Public Law 116-260](#)) – \$920B
 - March 11, 2021: American Rescue Plan Act ([Public Law 117-2](#)) – \$1.9T
- **\$5.7 trillion to date**

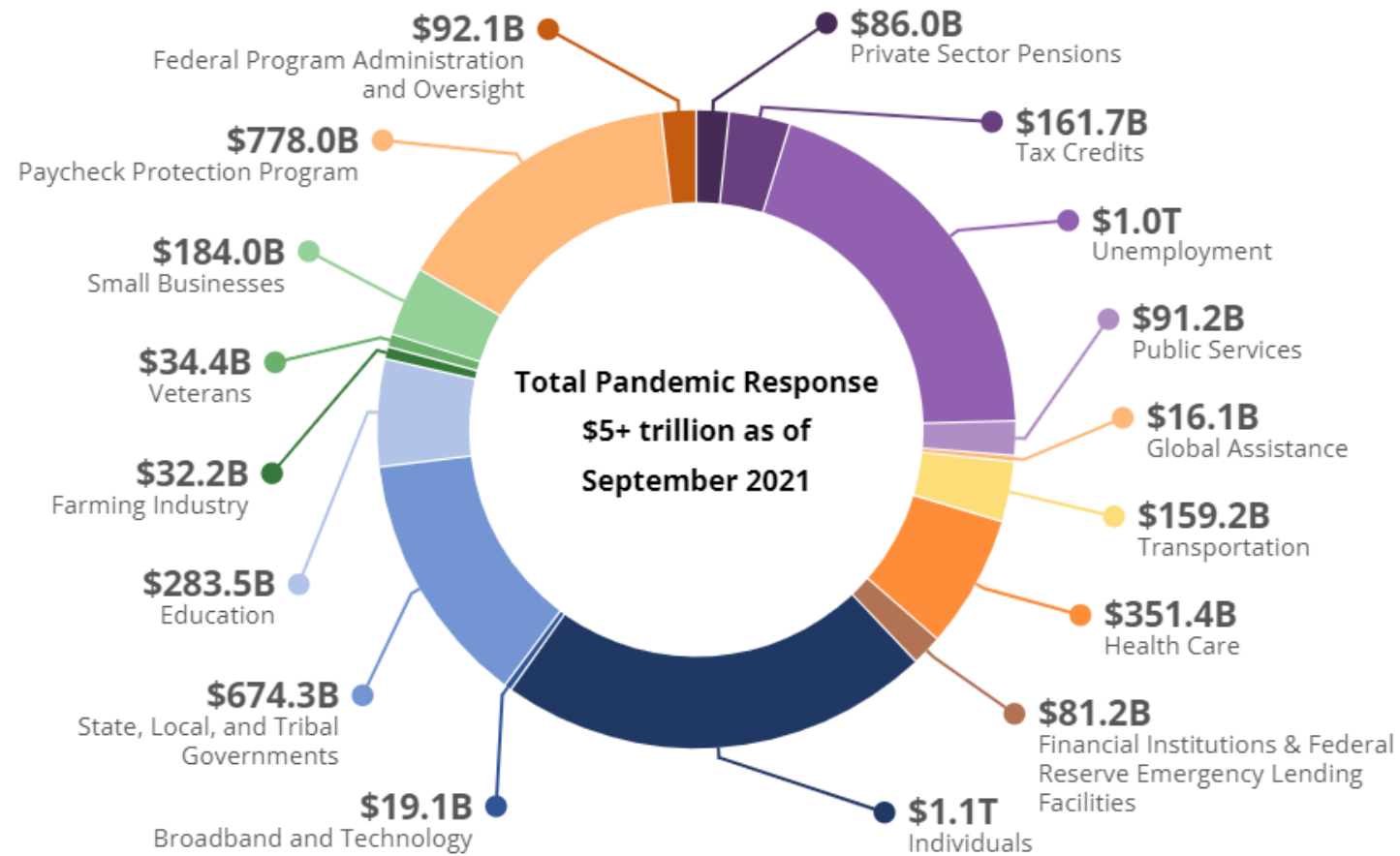
It's as easy as...



Source: www.pandemicoversight.gov

Or maybe...

Where did Pandemic Relief Funds Go?



Source: www.pandemicoversight.gov

Coronavirus Aid, Relief, and Economic Security Act (CARES)

Coronavirus Aid, Relief, and Economic Security (CARES) Act

- Provided \$2.2 trillion to support the government's response and help businesses and individuals
 - \$150 billion for aid to state, local, and tribal governments
 - Coronavirus Relief Fund (CRF) (§ 5001)
 - Direct aid to states, tribal governments, territories and local governments with populations over 500,000
 - Bulk of funding goes to states using population-based formula
 - No state receives less than \$1.25 billion
 - Large local governments apply for their own direct funding
 - Smaller local governments need to go through their state for funding

Use of CRF Funds

- Qualifications (§ 601(d), p. 223):
 - The costs incurred are necessary expenditures due to COVID-19
 - The expenditures were not accounted for in the budget most recently approved as of the date of enactment
 - Expenses were incurred from March 1, 2020, through December 30, 2020
 - Note: subsequently extended to December 31, 2021, by the Consolidated Appropriations Act 2021

CRF: Treasury Guidance and FAQs

- Treasury [Guidance](#) and [FAQs](#)
 - Initial release on April 22, 2020
 - Guidance updated twice since initial release
 - FAQs updated seven times
 - Current guidance document is September 2, 2020
 - Current FAQs are October 19, 2020
 - Treasury codified guidance in the [Federal Register](#) on January 15, 2021

CARES Act: Role of Treasury OIG

- Treasury Office of Inspector General (OIG) plays a significant role under the CARES Act
 - Responsible for monitoring and oversight of the receipt, disbursement and use of CRF payments
 - Authority to recover funds spent improperly
 - Issued reporting and record retention requirements
 - Guidance documents on July 2, 2020 [OIG-CA-20-021](#) and July 31, 2020 [OIG-CA-20-025](#)
 - FAQs on August 28, 2020, September 21, 2020, November 25, 2020 [OIG-CA-20-028](#), and March 2, 2021 [OIG-CA-20-028R](#)
- Reporting Questions
 - CARES@oig.treas.gov; (855) 584-4853

CARES Act: Open/Remaining Issues

CARES Act: Open/Remaining Issues

- COVID-19 Vaccines
 - Are the vaccines considered federal financial assistance and subject to Single Audit?
 - No, according to an email from HHS OIG representative
 - For the purposes of the Vaccination Program, COVID-19 vaccine doses do not transfer to recipients; rather, remain federal property until the point at which they are administered to individuals
 - Federal ownership is the key
 - Therefore, vaccines are not reported as expenditures on the SEFA

CARES Act: Open/Remaining Issues

- FEMA – Expansion of State Reimbursement
 - Presidential memos on [January 21](#) and [February 2](#)
 - Provided for a 100% federal cost share for eligible workers retroactive for eligible work performed from January 20, 2020, through January 20, 2021
 - Allows FEMA to expand activities eligible for work conducted January 21, 2021 through September 30, 2021
 - [Fact Sheet](#) and [Press Release](#)
 - Practical implications:
 - Recipients were able to retroactively use FEMA funds for items previously paid with CRF (or other funds) funds
 - Auditors previously tested for CRF compliance now will have to test for FEMA compliance
 - How should these expenditures be reflected on the SEFA?
 - AICPA GAQC issued helpful nonauthoritative [guidance](#) (April 2021)

CARES Act: Exception to Indirect Cost Rate Calculation

- OMB approves a class exception to *Allocable Costs*
 - Exception allows the tribal, state and local governments to exclude from the direct cost base in the indirect cost rate calculation any CRF funds that deny indirect cost recovery
 - Released November 30, 2021
- For more information:
 - Department of Interior
 - Craig A. Wills, craig_wills@ibc.doi.gov, 916-930-3828
 - DOI/IBC website: <https://ibc.doi.gov/ICS/icrna>
 - HHS
 - Janet Turner, janet.turner@psc.hhs.gov, 415-437-7859
 - HHS/CAS website: <https://rates.psc.gov/>

Consolidated Appropriations Act 2021

Consolidated Appropriations Act 2021

- \$920 billion total in COVID-related relief
 - **Extended CRF spending to December 31, 2021**
 - Provides another round of direct economic relief via stimulus checks
 - Extends the pandemic unemployment assistance program through March 14, 2021, providing \$300 per week for all workers receiving unemployment benefits
 - Provides a temporary extension to the current CDC eviction moratorium and an additional \$25 billion in emergency rental assistance

Consolidated Appropriations Act 2021

- New Development - Emergency Rental Assistance (ERA 1)
 - Treasury has been encouraging groups to speed up distribution of funds
 - Treasury Reallocation [Guidance](#) issued on October 4, 2021
 - Designed to maximize the amount of assistance delivered and number of households served
 - Reallocation based on September spending data
 - Grantees that have not obligated at least 65% of their ERA1 funding by September 30, will be required to submit a program improvement plan
 - Grantees that have an expenditure ratio below 30% on September 30 will be subject to potential reallocation and this threshold will escalate 5% per month until March 2022 when all non-obligated funds may be subject to reallocation

American Rescue Plan Act (ARPA)

American Rescue Plan Act (ARPA)

- ARPA signed into law March 11, 2021 – \$1.9T
 - Small Business Administration Programs – \$24.5B
 - Unemployment Insurance – extend UI benefits with a \$300 weekly supplement through Labor Day 2021
 - Assistance to Individuals – \$1,400 per eligible individual
 - Civic and Community Infrastructure – \$85.6B
 - **State and Local Support – \$362B**
 - Other Provisions (Schools) – \$173B

American Rescue Plan Act (ARPA)

- Treasury Programs
 - Emergency Rental Assistance
 - Homeowners Assistance Program
 - Coronavirus State and Local Fiscal Recovery Fund
- State and Local Fiscal Recovery Fund – \$350B
 - Title IX, Subtitle M, Section 9901
 - Section 602 *Coronavirus State Fiscal Recovery Fund*
 - Section 603 *Coronavirus Local Fiscal Recovery Fund*
 - Section 604 *Coronavirus Capital Projects Fund*
 - Section 605 *Local Assistance and Tribal Consistency Fund*

State and Local Fiscal Recovery Funds

- Assistance to state governments and DC – \$195B
 - \$25.5B allocated equally among each of the 50 states and DC
 - \$168.6B allocated to each state based on the state's share of total national unemployment

State and Local Fiscal Recovery Funds

- Assistance to local governments – \$130B
 - \$65B to counties based on population
 - \$65B to cities
 - \$45.5B to metropolitan cities using a modified CDBG formula
 - \$19.5B to non-entitlement units of local government based on population
 - Allocated through states for redistribution
 - Amount will not exceed 75% of most recent budget as of January 27, 2020

State and Local Fiscal Recovery Funds

- Payment Schedule for State Fiscal Recovery Fund
 - States & U.S. Territories – no later than 60 days after the date on which the entity's certification is provided to Treasury
 - Treasury can withhold 50% up to 12 months from certification date
 - Treasury shall exercise such authority based on unemployment rate at such date
 - Second certification will be required before withheld amount is paid
 - Tribal governments – no later than 60 days after March 11, 2021, enactment
 - District of Columbia – no later than 15 days after enactment

State and Local Fiscal Recovery Funds

- Payment Schedule for Local Fiscal Recovery Fund
 - First tranche – no later than 60 days after enactment on March 11, 2021
 - Second tranche – no earlier than 12 months after the date on which the first tranche was paid to the recipient

State and Local Fiscal Recovery Funds

- Local Fiscal Recovery Fund Distribution
 - Metropolitan cities and most counties will receive their distributions directly
 - Funds for all other municipalities will be distributed to the states for redistribution by May 10, 2021
 - States must distribute allocated amounts to such municipalities within 30 days of receipt
 - State may request a 30-day extension—and in certain cases additional extensions—due to administrative burden

State and Local Fiscal Recovery Funds

- Allowable Uses
 - To respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts
 - To respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the state, territory, or Tribal government that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work
 - For the provision of government services to the extent of the reduction in revenue of such state, territory, or Tribal government due to such emergency or
 - To make necessary investments in water, sewer, or broadband infrastructure

State and Local Fiscal Recovery Funds

- Limitations on Use
 - A state or territory shall not use the funds provided or transferred to either directly or indirectly offset a reduction in the net tax revenue of a state or territory
 - Reduction can result from a change in a law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase
 - No funds made available for deposit into any pension fund
 - Funds cannot be used as non-Federal match, where prohibited (e.g., funds may not be used for the state share for Medicaid)

State and Local Fiscal Recovery Funds

- Eligible Costs Timeframe
 - Funds must be used for costs incurred by **December 31, 2024**
 - Period extends to funds expended by **December 31, 2026**, if funds are obligated by December 31, 2024
 - Costs for projects incurred prior to March 3, 2021, are **not** eligible
 - Any funds not obligated or expended for eligible uses by these timelines must be returned to Treasury
 - Including any unobligated or unexpended funds that have been provided to subrecipients and contractors

State and Local Fiscal Recovery Funds

- Reporting requirements
 - There are three types of reporting for SLFRF
 1. Interim Report
 - Initial overview of status and uses of funds by Expenditure Category (EC); a one-time report
 2. Project and Expenditure Report
 - Report on projects funded, expenditures and contracts and subawards over \$50,000 by EC and other information
 3. Recovery Plan Performance Report
 - Information on projects that large recipients are undertaking and how they plan to ensure **program outcomes** are achieved
 - » Applies to populations of 250,000 or more
 - » Includes **key performance indicators** identified by the recipient and some mandatory indicators from Treasury
 - » Will be posted to public website

SLFRF Reporting Requirements – By Recipient Type

Tier	Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
1	States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021 or 60 days after receiving funding if funding was received by October 15, with expenditures by category	By January 31, 2022, and then 30 days after the end of each quarter thereafter ⁹	By August 31, 2021 or 60 days after receiving funding, and annually thereafter by July 31 ¹⁰
2	Metropolitan cities and counties with a population below 250,000 residents which received more than \$10 million in SLFRF funding		By April 30, 2022, and then annually thereafter ¹¹	Not required
3	Tribal Governments which received more than \$30 million in SLFRF funding			
4	Tribal Governments which received less than \$30 million in SLFRF funding			
5	Metropolitan cities and counties with a population below 250,000 residents which received less than \$10 million in SLFRF funding			
6	NEUs	Not required		

SLFRF Reporting Deadlines Extended

- On September 30, 2021, Treasury revised the deadline for the submission of the first Project and Expenditure Report as follows:
 - For states, territories, cities, counties and tribal governments, the report will now be due on **January 31, 2022** (instead of October 31, 2021) and will cover the period between the award date and December 31, 2021
 - For NEUs, the report will now be due on **April 30, 2022** (instead of October 31, 2021) and cover the period between award date and March 31, 2022

SLFRF – Expenditure Categories

- Seven major categories including:
 - Public Health (12)
 - Negative Economic Impacts (14)
 - Services to Disproportionately Impacted Communities (16)
 - Premium Pay (2)
 - Infrastructure (17)
 - Revenue Replacement (1)
 - Administrative (4)
- 66 total specific categories

State and Local Fiscal Recovery Funds

- Recovery Plan Performance Report (“Recovery Plan”)
 - Required Performance Indicators and Programmatic Data
 - While recipients have discretion on the full suite of performance indicators to include, a number are required in various ECs:
 - Household assistance (e.g., number of affordable housing units preserved or developed)
 - Negative economic impacts (e.g., number of workers completing job training programs)
 - Education assistance (e.g., number of students participating in evidence-based tutoring programs)
 - Healthy childhood environments (e.g., number of children served by childcare and early learning)

State and Local Fiscal Recovery Funds

- Comparison between CRF and SLFRF reporting:
 - Project, Expenditure and Subaward Reporting
 - Data elements will largely mirror those of CRF, with some minor exceptions
 - Timing
 - CRF reports were due within 10 days of each calendar quarter
 - SLFRF reports will be due 30 days from quarter end
 - Program and Performance Reporting
 - CRF reporting did not include any program or performance reporting
 - SLFRF will require some program and performance reporting

American Rescue Plan Act (APRA)

- Resources from Treasury - CSLFRF
 - [Interim Final Rule](#) (May 17, 2021)
 - [CSLFRF Fact Sheet](#) (May 10, 2021)
 - [Compliance and Reporting Guidance](#) (November 15, 2021)
 - [FAQs](#) (as of November 15, 2021)
 - [Non-entitlement Units of Local Government](#)
 - [Guidance](#)
 - [FAQs](#) (as of June 30, 2021)
 - [Update on Interpretation for the 75% Budget Cap Calculation](#) (July 1, 2021)
 - [Treasury's Portal for Recipient Reporting](#) (August 9, 2021)
 - [Reporting Templates](#) for Recovery Plan Reporting and NEU distributions (August 3, 2021)
 - Questions
 - SLFRP@treasury.gov or (202) 622-2000

ARPA: Initial Implementation Issues

State and Local Fiscal Recovery Funds

- Uniform Administrative Requirements
 - SLFRF awards are generally subject to the UG requirements set forth in [2 CFR Part 200](#)
 - Recipients and subrecipients should closely review the UG requirements and Award Terms and Conditions applicable to the program
 - Single Audit (Subpart F) applies
 - Single audit costs are allowable
 - Administrative Costs
 - Recipients are permitted to charge both direct and indirect costs to their SLFRF awards
 - Negotiated Indirect Cost Rate Agreement (NICRA) may be used, or recipients may alternatively use the 10% de minimis rate

State and Local Fiscal Recovery Funds

- Uniform Administrative Requirements
 - Cash Management Improvement Act (CMIA)
 - SLFRF payments are **not** subject to CMIA
 - Funds can be placed in interest-bearing accounts
 - Interest does not need to be remitted to Treasury
 - Equipment and Real Property
 - Equipment and real property must be used for the originally authorized purpose
 - Vests with the non-Federal entity
 - Reporting
 - Expenditures can be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied

State and Local Fiscal Recovery Funds

- Assistance Listing Number (formerly CFDA Number)
 - Will there be a separate ALN?
 - Yes, the new number is 21.027
 - To expedite payments and meet statutory timelines, Treasury issued initial payments under existing ALN 21.019 (assigned to CRF)
 - Funds received under 21.019 should be revised to 21.027
 - Recipients **must** use 21.027 for all financial accounting, subawards, and associated program reporting requirements

State and Local Fiscal Recovery Funds

- Key Provisions from Guidance and FAQs for SLFRF:
 - Are NEUs considered subrecipients?
 - No, Treasury guidance indicates they are prime recipients
 - Still some confusion in this area especially on proper SEFA reporting
 - » Do state disbursements of SLFRF to NEUs get reported on the state's SEFA?
 - Will Grants Solutions be the reporting mechanism?
 - No, Treasury developed a different mechanism from the one used for the CARES Act
 - Simply referred to as “Treasury’s Portal”

State and Local Fiscal Recovery Funds

- Initial Implementation Issues and Questions
 - For management:
 - Concern about timing of fund deposit (collateralization)
 - Need flexibility in defining “respond to the public health emergencyor its negative economic impacts” and for infrastructure spending
 - For auditors:
 - Do I have a major program?
 - What will be the impact on other programs (e.g., will have more major programs)?
 - What do I audit it against?

State and Local Fiscal Recovery Funds

- Initial Implementation Issues and Questions
 - If the Final Rule is different than the Interim Final Rule (IFR), what is my responsibility as management and as the auditor?
 - Per the [Interim Final Rule Explainer](#) (September 2021):
 - Until Treasury adopts a Final Rule, and it becomes effective, the IFR is, and will remain, binding and effective
 - Recipients can and should rely on the IFR to determine eligibility
 - Funds used in a manner consistent with the IFR while it is effective will not be subject to recoupment

State and Local Fiscal Recovery Funds

- Initial Implementation Issues and Questions
 - Auditor Capacity Issues
 - With the vast influx of federal funding, where will entities find enough auditors to conduct the required single audits?
 - This issue is particularly acute for small governments (e.g., NEUs) that are receiving federal funding perhaps for the first time
 - Would it be more efficient to require something less than a full single audit for these entities?
 - Program specific audit or agreed upon procedures
 - Discussions currently ongoing with OMB

American Rescue Plan Act (APRA)

- Resources from Treasury – Other Programs
 - Emergency Rental Assistance Program
 - [FAQs](#) (as of August 25, 2021)
 - [Guidance](#) for reallocation under Consolidated Appropriations Act, 2021 (October 4, 2021)
 - Capital Projects Fund
 - [Guidance](#) for states and territories (September 2021)
 - [Guidance](#) for tribal governments (September 2021)
 - Allocation Information (including [states](#), [territories](#) and [tribal governments](#))

COVID-19: Response from OMB

COVID-19: OMB's Response

- Compliance Supplements
 - [2020 Compliance Supplement Addendum](#) (December 2020)
 - [2021 Compliance Supplement](#)
- OMB Administrative Memorandums Issued:
 - [M-20-11](#) (March 9, 2020)
 - [M-20-17](#) (March 19, 2020)
 - [M-20-20](#) (April 9, 2020)
 - [M-20-21](#) (April 10, 2020)
 - [M-20-26](#) (June 18, 2020)
 - [M-21-20](#) (March 19, 2021)
- OMB FAQs
 - [CARES Act and M-20-21](#) (June 24, 2020)
 - [ARPA and M-21-20](#) (May 21, 2021)
- [List of COVID-19 Federal Financial Assistance Programs](#) (September 30, 2021)
- Questions
 - GrantsTeam@omb.eop.gov
 - ARP.implementation@omb.eop.gov

2020 Compliance Supplement Addendum

- General Information
 - Issued December 22, 2020
 - Effective for audits of FY beginning after 6/30/19
 - Contains 14 COVID-related programs and one new non-COVID program
 - Provides guidance for testing of CARES Act funding
 - Late issuance created backlog of audit work

2020 Compliance Supplement Addendum

- New Reporting Requirement
 - The auditor MUST test FFATA reporting for all the COVID-19 programs included in the Addendum (except for CRF):
 - As long as the reporting type of compliance requirement is marked Y in Part 2 Matrix and auditor determines to be direct and material
 - The recipient makes the first-tier subawards/subcontracts of \$25K
 - This requirement will be extended to all major programs regardless of COVID-19 funding beginning for FY ending after 9/30/20

2020 Compliance Supplement Addendum

- New Reporting Requirement (cont.)
 - How will the auditor test?
 - Select a sample of subawards and determine if subject to FFATA reporting
 - Find the awards in FSRS
 - Compare the award information
 - Report any instances of noncompliance

2020 Compliance Supplement Addendum

- Personal Protective Equipment (PPE) Donations
 - M-20-20 allowed for donated PPE
 - Donated PPE was mostly provided without any compliance requirements, reporting requirements or ALN number
 - Nonfederal entities that received such donated PPE should include the FMV of the PPE at time of receipt in a stand-alone footnote to the SEFA that can be marked “unaudited”
 - The donated PPE should NOT be counted for purposes of determining the threshold for a single audit or the type A/B program threshold for major programs
 - Not required to be audited as a major program

2020 Compliance Supplement Addendum

- Agency Guidance Document References
 - Addendum contains links to agency websites and other guidance documents (not normal regulatory process)
 - Such guidance communicates an agency's understanding of how relevant statutes, terms and conditions, etc., apply to particular circumstances
 - However, they do **not** create new compliance requirements
 - Auditors may use these documents during the period to understand the program requirements and determine compliance
 - However, auditors should refer to a statute, regulation, or term and condition as criteria for the audit finding

2021 Compliance Supplement

- Overall Plan and Timing
 - Initial issuance on August 12; **reissued** on August 25
 - Addendum 1 (expected by end of October)
 - Will contain sections for State and Local Recovery Fund (21.027) and Education Stabilization Fund (84.425)
 - Addendum 2 (targeted for end of November)
 - USDA 10.542 – Pandemic EBT – Food Benefits
 - USDA 10.649 – Pandemic EBT – Admin Costs
 - HHS 93.575 – Child Care and Development Block Grant
 - HHS 93.499 – Low Income Household Water Assistance Program
 - HHS 93.558 – TANF
 - HUD 14.871/14.879 – Section 8 Housing Choice Vouchers
 - DOT 20.315 – National Railroad Passenger Corporation Grants

2021 Compliance Supplement

- Key provisions:
 - Part 8, Appendix IV
 - All new ARPA programs are considered “higher risk”
 - The following non-ARPA programs are considered “higher risk”

Agency	ALN (CFDA) Number	Title
HHS	93.778/93.777;93.775	Medicaid Cluster
HHS	94.98	Provider Relief Fund
HHS	93.461	Testing for the Uninsured
Transportation	20.106	Airport Improvement Program
Transportation	20.500/20.507/20.526	Federal Transit Cluster
Treasury	21.019	Coronavirus Relief Fund
Treasury	21.203	Emergency Rental Assistance*
Education	84.425	Education Stabilization Fund

2021 Compliance Supplement

- Emergency Rental Assistance (ERA)
 - Treasury does not intend to develop a Compliance Supplement section for this program
 - Likely to be a major program for all states
 - Auditors will be forced to apply part 7 of the Compliance Supplement to determine compliance requirements and in designing tests of compliance
 - A very inefficient approach!

COVID-19: OMB's Response

- OMB Memo M-21-20
 - Appendix 3
 - Extension of Single Audit submission
 - Awarding agencies should allow recipients and subrecipients that have not yet filed their single audits as of the date of the issuance of this memorandum that have fiscal year-ends through June 30, 2021, to delay the completion and submission of the Single Audit reporting package to **six months** beyond the normal due date
 - No further action by awarding agencies is required for this extension
 - Recipients and subrecipients are not required to seek approval for the extension; however, they should document the reason
 - Extension does not impact “low-risk auditee” status

OMB Uniform Guidance Implementaton

Single Audit Issues

Uniform Guidance Implementation – Current Developments

- OMB releases long-awaited changes to UG
 - Finalized [Rule](#) changes as part of 5-year review – August 2020
- Overarching Goals
 - Support implementation of the President’s Management Agenda Results-Oriented Accountability for Grants CAP Goal and other Administration priorities
 - Meet statutory requirements and to align with other authoritative sources
 - Clarify existing requirements
- Effective dates
 - Effective November 12, 2020, except for amendments to:
 - 200.216 (controlling participants) and 200.340 (notification of termination requirement), which are effective on August 13, 2020
- [2 CFR Revisions \(85 FR 49506\) Crosswalk](#) issued December 2020
- [FAQs](#) released May 3, 2021

Uniform Guidance Changes

- Key Issues:
 - Cost allowability of:
 - Pensions
 - OPEB
 - Leases
 - Capitalization threshold
 - Negotiated Indirect Cost Rates
 - Governmentwide Audit Quality Project
 - De minimis indirect cost rate

**These continue to be
interesting times...**

Questions or Comments

R. Kinney Poynter, CPA

NASACT

kpoynter@nasact.org

(859) 276-1147



Peter Voderberg

Chief of Broadband Ohio

Ohio Department of Development

BroadbandOhio: Current Accomplishments and Looking Ahead

Peter Voderberg
Chief, BroadbandOhio

BroadbandOhio: Current Accomplishments and Looking Ahead

December 7, 2021



Department of
Development

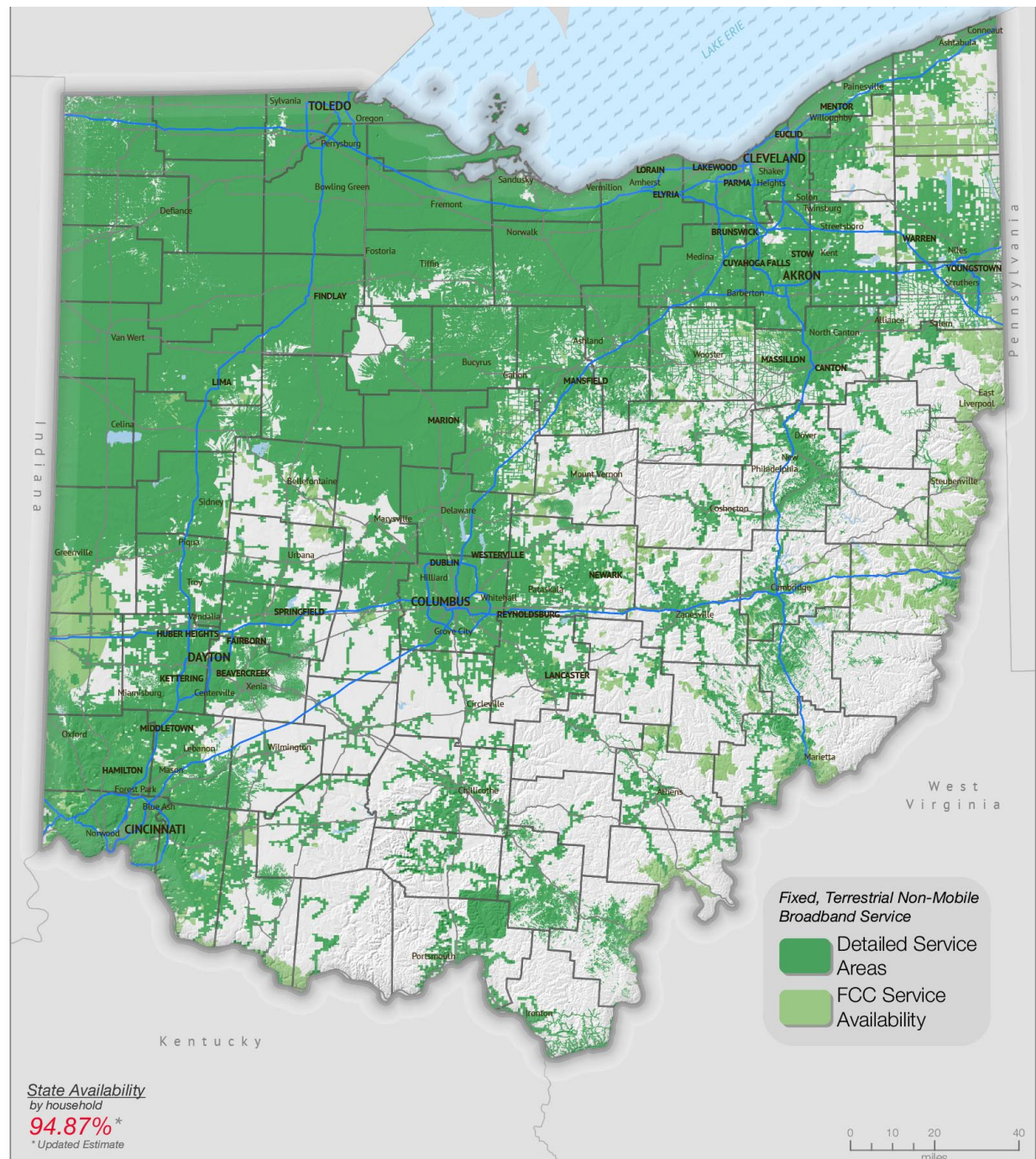
BroadbandOhio

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BroadbandOhio





Office of BroadbandOhio

Established in March 2020



The Vision of the Ohio Broadband Strategy is to:

- Bring high-speed internet access to every Ohioan
- Build a best-in-class broadband network in Ohio

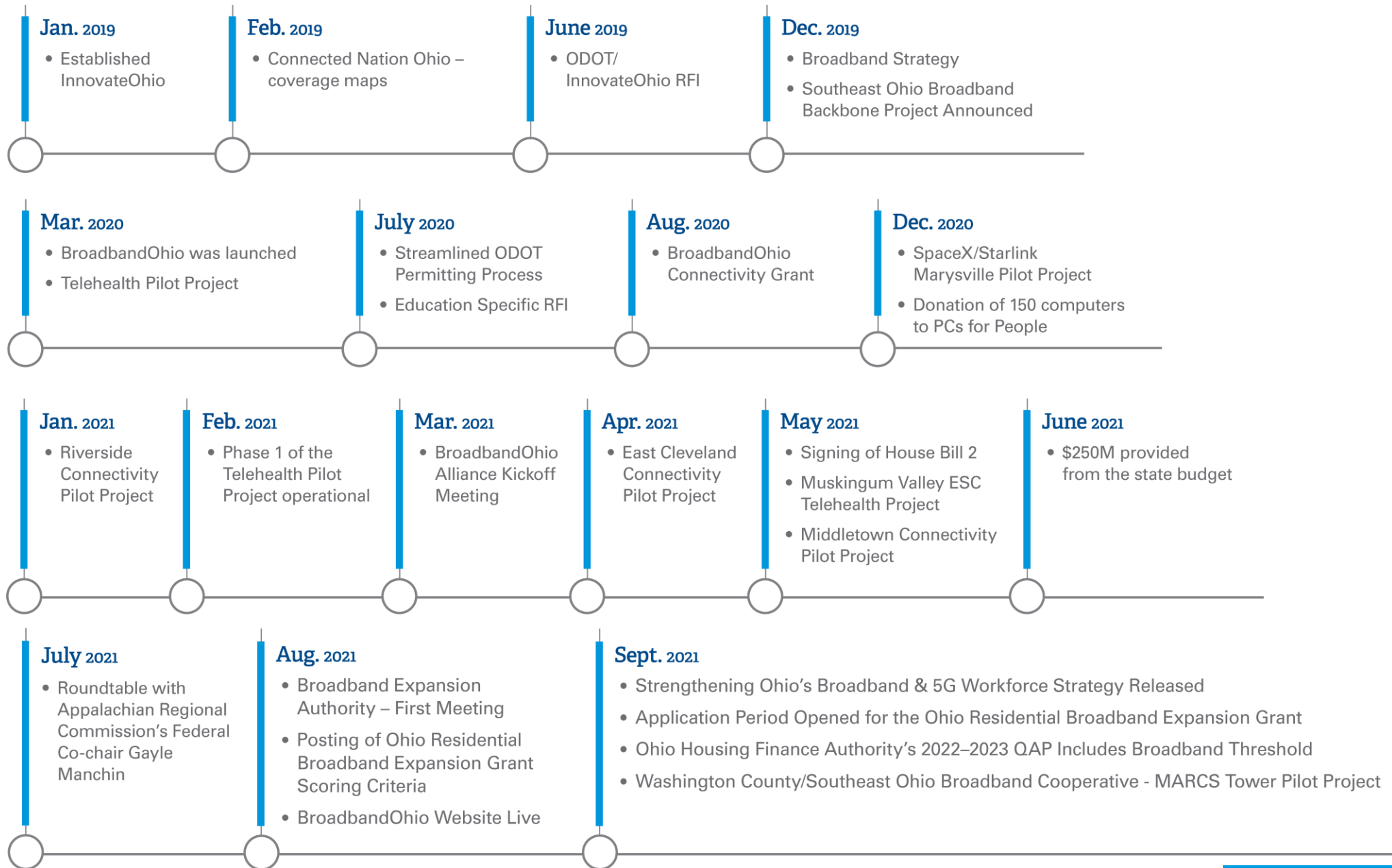
The Digital Divide: Connectivity Issues



Availability

Adoption

- Digital Literacy
- Affordability

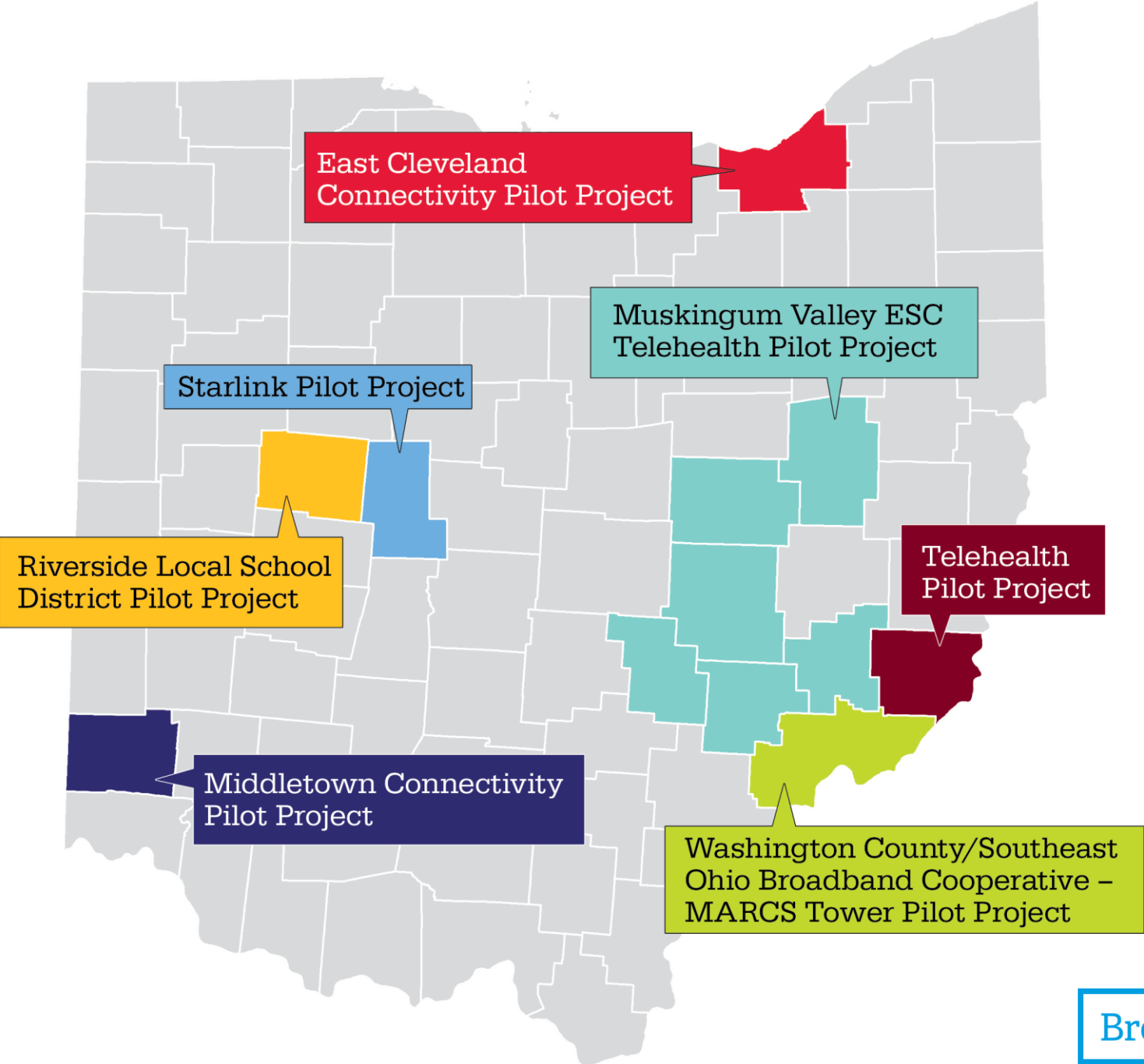


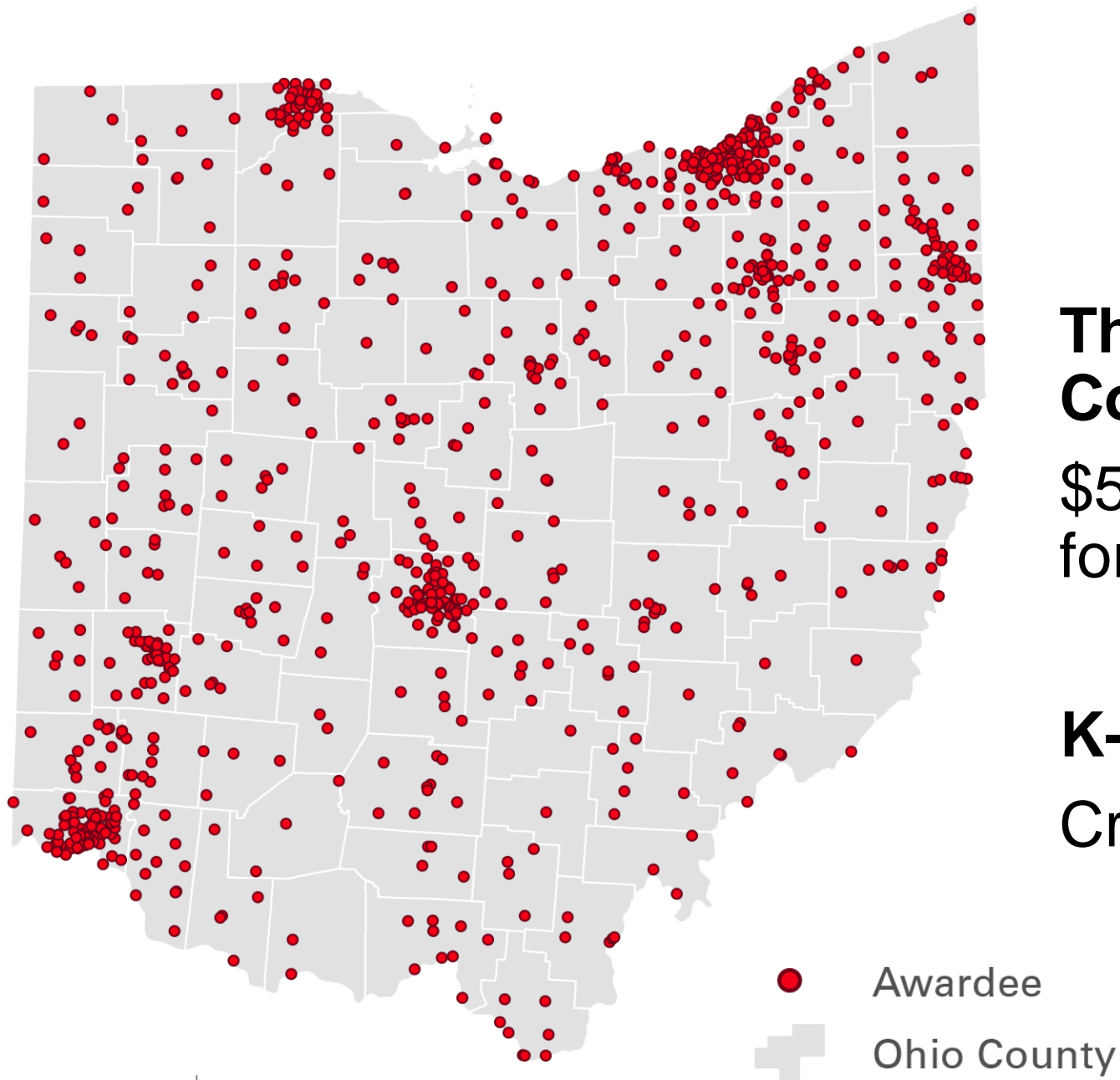
Department of
Development

Broadband Accomplishments Timeline

BroadbandOhio

BroadbandOhio Initiatives





Student Access

The BroadbandOhio Connectivity Grant

\$50 million in grants with ODE for connectivity devices

K-12 Education RFI

Created a transparent pricelist



Ohio Residential Broadband Expansion Grant Program

- HB 2 was signed into law by Governor DeWine on May 17, 2021.
- Provides grants to internet service providers to fill the funding gap for the construction of broadband projects in unserved and underserved areas of the state.
- Established the Broadband Expansion Program Authority within Department of Development.
- Application period closed November 8, 2021. Awards expected Spring 2022.



Programs started as a result of Ohio's Broadband & 5G Workforce Strategy

-  **5G Readiness Program**
-  **Fiber Optic Technician**
-  **Telecommunications Tower Technician Program**



JON HUSTED
LT. GOVERNOR OF OHIO

BroadbandOhio

Ohio

Governor's Office of
Workforce Transformation

How Can You Help?

- Identify areas in your region that lack access. This could include boots-on-the-ground conversations and community engagement.
- Identify key state and local assets that could be leveraged by ISPs to get service out faster and more efficiently.
- Collaborate with community organizations such as libraries, schools, and non-profits on access, affordability, and digital literacy efforts. Find your champions!
- Contact BroadbandOhio at BroadbandOhio@development.ohio.gov



Jerry Rouch

Deputy Director

Ohio Environmental Protection Agency

**Allowable Uses of Fiscal Recovery Funds: Water and Wastewater
Infrastructure**

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

**Ohio Grants Summit
December 7, 2021**

Jerry Rouch, Deputy Director of Infrastructure Funding
Ohio EPA



Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

- Review the language in ARPA
- Background on the SRF programs
- Eligibility – A deeper dive (applicants and projects)
- Funding Opportunities (options & co-funding)
- Resources for assistance
- Questions

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

Review of ARPA Language

Use of funds....

- To respond to the public health emergency or it's negative economic impacts...
- To provide premium pay to workers performing essential work...
- For the provision of government services to the extent of the reduction of revenue...due to the COVID-19 public health emergency
- **To make necessary investments in water, sewer, or broadband infrastructure.**

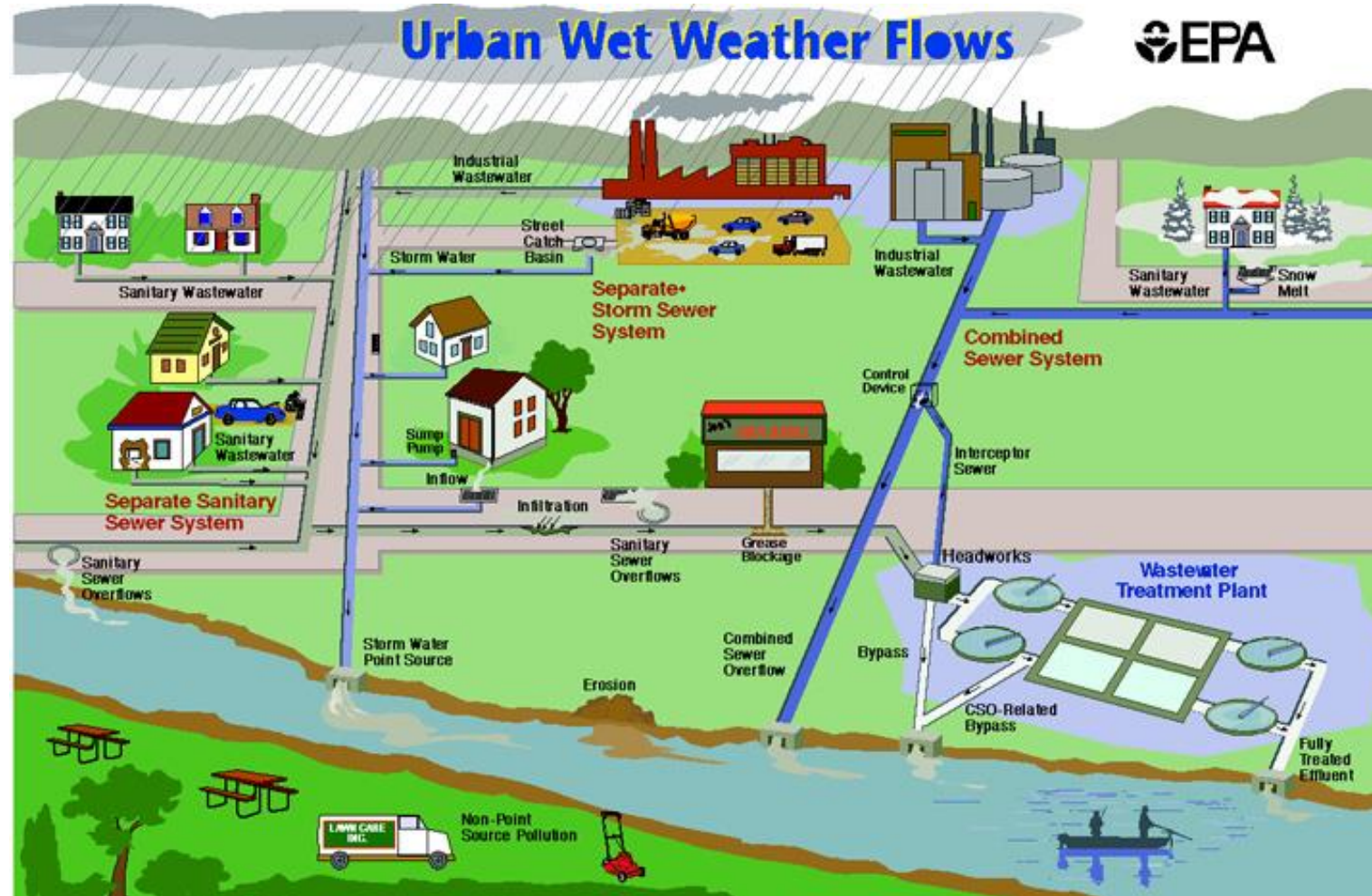
Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

Review of ARPA Language

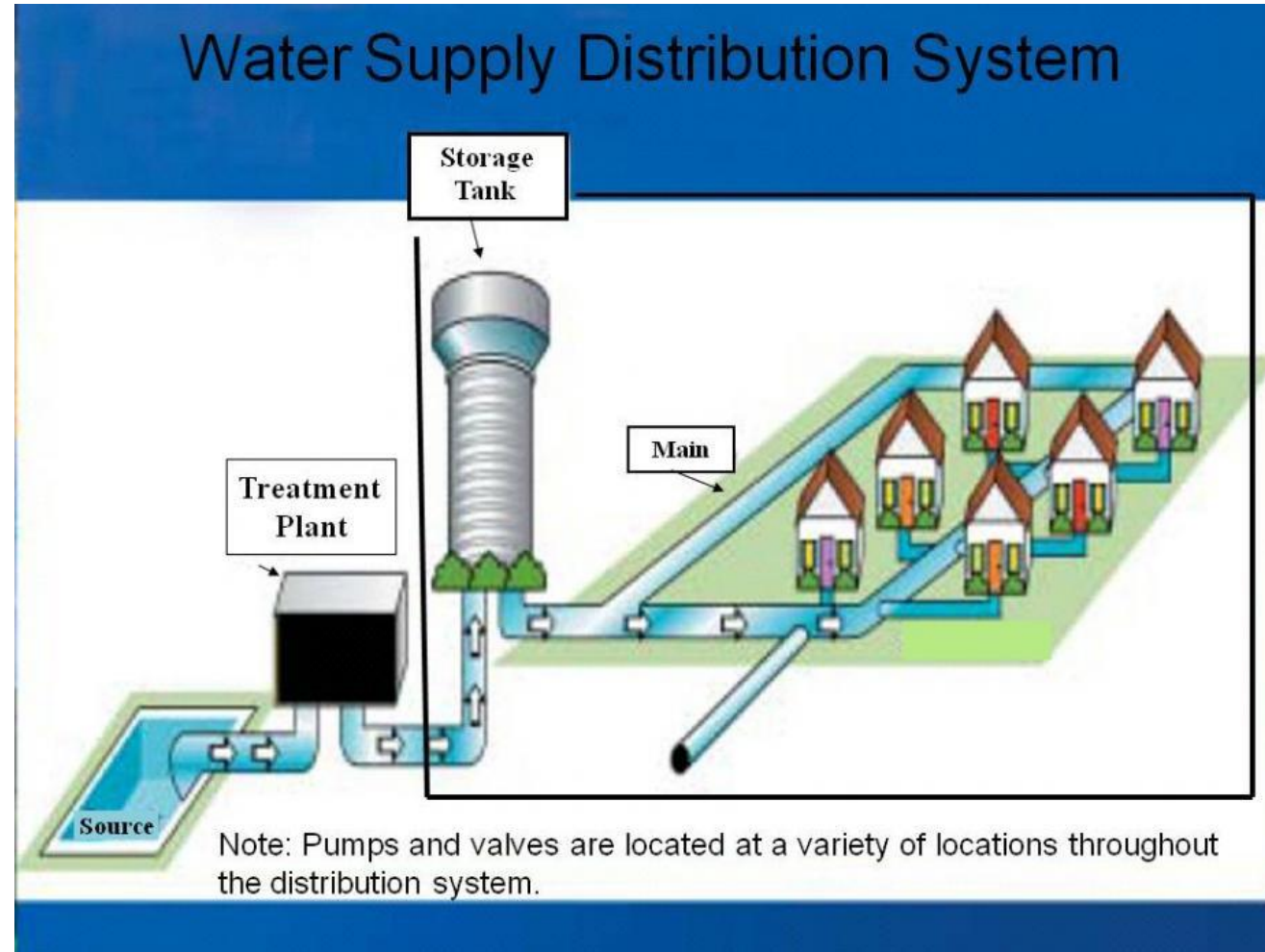
31 CFR Part 35 State and Local Fiscal Recovery Funds

- The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure. By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health.
- Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the interim final rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities....
- **The interim final rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).**

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure



Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

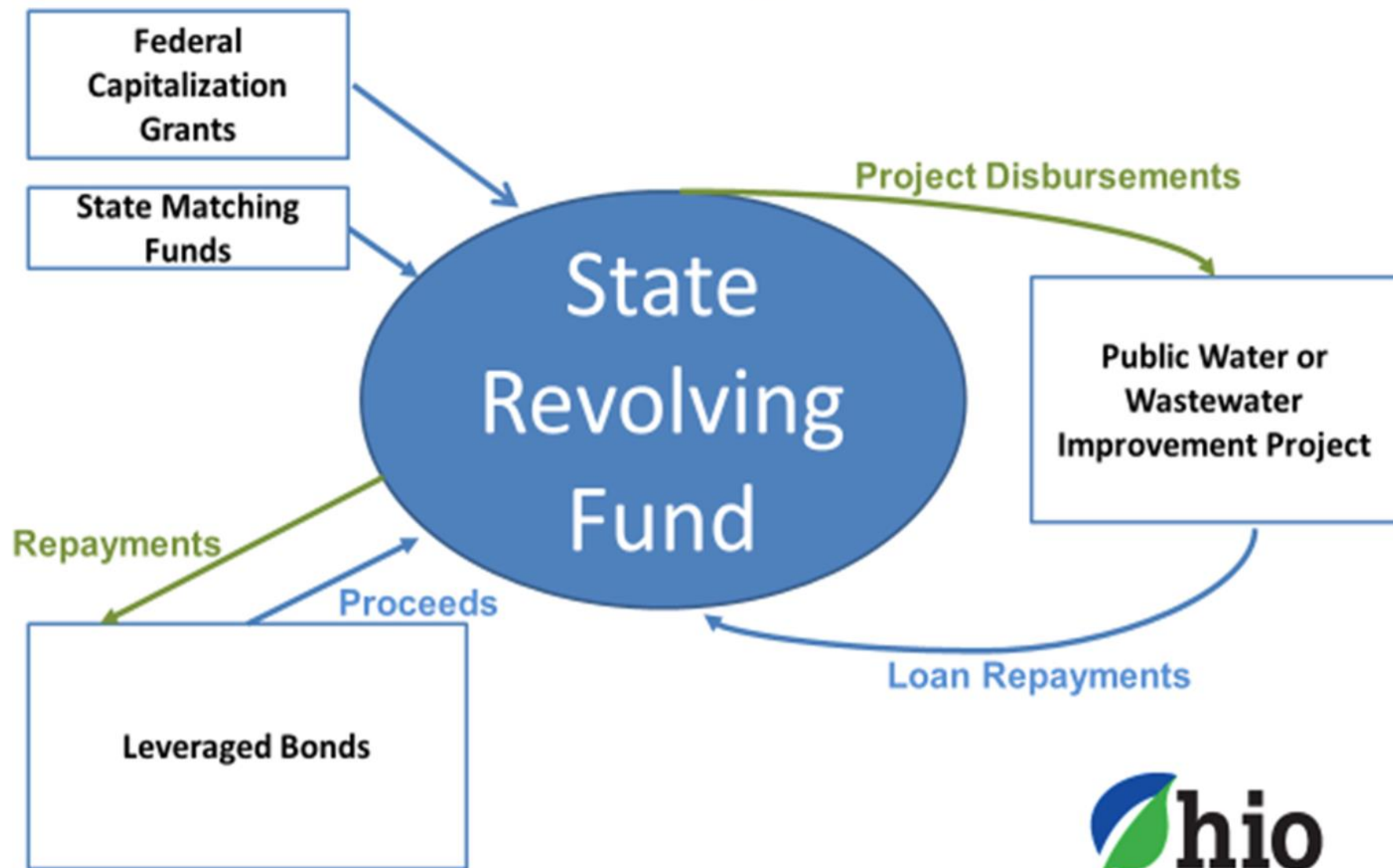


Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

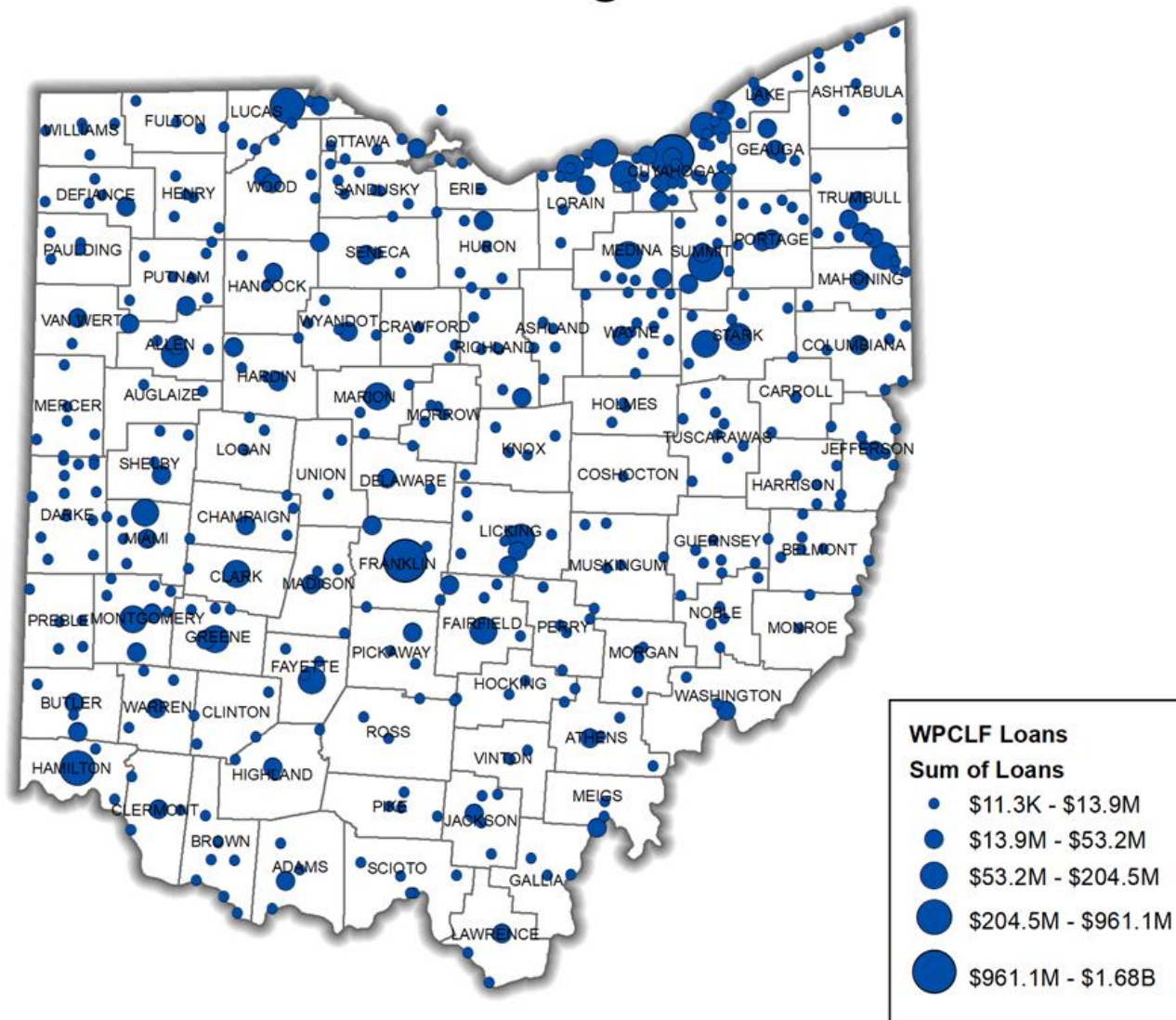
Background of the SRF Programs

	Water Pollution Control Loan Fund	Water Supply Revolving Loan Account
Authorization (year)	CWA 1987	SDWA 1996
First Loan	Sept. 1989	Feb. 1999
Total Projects	2,786 loans - \$10.7 billion	943 loans - \$2.07 billion
Federal Seed Money	\$2.5 billion	\$674 million
State Matching Funds	\$495 million	\$135 million
Annual Capacity	\$500 million/year	\$150 million/year

How State Revolving Funds Operate



WPCLF Funding in Ohio



Allowable Uses of Fiscal Recovery Funds:

Water and Wastewater Infrastructure

Eligible Recipients

Water Pollution Control Loan Fund

- Publicly-owned Treatment Works (POTWs)
 - Municipal corporations, other political subdivisions, and state agencies.
- Nonpoint Source Pollution (NPS) projects
 - Municipal corporations, other political subdivisions
 - Not-for-profits and private organizations

Drinking Water Assistance Fund

- Safe Drinking Water Act:
 - Community Water Systems
 - Non-profit, Non-community Public Water Systems
 - New community water systems that represent a cost-effective solution to a public health threat caused by unsafe individual wells.

Allowable Uses of Fiscal Recovery Funds:

Water and Wastewater Infrastructure

Eligible Projects

Water Pollution Control Loan Fund

- Most capital improvements related to wastewater collection and treatment (new, rehabilitation or replacement).
- Stormwater projects with a water quality benefit.
- Nonpoint source pollution control projects (ex. Home sewage)
- Much more...eligibilities have been expanding, not contracting.

Drinking Water Assistance Fund

- Most capital improvements for drinking water treatment, distribution and storage (new, rehabilitation or replacement).
- Regionalizing/Consolidating systems
- Asset Management planning
- Lead Service Line (LSL) replacement
- Much more...

Allowable Uses of Fiscal Recovery Funds:

Water and Wastewater Infrastructure

Eligible Projects

Water Pollution Control Loan Fund

- Wastewater collection and treatment
 - Planning, design and construction
 - Sanitary sewers – new and replacement
 - Treatment plant – new and rehab
 - Combined sewer overflow projts.
 - Green infrastructure
 - Improved Security and resiliency

Drinking Water Assistance Fund

- Drinking water treatment, distribution and storage
 - Planning, design and construction
 - Waterlines – new and replacement
 - Treatment – new and rehab
 - Storage tanks and towers
 - Water meters
 - Lead service lines

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

Eligible Drinking Water Project Examples (*funded in 2021*)

- Water storage tank replacements
- WTP improvements for HAB, Disinfection byproducts, etc..
- WTP rehabilitation projects
- New waterlines to unserved areas
- Water main replacements
- New WTPs and wells
- Interconnections with another PWS
- Water Masterplan Update
- WTP Generator improvements
- Water meter replacements
- Lead service line replacements
- Consolidation projects
- Pump station replacements
- Planning, design and construction

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

Eligible Wastewater Project Examples (*funded in 2021*)

- New regional WWTPs
- WWTP renovations
- Sanitary sewer extensions to unserved areas on septic tanks
- Sanitary sewer rehabilitations
- Large diameter deep tunnels
- Combined sewer separation
- Storm sewer construction with a water quality benefit
- Pump station upgrades
- Sludge digestion & storage
- WWTP odor control project
- Back-up generator installation
- Home sewage treatment system repairs and replacements
- Stream and wetland restoration
- Planning, design and construction

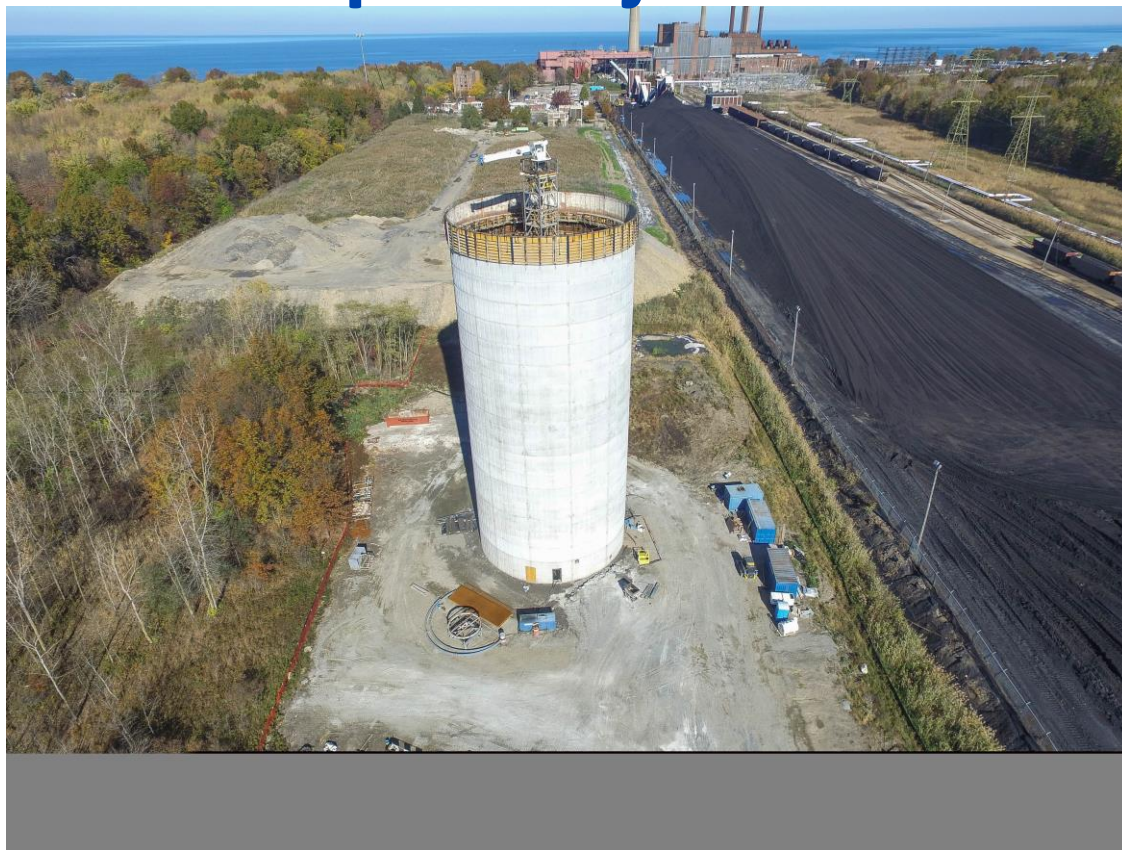
Water and Wastewater Infrastructure

Example Projects Funded through the SRF Programs



Water and Wastewater Infrastructure

Example Projects Funded through the SRF Programs



Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

Projects not Eligible Through the SRF Programs

Water Pollution Control Loan Fund

- Street restoration beyond that necessary for project.
- Ordinary operating expenses
- Refinancing debt for projects with long-term financing
- Loans to private entities for public wastewater treatment
- Personal injury compensation

Drinking Water Assistance Fund

- Construction of dams or reservoirs.
- Projects needed primarily for fire protection.
- Projects primarily for future growth.
- Applicants that lack technical, managerial, financial capacity.
- Projects that are not cost-effective
- Refinancing existing debt

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure Funding Opportunities

State Funding Opportunities

- Ohio EPA - Drinking Water SRF
- Ohio EPA – Clean Water SRF
- Ohio Public Works Commission
- H2Ohio Initiative
- Ohio Water Development Authority
- Community Development Block Grants

Federal Funding Opportunities

- American Rescue Plan Act
- USDA – Rural Development
- Appalachian Regional Commission
- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure Funding Opportunities

- Co-funding opportunities with other programs
- Transfer possibilities/opportunities
- Project “sharing”
- Regionalization/Consolidation
- Project phasing
- Get all the information on the table: projects, priorities, funding sources/timelines, implementation schedules

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure Resources for Assistance

- USEPA Eligibility manuals
 - https://www.epa.gov/sites/default/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf
 - <https://www.epa.gov/dwsrf/drinking-water-state-revolving-fund-eligibility-handbook>
- Consulting engineers
- Technical Service Providers (like RCAP)
- Local and Regional Planning Organizations
- Ohio EPA

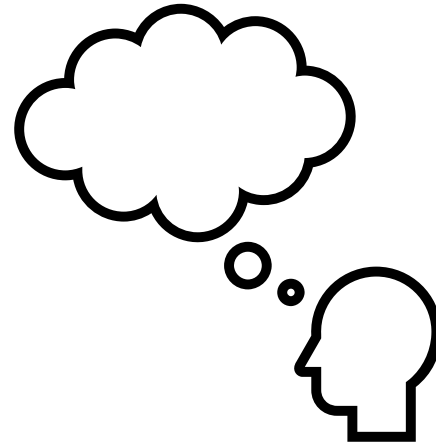
Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

Some Frequently Asked Questions...

- Question/language regarding “...satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree...”
- Can funds be used for planning or design?
- Can Local ARPA funds be used as match for State ARPA funds?
- Can I use an Ohio EPA SRF loan in conjunction with my ARPA funds?
- Can ARPA funds be used to retire existing debt?

Allowable Uses of Fiscal Recovery Funds: Water and Wastewater Infrastructure

Questions?



Jerry Rouch, Deputy Director for Infrastructure Funding

Jerome.rouch@epa.ohio.gov

614-644-3660



Teresa Hicks

Quality Assurance and Technical
Specialist



Marnie Fredrickson

Assistant Chief Deputy Auditor

Ohio Auditor of State

Preparing for a Single Audit and Accounting for COVID Funds

How to Prepare for an Audit

Ohio Grants Summit

December 7, 2021

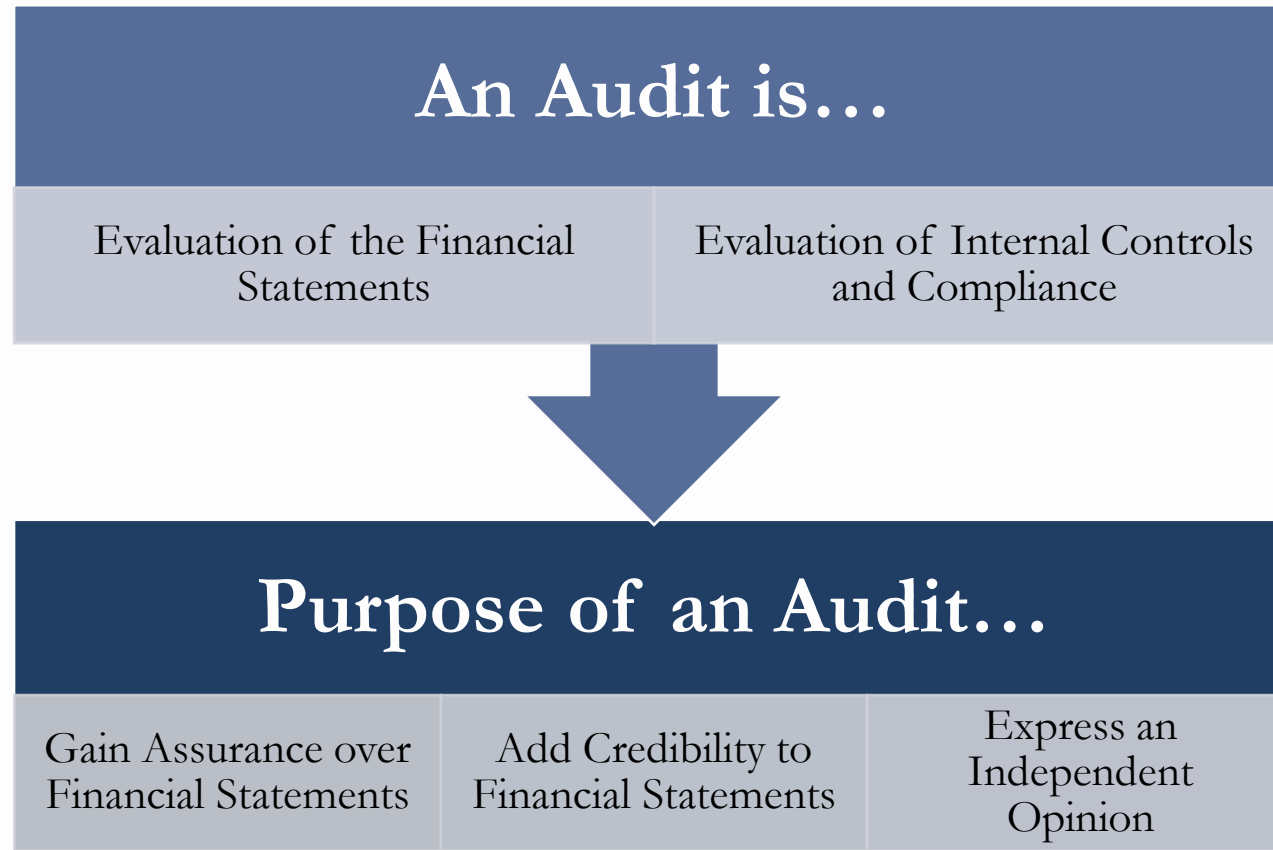
Presented by: Teresa Hicks, MBA
Quality Assurance and Technical Specialist
And Single Audit Coordinator
Ohio Auditor of State, Center for Audit Excellence

What We Will Be Covering

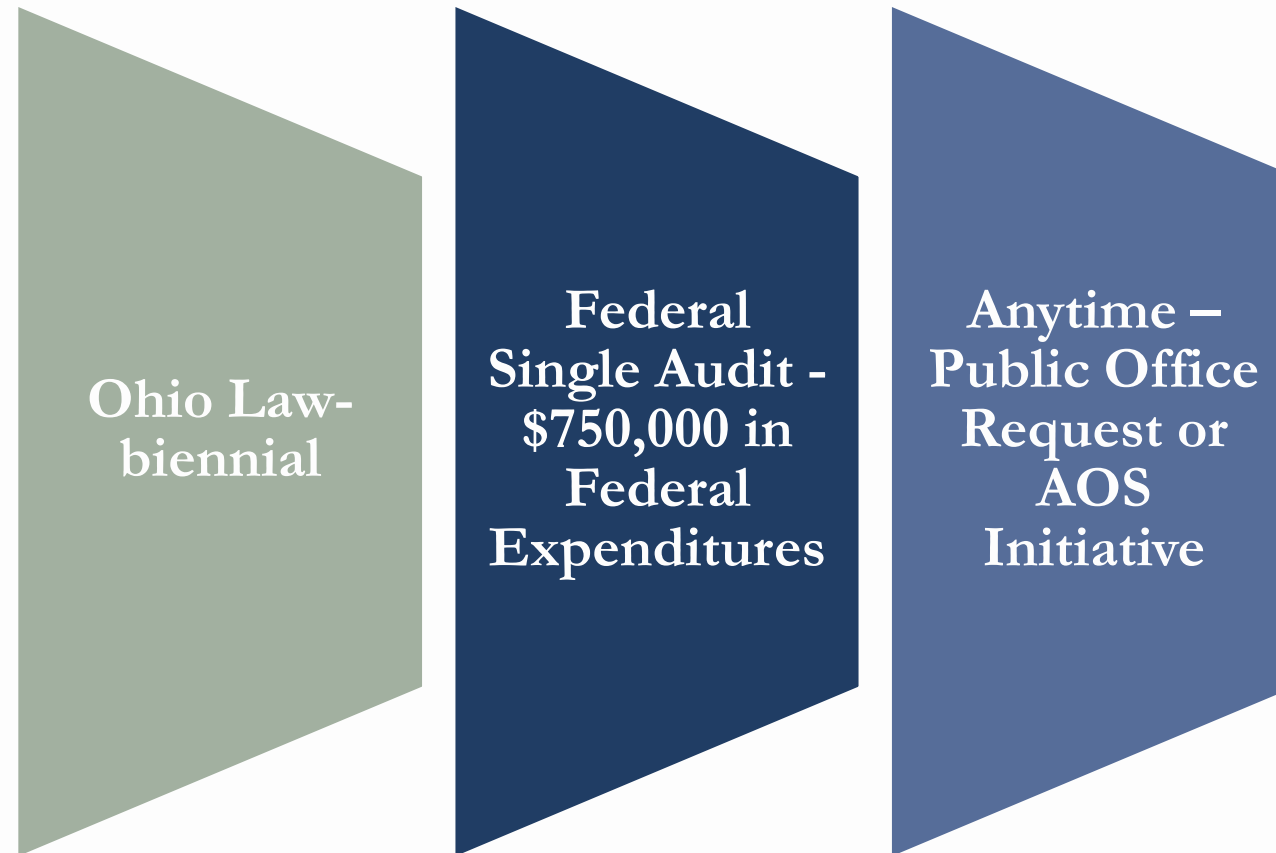
- What is an Audit?
- Audit Where, When, and Who
- Reporting Items
- How do Auditors know what to test?
- How to Prepare for an Audit
- Single Audit Miscellaneous Info



What is an Audit and Why do I Have to Have one?



How Often Do I need An Audit?



https://ohioauditor.gov/resources/covid19/First_Time_Single_Audit.pdf

Important Deadlines to Consider



Impact on Single Audits – OMB Memo 21-20 Six Mo. Extension

Fiscal Year End	Normal Due Date*	Extended Due Date *
January 31, 2021	October 31, 2021	April 30, 2022
February 28, 2021	November 30, 2021	May 31, 2022
March 31, 2021	December 31, 2021	June 30, 2022
April 30, 2021	January 31, 2022	July 31, 2022
May 31, 2021	February 28, 2022	August 31, 2022
June 30, 2021	March 31, 2022	September 30, 2022

Automatic extension applies to all audits not submitted to FAC prior to March 19, 2021 (date of Memo). Supersedes prior extensions. Must document COVID-19 reasons for delay. Do not have to receive COVID-19 funding to receive the extension.

* Per 2 CFR 200.512 if the filing due date falls on a Saturday, Sunday, or Federal Holiday the due date will be the next business day.

Who Will be Doing the Audit?



Preparing For An Audit

Reconcile

File Annual Report

Maintain Public
Records



Annual Reporting Items



Annual Reporting Items

Single Audit Report Items

Schedule of
Expenditures
of Federal
Awards
(SEFA)

Notes to the
SEFA

Data
Collection
Form - Federal
Audit
Clearinghouse

Important Notes!!

Uniform Guidance requires the auditee to prepare a schedule of expenditures of federal awards.

Standards require the auditor to determine and provide an “in relation to” opinion on, whether the auditee’s schedule is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

Auditors must be able to audit original records (ie. when school utilizes a mgmt. co. auditors need mgmt. company records).

Standards require the auditor to provide an opinion on, each Major Federal Program Compliance Requirement.

Schedule of Expenditures of Federal Awards (SEFA)

List individual Federal programs by agency, including Assistance Listing Number.

Clusters must list Cluster and individual program names.

Federal non-cash expenditures and cash expenditures are included for the year.

Pass-through entity and identifying number assigned by the pass-through entity must be included.

Total amount paid to subrecipients must be listed.

COVID Funding must be identified separately.

How Do You Know How Much Federal Funds You Spent?

It is **VERY IMPORTANT** that the Fiscal Officer has a method in place to track federal expenditures!

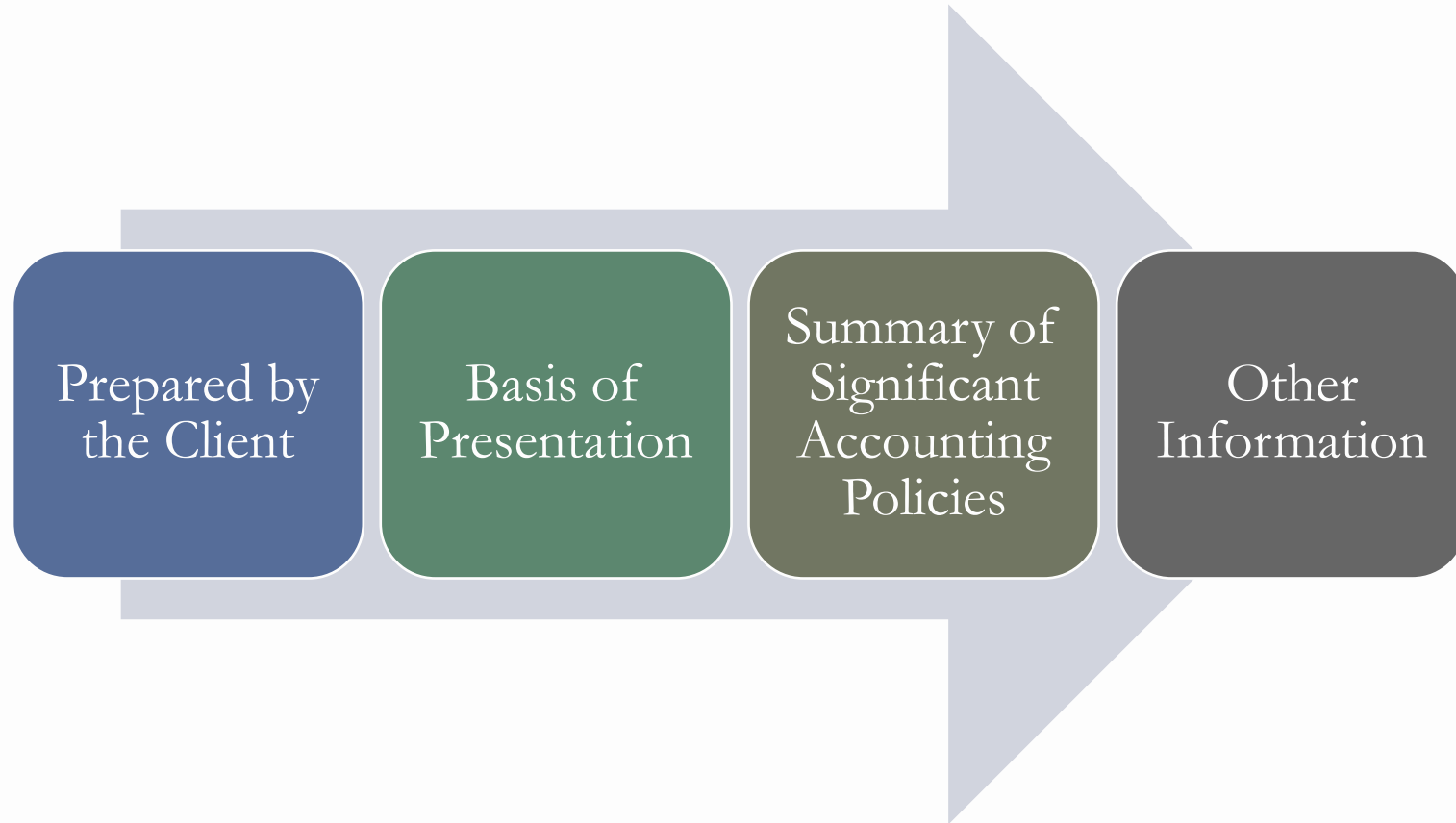
- As an example: Each federal grant is tracked in a separate fund &/or cost center. At year end, as part of closing out the books, the Fiscal Officer must complete a Federal Expenditures to determine if it is over \$750,000.

How Do You Know if a Program Goes on the SEFA?

Local Entities MUST assess their grant relationship with their distributing agency!

- Relationships could be: Subrecipients, vendors or even beneficiaries
- Locals can determine this by reviewing the terms and conditions of their award.
- Subrecipient relationship = must report on the SEFA.
- Vendor and beneficiary relationships do not.

Notes to the Schedule of Expenditures of Federal Awards (SEFA)



Schedule of Expenditures of Federal Awards (SEFA) and Notes

<https://ohioauditor.gov/references/practiceaids.html>

SINGLE AUDIT REPORT SHELLS

- [Sample Corrective Action Plan Uniform Guidance](#)
- [Schedule of Expenditures of Federal Awards Uniform Guidance](#) 111KB
- [Notes to the Schedule of Expenditures of Federal Awards Uniform Guidance](#) 41KB
- [Schedule of Findings and Questioned Costs Uniform Guidance](#) 28KB
- [Schedule of Prior Findings and Questioned Costs Uniform Guidance](#) 23KB

Data Collection Form (DCF)

Data Collection form should agree to the Schedule of Expenditures of Federal Awards.

The auditor's portion is filled out on the Federal Audit Clearing house at the end of the audit by your managers.

The client's portion is to certify the information that has been entered by the auditors.

Single Audit Letter

Final Results of the Single Audit Portion of the Audit

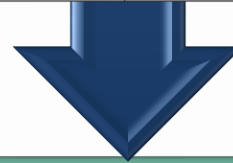
- Includes:
 - Declaration of the Standards followed while performing the engagement.
 - Identification of the entity management's and auditors responsibilities.
 - Compliance Opinion over the Major Federal Programs tested and each of the applicable compliance requirements for those programs.
 - Assessment of Internal Controls over the Compliance of the federal programs.
 - In Relation to Opinion that the Schedule of Expenditures of Federal Awards is fairly stated (on not), in all material respects, in relation to the basic financial statements taken as a whole.
 - Other Matters noted during the engagement.

How Do Auditors Determine What to Test in a Single Audit?

“The Single Audit Act of 1984” (Public Law 98-502)

Established requirements for certain gov’s
that administer Fed. programs

Amended in 1996 (31 USC 75)



OMB Circular A-128

Issued in 1985 to help auditors and recipients
implement the new Single Audit Act

Extended to additional entity types in 1990
under **A-133** (modified in 2003 & 2007)



Uniform Guidance (UG)

Issued 2013; Updated in
2014, 2015, 2020 & 2021

Supersedes: A-87, A-102, **A-133**
(A-122, A-21, A-110, A-89 & A-50)

OMB Compliance Supplement

Issued by OMB
each year to
assist auditors in
performing the
required audits

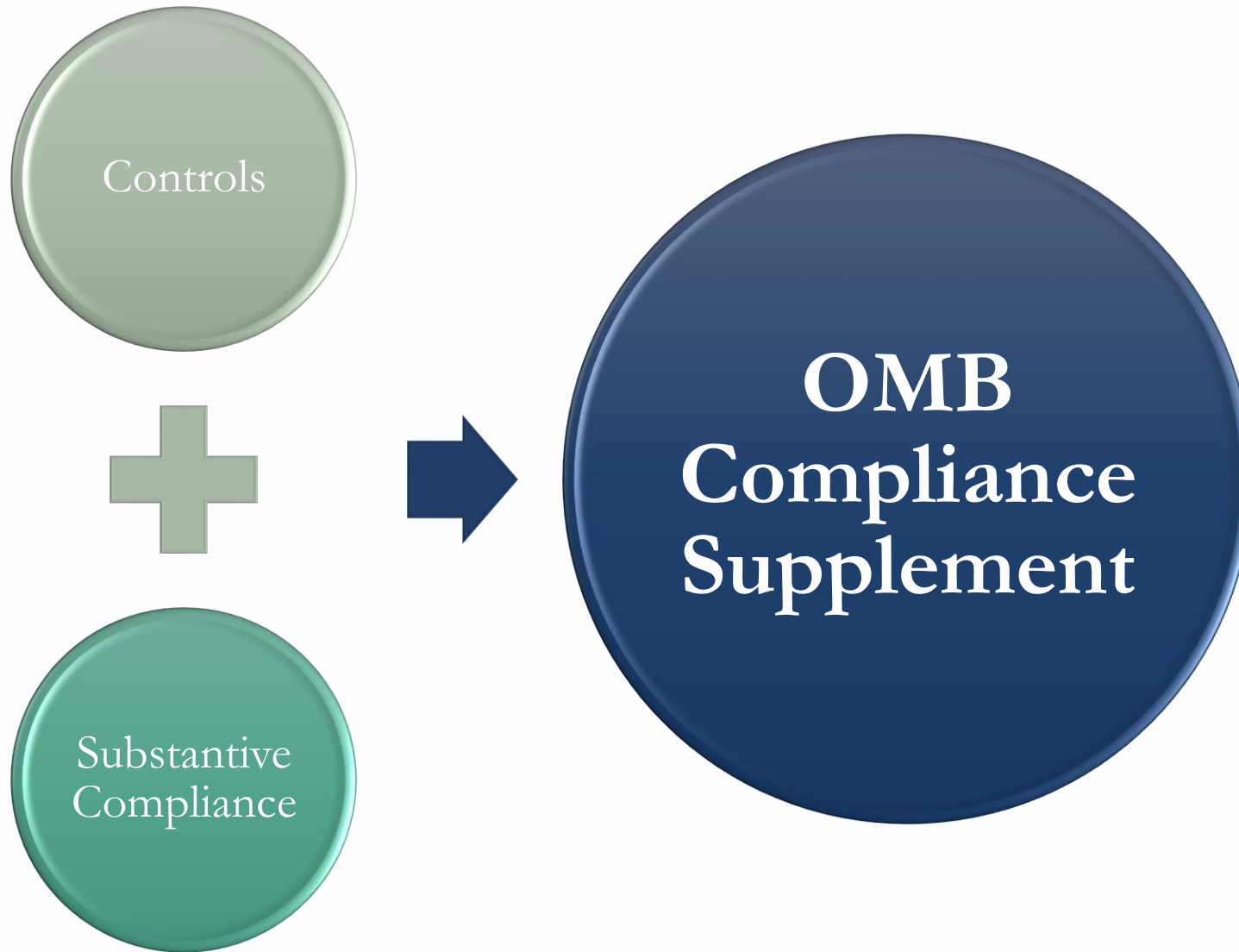
Contains
sections required
to be audited
and suggested
audit procedures

Internal Controls

OMB Compliance Supplement

Issued by OMB
each year to assist
auditors in
performing the
required audits

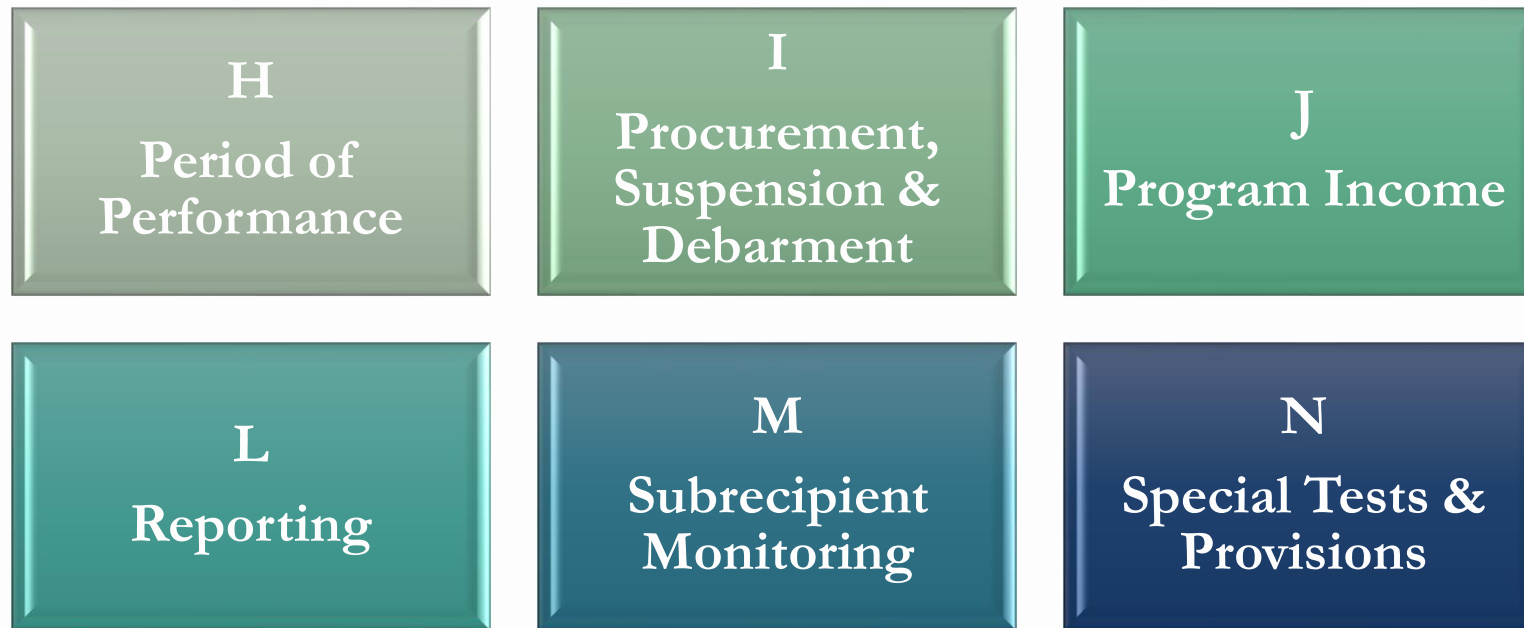
Contains sections
required to be
audited and
suggested audit
procedures



12 Compliance Requirements



12 Compliance Requirements



Auditors Only Test Sections Direct & Material to the Program & Entity

Requirement	A	B	C	E	F	G	H	I	J	L	M	N
	Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Program Number												
10.000	Y	Y	Y	N	Y	N	N	N	Y	Y	N	Y
10.500	Y	Y	N	N	N	Y	Y	N	N	Y	Y	N
10.511	Y	Y	Y	N	Y	Y	N	N	N	Y	N	N
10.512	Y	Y	Y	N	Y	Y	N	N	N	Y	N	N

Potential Records Needed for an Audit

Examples include:

Financial Statements	Contracts
Ledgers / Transaction Logs	Insurance / Bonds
Minutes	Debt Agreements / Documents
Resolutions / Ordinances	Grant Award Letters and Agreements
List of Officials / Employees	Budgetary Documents
Policies / Policy Manual	Capital Asset Records
Transaction Cycle Narratives	Bank reconciliations
Payroll Documents	Bank Statements
Receipts / Pay-ins	Billing Records (i.e. Utilities or Taxes)
Nonpayroll Vouchers / Invoices	

What can I do to keep audit costs low?

- Complete, organized, and easily accessible records
- Stay ahead of routine responsibilities
- Be aware of special circumstances and be knowledgeable about potential compliance and accounting impact
- Improve internal controls
- Keep up with monthly bank to book reconciliations, including the reconciliation between the treasurer and auditor
- Available relevant personnel during the course of the audit

Tips for An Efficient Audit

- Good communication with auditors before planned start date that auditors will arrive
- Provide information in an electronic format / ledgers in excel for sorting, searching, etc.
- Will personnel be available for audit inquiries (vacations, etc.)?
- Discuss items auditors could gather ahead of starting the audit (minutes on website?)
- Provide auditors with a list of who the 'go-to' person is for each area (to make inquiries/obtain documents)

Tips for An Efficient Audit

(Cont'd)

- Pull items chosen before audit is started
 - Property Taxes or Utilities (billing stubs, daily reports, etc.)
- Prepare box of items auditors look at every audit
 - Nonpayroll Vouchers
 - Pay-ins
 - Bank Statements
 - Reconciliations
 - Investment records/ledgers

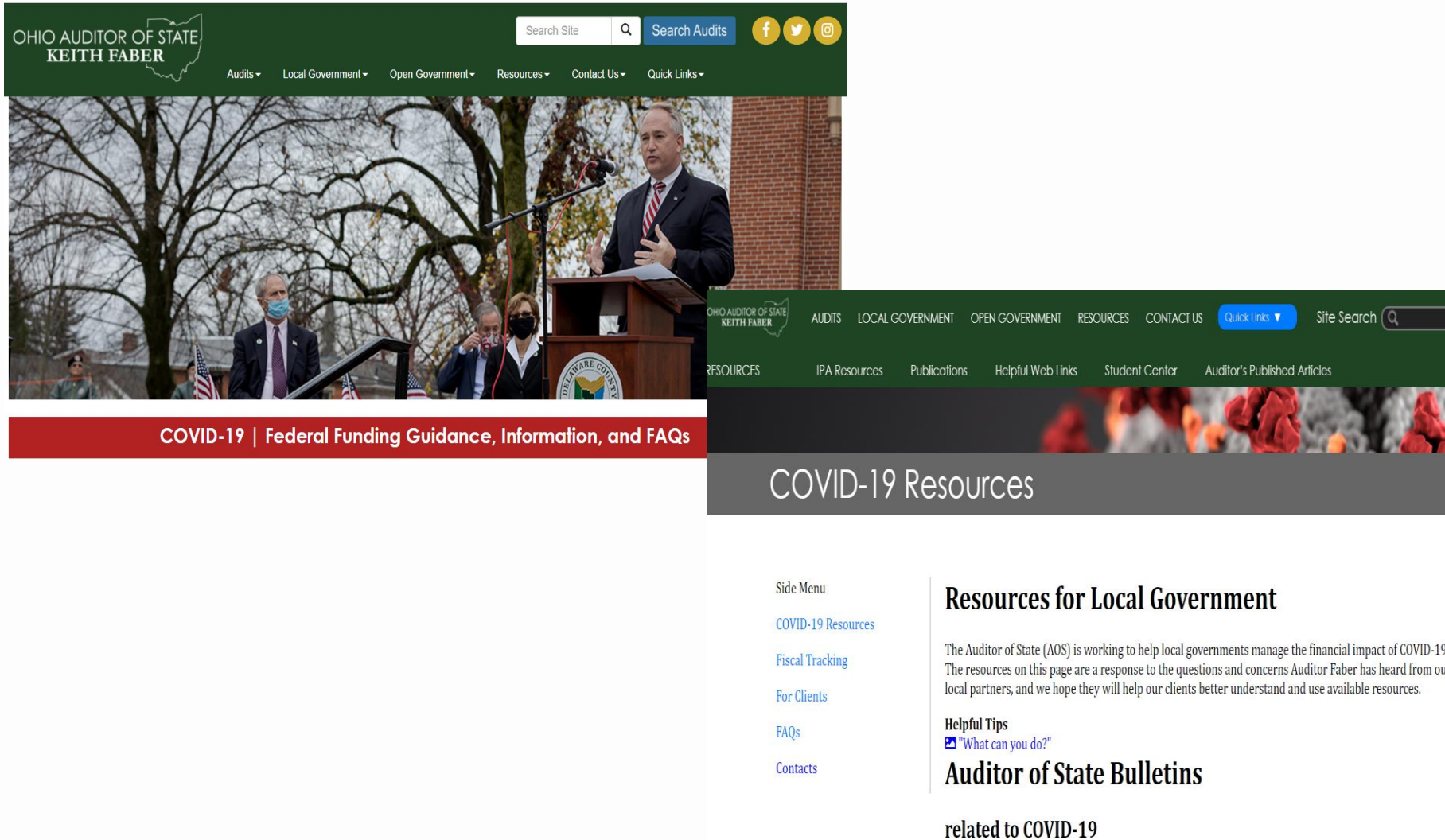
Tips for An Efficient Audit

(Cont'd)

- Understand compliance requirements (federal, state, etc.)
- Gather and provide documentation to show that your entity is in compliance with applicable requirements
 - Ohio Compliance Supplement
<https://ohioauditor.gov/references/compliancemanuals.html>
 - Federal (OMB) Compliance Supplement
<https://www.whitehouse.gov/omb/office-federal-financial-management/>
 - Federal Award Compliance Control Records (FACCR) -
<https://ohioauditor.gov/references/practiceaids/faccrs.html>
- Good communication between the Fiscal Officer, auditors, and GAAP compilation accountants (if applicable) on the estimated date in which a GAAP report will be completed and filed with AOS

Other Guidance

AOS Resources



The screenshot displays the Ohio Auditor of State Keith Faber website. The top navigation bar is dark green with the state of Ohio logo and the text "OHIO AUDITOR OF STATE KEITH FABER". It includes a search bar, a "Search Audits" button, and social media icons for Facebook, Twitter, and Instagram. Below the navigation bar is a large banner image showing Auditor Faber speaking at a podium outdoors, with other officials standing behind him. A red banner below the image reads "COVID-19 | Federal Funding Guidance, Information, and FAQs". To the right, a smaller version of the website is shown, featuring a green navigation bar with links to "AUDITS", "LOCAL GOVERNMENT", "OPEN GOVERNMENT", "RESOURCES", "CONTACT US", and "Quick Links". Below this is a "Site Search" bar. The main content area of the smaller site has a dark background with the text "COVID-19 Resources" in white. On the left side of this area is a "Side Menu" with links to "COVID-19 Resources", "Fiscal Tracking", "For Clients", "FAQs", and "Contacts". The main text area on the right is titled "Resources for Local Government" and contains a paragraph about the Auditor of State's efforts to help local governments manage the financial impact of COVID-19. Below this is a section titled "Auditor of State Bulletins" with a link to "What can you do?".

OHIO AUDITOR OF STATE
KEITH FABER

Search Site Search Audits

AUDITS LOCAL GOVERNMENT OPEN GOVERNMENT RESOURCES CONTACT US Quick Links Site Search

COVID-19 | Federal Funding Guidance, Information, and FAQs

COVID-19 Resources

Side Menu

- COVID-19 Resources
- Fiscal Tracking
- For Clients
- FAQs
- Contacts

Resources for Local Government

The Auditor of State (AOS) is working to help local governments manage the financial impact of COVID-19. The resources on this page are a response to the questions and concerns Auditor Faber has heard from our local partners, and we hope they will help our clients better understand and use available resources.

Helpful Tips

["What can you do?"](#)

Auditor of State Bulletins

related to COVID-19

AOS Bulletins, Advisories, Manuals



Frequently Asked Questions

https://ohioauditor.gov/resources/covid19_faqs.html

Frequently Asked Questions (FAQ) from Auditor of State

[CARES ACT & General COVID-19 FAQs \(pdf\)](#) (updated 11/09/2021)

[American Rescue Plan \(ARP\) FAQs \(pdf\)](#) (updated 11/09/2021)

[Federal OMB FAQs & COVID-19 Assistance Listing \(pdf\)](#) (new 7/2/2020)

[Ohio Public Meetings Guidelines \(pdf\)](#)

[More Federal and State Information \(pdf\)](#)

AOS Bulletin 2021-004

Separate Accountability

Outlines the American Rescue Plan programs and the requirements for accounting for the grant activity in separate funds and or special cost centers

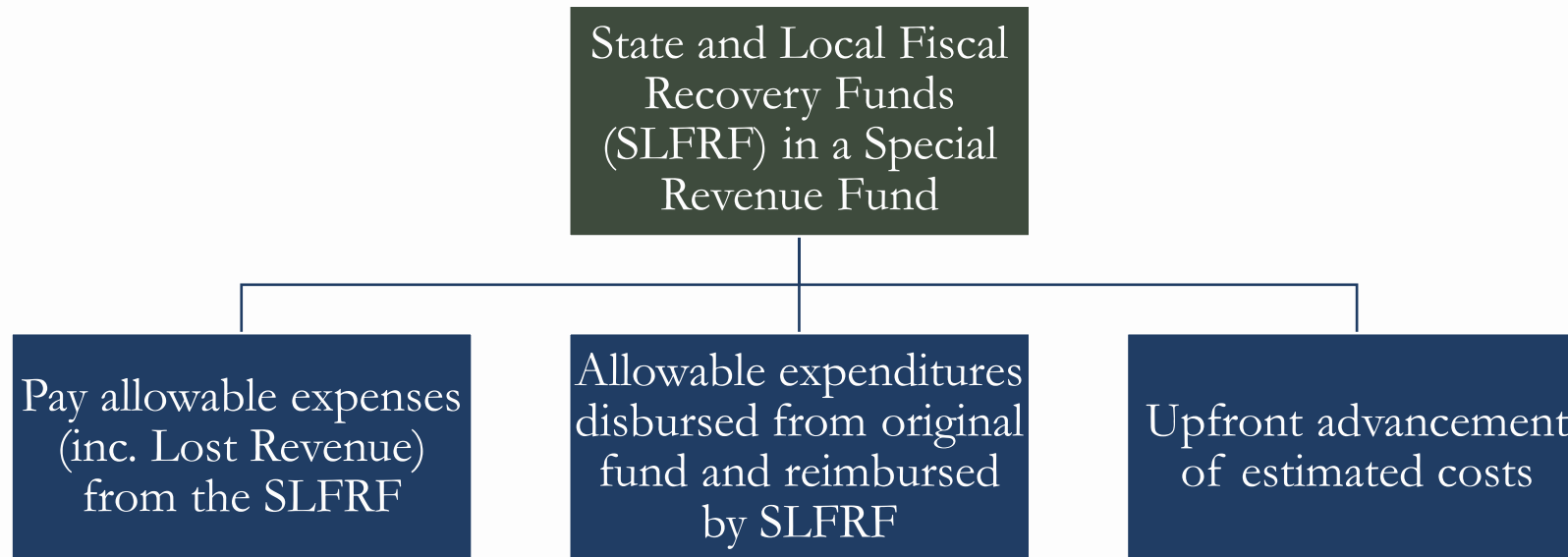
Program	Assistance Listing	Requires Separate Fund	Requires Special Cost Center for Each Funding Wave
State and Local Fiscal Recovery Funds	21.027	Yes	***
Coronavirus Capital Project Fund		Yes	***
Local Assistance and Tribal Consistency Fund		Yes	***
Education and Secondary School Emergency Fund (ESSER)	84.425	Yes	Yes
Governors Education Emergency Relief Fund (GEER)	84.425	Yes	Yes
Higher Education Emergency Relief Fund (HEERF)	84.425	Yes	Yes

*** - Separate accountability using special cost centers may be necessary if funds are received under the same grant but from different sources.

AOS Bulletin 2021-004

Separate Accountability

General guidelines for accounting for the Local Fiscal Recovery Fund broad activities:



Note: Ohio Rev. Code § 5705.42 indicates Federal and State grants or loans are “deemed appropriated” for such purpose by the taxing authority as provided by law

AOS Advisory Memo

American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund ID.me Submission Requirements and Fraud Protection Insurance

- State and local govt. authorized rep. will approve the fund application while a designated contact will need to create an ID.me account and provide personal identifying information.
- AOS will not take exception to entities who purchase fraud protection for individuals submitting their personal information for application of these funds assuming the level of coverage is reasonable and payment is made from local unrestricted funds.
- The Advisory includes a list of submission requirements. OBM has also provided guidance.

AOS Advisory Memo

American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund ID.me Submission Requirements and Fraud Protection Insurance

Risk of Identity Theft:

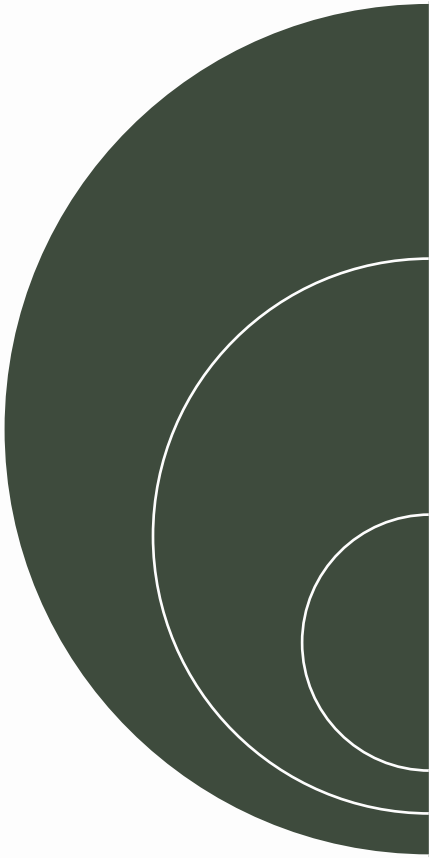
The Portal states that throughout this process, information will remain completely secure. However, officials have understandably expressed concerns over having to submit personal identifying information to apply for public grant funds.

Therefore, the Auditor of State will not take exception to entities who purchase ~~1-year~~ of fraud protection for the length of the program for individuals submitting their personal information for application of these funds assuming the level of coverage is reasonable.

The payment for this coverage must be paid for using local unrestricted funds. We are currently discussing with federal counterparts if this expenditure meets the criteria for an allowable cost under the American Rescue Program Funds. Further information will be forthcoming as this issue is determined.

AOS Advisory Memo
Prior Fiscal Year Expenditures Reimbursed
with Federal Funds in the
Subsequent Fiscal Year

Note: This guidance DOES NOT apply to errors in reporting!



SEFA Guidance
Financial Statement Reporting Examples
Prior Year Federal Program Reimbursement Guidance when PY has been Audited

Frequently Asked Questions

ESSER and GEER Period of Availability

19. How did the Tydings Amendment impact the period of availability for the various rounds of ESSER and GEER funding? (November 9, 2021)

The legislative period of availability for these programs was extended by 12 months with the Tydings Amendment. See tables below for the extended deadlines for the respective programs:

Legislation	Legislative Period of Availability End Date	Legislative Period of Availability End Date Plus 12 Month Tydings Amendment Period	Liquidation Period End Date
CARES Act – ESSER I	September 30, 2021	September 30, 2022	January 28, 2023
CRRSA – ESSER II	September 30, 2022	September 30, 2023	January 28, 2024
ARP Act – ESSER III	September 30, 2023	September 30, 2024	January 28, 2025

Legislation	Legislative Period of Availability End Date	Legislative Period End Date of Availability Plus 12 Month Tydings Amendment Period
CARES Act – GEER I	September 30, 2021	September 30, 2022
CRRSA – GEER II	September 30, 2022	September 30, 2023
ARP Act – GEER III	September 30, 2023	September 30, 2024

[FAQ Coronavirus.pdf \(ohioauditor.gov\)](#)

Revenue Loss

13. Is reimbursement to funds which experienced revenue loss an allowable use of the calculated revenue loss portion of SLFRF? *(November 9, 2021)*

No, revenue loss is not the same as revenue replacement. All revenue loss dollars must be accounted for and supported by a qualifying expenditure and may not exceed the amount of calculated revenue loss. AOS [Bulletin 2021-004](#) provides detailed guidance on how to record the disbursement of revenue loss dollars.

[FAQ ARP AOS.pdf \(ohioauditor.gov\)](#)

Reporting Deadlines

Table 2: Reporting requirements by recipient type

Tier	Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
1	States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021 or 60 days after receiving funding if funding was received by October 15, with expenditures by category	By January 31, 2022, and then 30 days after the end of each quarter thereafter ⁹	By August 31, 2021 or 60 days after receiving funding, and annually thereafter by July 31 ¹⁰
2	Metropolitan cities and counties with a population below 250,000 residents which received more than \$10 million in SLFRF funding		By April 30, 2022, and then annually thereafter ¹¹	Not required
3	Tribal Governments which received more than \$30 million in SLFRF funding			
4	Tribal Governments which received less than \$30 million in SLFRF funding			
5	Metropolitan cities and counties with a population below 250,000 residents which received less than \$10 million in SLFRF funding			
6	NEUs	Not required		

[FAQ ARP AOS.pdf \(ohioauditor.gov\)](#)

Revenue Loss SEFA Reporting

5. When are revenue loss dollars reported on the Schedule of Federal Awards Expenditures (SEFA)? (November 9, 2021)

Revenue loss monies are reported on the SEFA when they have been expended by the recipient on qualifying expenditures. The movement of revenue loss dollars to “replace” a loss in revenue during the pandemic is not permitted and does not constitute a Federal expenditure.

[FAQ ARP AOS.pdf \(ohioauditor.gov\)](#)

Nutrition Cluster SEFA Reporting

7. For Child Nutrition Cluster, if Federal receipts exceed total food service expenditures, what expenditures should be reported on the SEFA?
 - A. Reported SEFA expenditures are limited to actual expenditures plus commodities. For entities that receive COVID-19 funding for Child Nutrition Cluster, it should be assumed that receipts are spent on a first in – first out basis. Clients and auditors should track the receipts carried into the subsequent fiscal year and report on the subsequent SEFA accordingly.

[Federal FAQs.pdf \(ohioauditor.gov\)](#)

Lost Revenue Calculation FAQ

How are BWC Rebates/Dividends to be treated in Treasury's Revenue Loss Calculation (i.e., Refund vs. Dividend)?

- Treasury needs to weigh-in on this issue. AOS agrees Treasury's guidance to date is conflicting on this issue.
- Until they do, AOS suggests local governments evaluate currently available information, identify their options, and gage the risk of potential claw back of funds in the event Treasury later clarifies or changes its guidance.
- **Crux of the Issue:** What is intended by the IFR's exclusion of "refunds and other correcting transactions" from the definition of *gross revenue*.

Lost Revenue Calculation FAQ

- Although labeled as “dividends” and “rebates” in the past, BWC can only issue payments that are within its legal authority.
- BWC has historically indicated these payments are possible because of “healthy investment returns on employer premiums, a declining number of claims each year, and prudent fiscal management.”
- BWC’s authority for payments comes from Ohio Rev. Code §4123.321 and Ohio Admin. Code § 4123-17-10, which permit BWC to return excess surplus to current subscribers to the program.
 - The surplus is calculated by comparing the amount that is necessary for the fund to remain solvent after paying expected claims against the total earned premiums from all subscribers.

Lost Revenue Calculation FAQ

- The Rule requires that BWC “keep premiums at the lowest level consistent with the maintenance of a solvent ... fund and ... a reasonable surplus.”
- It is appropriate and possible for BWC to divide the surplus so that a local government employer receives an amount equal to more than one year’s worth of premium and/or an amount that is in excess of any premium an employer paid.

Lost Revenue Calculation FAQ

- **Excluded From General Revenue:** When evaluating BWC dividends at the point of issuance in relation to Treasury’s guidance, a local government might consider them to be *revenue from correcting transactions* (i.e., the substance of the transaction is a rebate made due to excess premiums paid).
- **Included in General Revenue:** Alternatively, if the *cumulative* dividends/rebates from BWC exceed the local government’s *cumulative* premiums paid in over time, the substance of the *net* transaction might be “dividend” revenue to the local government.

Lost Revenue Calculation FAQ

- AOS recommends a conservative approach and a supporting legal opinion.
- Obviously, many of the most recent BWC dividends/rebates will exceed the current fiscal year premiums paid in by local governments (e.g., BWC paid more than \$3 billion in dividends to local governments in 2019).
- **AOS Suggests:** *Until or unless Treasury issues further guidance*, examining prior year premium payments vs refunds/dividends over a number of years expands a local government's ability to claim that the excess dividend is not revenue but rather a refund of actual premium payments.
- **DOCUMENT, DOCUMENT, DOCUMENT** basis for conclusions!

Reminders

- ✓ Double and triple check your Schedule of Expenditures of Federal Awards (SEFA) for completeness.
 - Knowing which programs are or are not reported on the SEFA
 - Know how to determine federal expenditures
 - Don't forget the SEFA Footnotes
- ✓ Understand the grant requirements
- ✓ Understand the applicable Uniform Guidance (2 CFR § 200) requirements
- ✓ Development of effective internal controls & written policies
- ✓ Documentation of controls over & compliance of grant requirements
- ✓ Know your reporting requirements
- ✓ Determination of subrecipient vs. contractor vs. beneficiary
 - ✓ Know your responsibilities based on the determination.
 - ✓ [AOS UG Guidance 1009.pdf \(ohioauditor.gov\)](#)
 - ✓ Impacts SEFA reporting too!

First time single audit? [What is a Single Audit? – YouTube](#)

(also available on our website at:

https://ohioauditor.gov/resources/covid19_clients.html)

*Thank
you*

Please send Federal Questions
to FACCR@ohioauditor.gov

Teresa Hicks, MBA
Quality Assurance and Technical Specialist
And Single Audit Coordinator
88 East Broad Street
Columbus, Ohio 43215
phone: (800) 282-0370
TMHicks@ohioauditor.gov





Scott Sheffler

Partner

Feldesman Tucker Leifer Fidell LLP

Compliance Considerations with COVID Funds

PANDEMIC FUNDING KEY GRANT MANAGEMENT CONSIDERATIONS

Ohio Grants Summit

Scott S. Sheffler

December 7, 2021

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PRESENTER: SCOTT S. SHEFFLER



Contact Information:

SSheffler@ftlf.com

(202) 466-8960

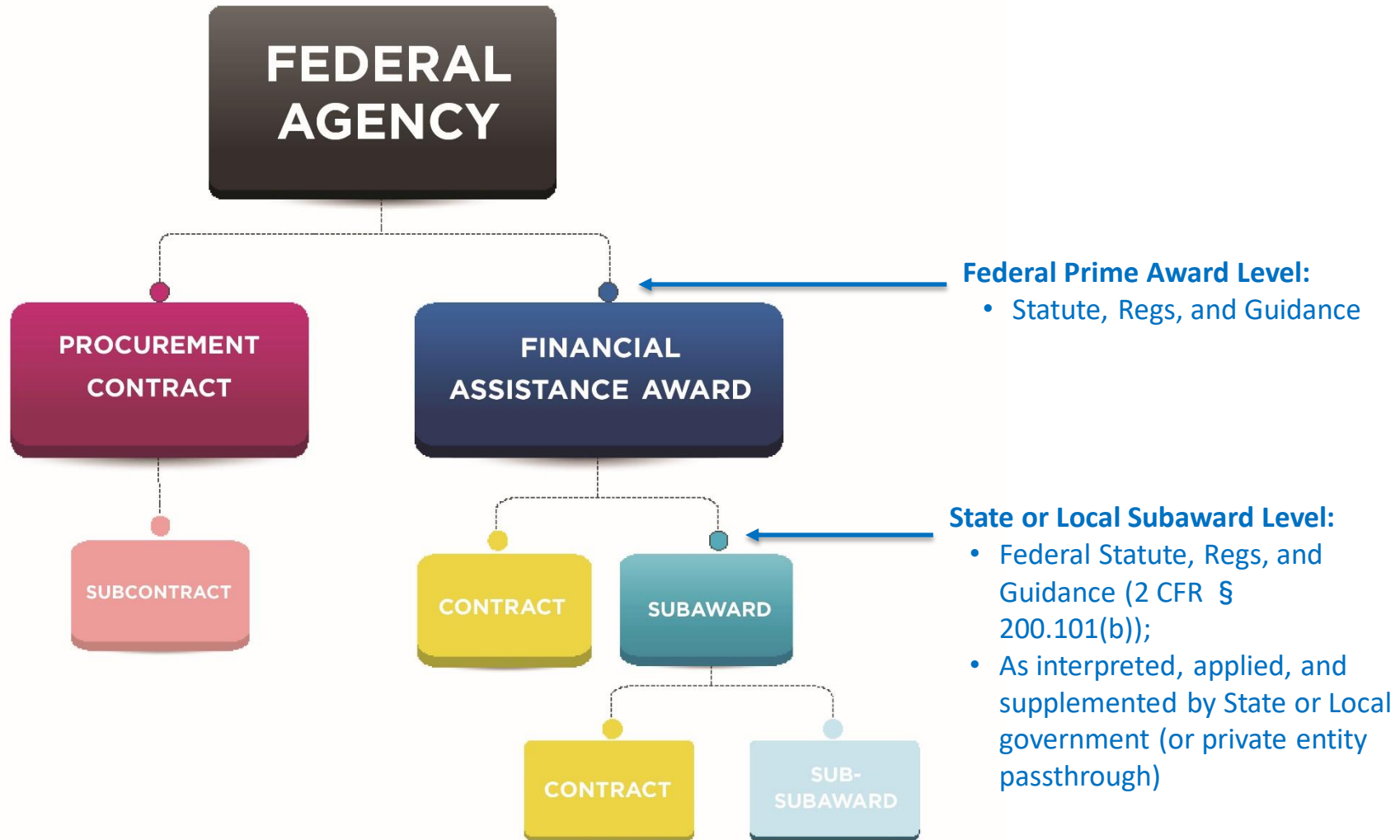
- Scott is a Partner at Feldesman Tucker Leifer Fidell.
- Counsels federal grant recipients on financial assistance administrative requirements and cost reimbursement.
- Assists grant recipients undergoing government audits and investigations, and represents them in disputes with federal agencies, including but not limited to cost disallowances.
- Assists government contractors with various contracting matters, including compliance, claims, small business matters, and disputes.
- Prior to joining Feldesman Tucker, Scott was a procurement attorney with the United States Navy, counseling Navy contracting officers and program managers on, among other things, federal acquisition laws and regulations, claims, and bid protests.

AGENDA

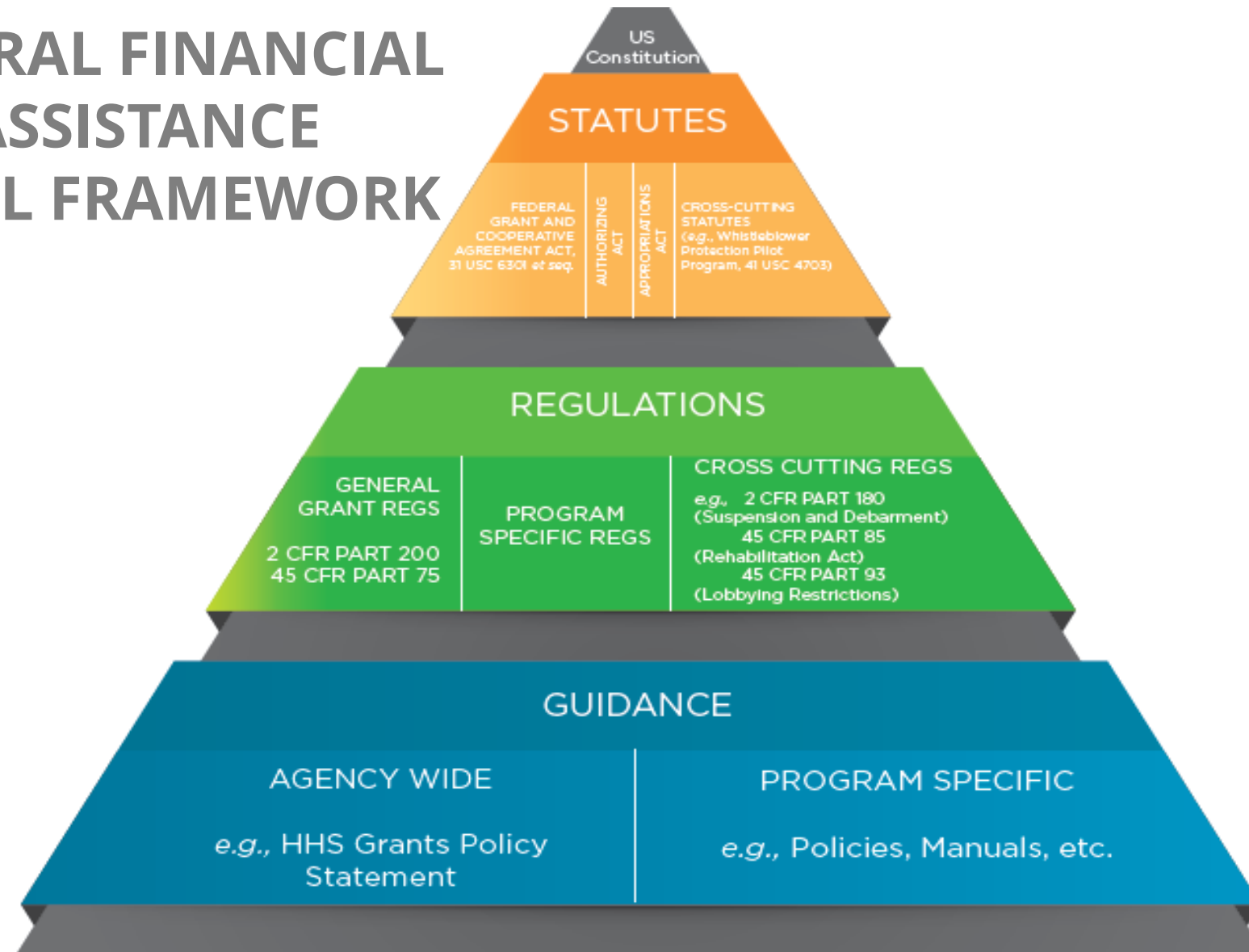
1. The Grant System and the “Deal”
2. Pandemic Funding Example: State and Local Fiscal Recovery Funds (“SLFRF”)
3. Commonality of Considerations Across Programs
4. Managing the COVID Funding (Common Key Issues)
 - A. Contracts vs. Subawards (vs. Beneficiaries)
 - B. Subaward Structuring and Management
 - C. Federal Interest (Time Permitting)

A. THE GRANT SYSTEM

BASIC FEDERAL FUNDING SYSTEM



FEDERAL FINANCIAL ASSISTANCE LEGAL FRAMEWORK



HOW DO YOU FIGURE IT ALL OUT?

Resources:

- Assistance Listing in SAM (Formerly: Catalogue of Federal Domestic Assistance (“CFDA”))
- OMB Compliance Supplement
- Agency Website – “Resources” Tab
 - Authorizing Act
 - Program Regulations
 - Program Guidance
- *Start with a strong working knowledge of 2 CFR Part 200 and 45 CFR Part 75.*
 - If you understand the system, all the things Congress and the agencies are doing in the statutes, regulations, and guidance (often to deviate from the basic system) make much more sense.
- NOFO and Application Instructions

B. THE DEAL

THE “DEAL”

- If you (grantee) engage in *certain activities*, during a *certain period of time*, we (the U.S. government) will “reimburse” you for *certain costs* incurred in engaging in that activity.
- Caveats:
 1. “Reimburse” costs, but actually advance funds in most cases;
 2. Some flexibility in defining the activity (as opposed to budget) over time, but what you said in your grant application matters; and
 3. Not reimbursing *all* costs, just certain costs.

Certain Activities During a Certain Period of Time: “Scope of Project”

SCOPE OF PROJECT

The Government has only agreed to reimburse costs incurred in furtherance of the approved project:

- What you said in your grant application matters. (2 CFR § 200.403(a)).
- Budget Period and Period of Performance also matter. (2 CFR § 200.403(h)).
- Scope of Project = Narrative + Budget (and Budget Justification), as Approved and Confined to the Period of Performance.

Certain Costs: Costs that are Allowable and Allocable

ONLY CERTAIN COSTS

We have established that only “in scope” costs incurred during the period of performance will be reimbursed. But it is still not all of those – more limitations . . .

The Government will only reimburse “allowable” costs, as defined under the federal Cost Principles set forth in 2 CFR Part 200, Subpart E.

ONLY CERTAIN COSTS

"ALLOWABILITY" (2 CFR § 200.403)

Factors affecting allowability of costs:

- Necessary
 - Reasonable
- } (addressed together)
- Allocable (*note, we will talk a lot about this*)
 - Conform to limitations of the Cost Principles, including requirements applicable to Selected Items of Cost
 - Adequately documented
 - Consistent with policies applicable to both federally-funded and non-federally-funded activities
 - Consistent treatment in designating as direct or indirect

ONLY CERTAIN COSTS

(CONFORM TO COST PRINCIPLE LIMITATIONS)

Selected Items of Cost – Limitation Types:

- Prohibited Costs (*e.g.*, alcohol, entertainment, bad debts)
- Designated Valuation of Costs (*e.g.*, less-than-arm's-length rent)
- Designated Accounting/Treatment of Costs (*e.g.*, depreciation, proposal costs)
- Prior Approval Requirements (*e.g.*, equipment and other capital expenditures)
- Documentation Requirements (*e.g.*, compensation for personal services)

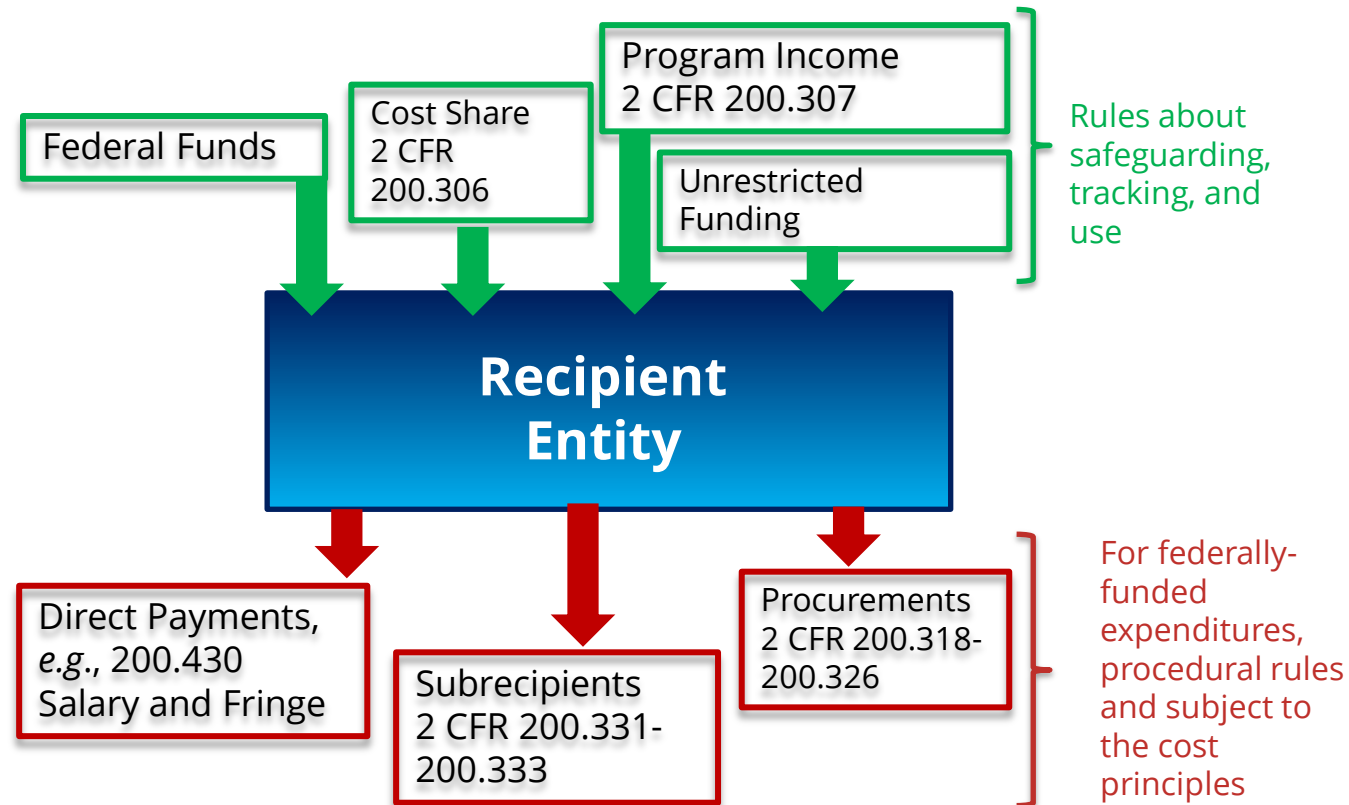
Proving the “Three Certains”: Financial Management

FINANCIAL / FUNDS MANAGEMENT

Key Concepts and Requirements:

- Financial Management Systems (2 CFR § 200.302):
 - Able to track funds by source and application
 - Cornerstone of the entire system
- Internal Controls (2 CFR § 200.303):
 - “The [NFE] must . . . [e]stablish and maintain effective internal control over the Federal award that provides reasonable assurance that the [NFE] is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. . .” §200.303(a).

INFLOWS AND OUTFLOWS OF AN NFE



2. STATE AND LOCAL FISCAL RECOVERY FUNDS

A GREAT COVID FUNDING EXAMPLE

START WITH OUR ANALYTICAL TOOLBOX

Resources:

- Assistance Listing in SAM (Formerly: Catalogue of Federal Domestic Assistance (“CFDA”)) – [AL 21.027](#)
- OMB Compliance Supplement – [see next slide](#)
- Agency Website – “Resources” Tab
[Treasury: https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds](https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds)
 - Authorizing Act ([42 U.S.C. §§ 802-805](#))
 - Program Regulations ([31 C.F.R. §§ 35.1-35.12](#); *See also 86 Fed. Reg. 26786 (May 17, 2021)*)
 - Program Guidance (*See Treasury website, especially Compliance Guide*)
- *Start with a strong working knowledge of 2 CFR Part 200 and 45 CFR Part 75.*
 - If you understand the system, all the things Congress and the agencies are doing in the statutes, regulations, and guidance (often to deviate from the basic system) make much more sense.
- NOFO and Application Instructions – [N/A for SLFRF](#)

CFDA / ASSISTANCE LISTING 21.027

OMB COMP SUP ADDENDUM PENDING

Additional Audit Guidance for COVID-19 Programs to be Issued in Follow-Up Addendum

At the time of publication of this Supplement, several federal agencies are working to stand up and develop Part 4 program sections for new COVID-19 programs, as well as to revise existing program sections to address implications from ARP. The complete list of potential programs to be included in a follow-up Addendum to this Supplement are as follows. Final agency determination is pending for programs with an asterisk (*).

- Treasury
 - *Capital Projects Fund (Assistance Listing has not been assigned)
 - *Homeownership Assistance Fund (Assistance Listing 21.026)
 - *Local Assistance and Tribal Consistency Fund (Assistance Listing has not been assigned)
 - State and Local Fiscal Recovery Fund (Assistance Listing 21.027)
- Education
 - Education Stabilization Fund (ESF) (Assistance Listing 84.425) – Note that while there is a planned release of this existing program in the upcoming Addendum, ESF is also included in this Supplement.

OMB will be posting an Addendum to this Supplement containing all of the above programs on the CFO.gov website (<https://www.cfo.gov/financial-assistance/resources/compliance-supplement.html>) when they are available. Although it will not be posted to the OMB Web site, the Addendum will still be reviewed by OMB prior to issuance and will be considered an official part of the 2021 OMB Compliance Supplement.

STRUCTURE / IDEOSYNCRACIES

- Formula Distribution
 - State Direct Distributions
 - Entitlement Units of Local Government Direct Distributions
 - State Passthrough (though not “subawards”) for NEU Local Governments
- Payment made largely in advance with a very long “budget period”
 - 50 percent distribution promptly after ARPA enacted
 - 50 percent 12 months after initial certification to Treasury Secretary (31 CFR § 35.11)
 - All funds available for obligation through December 31, 2024, with liquidation of obligations required by December 31, 2026
- Covered by nearly all 2 CFR Part 200 requirements
 - 86 Fed. Reg. 26786, 26811 (see next slide)
 - Treasury SLFRF Compliance and Reporting Guidance at pp.2, 6-10.
 - OMB Memo 21-20 (policy of broad application of 2 CFR Part 200 requirements)
 - Memo: https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf
 - CFO Council FAQs: <https://www.cfo.gov/assets/files/M-21-20-FAQs.pdf>
 - Note that this is a major difference from CRF (despite more flexible statutory language)

SPECIFIC STATUTORY USES OF FUNDS

B. Statutory Eligible Uses

As a recipient of an SLFRF award, your organization has substantial discretion to use the award funds in the ways that best suit the needs of your constituents – as long as such use fits into one of the following four statutory categories:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to such eligible workers of the recipient, or by providing grants to eligible employers that have eligible workers who performed essential work;
3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID–19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; and
4. To make necessary investments in water, sewer, or broadband infrastructure.

Treasury Compliance Guidance, p.3.

****Note:** Lots of detail and analysis of each in the Fed Reg notice.

86 FED. REG. 26786, 26811

C. Other Restrictions on Use

Payments from the Fiscal Recovery Funds are also subject to pre-existing limitations provided in other Federal statutes and regulations and **may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements**. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.

As provided for in the award terms, **payments from the Fiscal Recovery Funds as a general matter will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.**

CONTRACTS AND SUBAWARDS PERMITTED

- State Recipients, 31 USC § 802(c):
“[Recipient] may transfer funds to a private nonprofit organization (as that term is defined [at 42 U.S.C. 11360(19)], a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government.”
- Local Recipients, 31 USC § 802(c):
“[Recipient] may transfer funds to a private nonprofit organization (as that term is defined [at 42 U.S.C. 11360(19)], a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government.”
- Regulatory definition of non-profit limited to orgs that are tax exempt under § 501(c)(3).
- These transfers are generally considered subawards. 86 Fed Reg. 26813. But, Per the SLFRF Compliance Guidance (p.9):
“Recipients should note that [non-entitlement units of local government \(NEUs\) are not subrecipients under the SLFRF program](#). They are SLFRF recipients that will report directly to Treasury.
“Recipients should also note that [subrecipients do not include individuals and organizations that received SLFRF funds as end users to respond to the negative economic impacts of COVID-19 on these organizations](#). Such individuals and organizations are beneficiaries and not subject to audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, Subpart F.”

FOR SUBAWARDS, RULES AND TIMELINES

“FLOW DOWN”

Treasury Compliance Guidance, p.5:

“Any funds not obligated or expended for eligible uses by the timelines above must be returned to Treasury, including any unobligated or unexpended funds that have been provided to subrecipients and contractors as part of the award closeout process pursuant to 2 C.F.R. 200.344(d). For the purposes of determining expenditure eligibility, Treasury’s Interim Final Rule provides that ‘incurred’ has the same meaning given to “financial obligation” in 2 CFR 200.1.”

Financial Obligations under § 200.1:

“Financial obligations, when referencing a recipient's or subrecipient's use of funds under a Federal award, means orders placed for property and services, contracts and subawards made, and similar transactions that require payment.”

FEDERAL INTEREST CONSIDERATIONS

Treasury Compliance Guidance, p.8:

“Equipment and Real Property Management. Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.”

ODD EXCEPTION

86 Fed Reg 26812, Footnote 176:

“With respect to Federal financial assistance more generally, States are subject to the requirements of the Cash Management Improvement Act (CMIA), under which Federal funds are drawn upon only on an as needed basis and States are required to remit interest on unused balances to Treasury. Given the statutory requirement for Treasury to make payments to States within a certain period, these requirements of the CMIA and Treasury’s implementing regulations at 31 CFR part 205 will not apply to payments from the Fiscal Recovery Funds. Providing funding in two tranches to the majority of States reflects, to the maximum extent permitted by section 602 of the Act, the general principles of Federal cash management and stewardship of Federal funding, yet will be much less restrictive than the usual requirements to which States are subject.

Treasury SLFRF Guidance, p.7:

“Cash Management. SLFRF payments made to recipients are not subject to the requirements of the Cash Management Improvement Act and Treasury’s implementing regulations at 31 CFR part 205 or 2 CFR 200.305(b)(8)-(9).

“As such, recipients can place funds in interest-bearing accounts, do not need to remit interest to Treasury, and are not limited to using that interest for eligible uses under the SLFRF award.”

3. COMMONALITY OF CONSIDERATIONS ACROSS FUNDING STREAMS

CONSIDER

- Coronavirus Relief Fund
 - Managed by Treasury as “other financial assistance”
 - As such, most 2 CFR Part 200, Subpart D terms not applicable
- Provider Relief Fund
 - After considerable confusion (and lack of guidance out of HHS), managed as financial assistance, but not strictly subject to the federal cost principles
 - Concept of “lost revenue” replacement in addition to use for expenses incurred in certain periods
- SLFRF (just discussed)
- Supplemental Appropriations into existing programs
 - Managed the same (generally) as existing funds

MUST READ THE AUTHORIZING ACT, REGS, AND GUIDANCE (OFTEN FAQs)

- Traditional “grant” (under 2 CFR Part 200) or something else
- Recipients and Subrecipients?
- Scope of Subpart F audit requirements? Compliance Supplement addendum?
- Period of availability (typical concept or something “weird” like CRF)?
- Match – required? / use funds as match for other programs?
- Advance payment – and if so, treatment of interest (consider SLFRF)?
- Unusual concepts such as “lost revenue” replacement – calculations?
- Special ancillary terms (consider SLFRF limitation on altering tax laws)

4. MANAGING PANDEMIC FUNDING

FREQUENT KEY ISSUES

- Can I just use contracts to avoid all the “flow down,” especially for for-profit partners? (Subaward vs. Contract).
- When I use a subgrant, what are my obligations in setting up and managing that relationship? (Structuring and Managing Subawards).
- Are there long-term consequences of using these funds for capital projects? (Federal interest).

A. CONTRACTS VS. SUBAWARDS

SUBAWARDS

Purpose:

“carrying out a portion of the Federal award” not simply providing goods or services for the benefit of the pass-through.

Typical Characteristics:

- Performance measured against objectives of the Federal program
- Responsibility for programmatic decision-making
- Required to adhere to Federal program requirements

Key Compliance Considerations:

- 2 C.F.R. § 200.101 (flow down of prime grant T&C)
- 2 C.F.R. § 200.308 (prior approval to award)
- 2 C.F.R. § 200.332 (risk management and oversight)
- Subrecipient must have a DUNS
- FFATA

CONTRACTORS

Purpose:

“obtaining goods or services for the [NFE]’s own use.”

Typical Characteristics:

- Provides goods and services within normal business operations
- Provider provides same goods or services to many different purchasers, normally in a competitive environment
- Provides goods and services that are ancillary to the operation of the Federal program
- Not subject to the requirements of the Federal program as a result of the agreement

Key Compliance Considerations:

- 2 C.F.R. §§ 200.317 – 200.326 (procurement standards)
- In particular, competitive awards

DISTINCTION – CLOSE CALLS

2 CFR § 200.331

You are empowered to characterize the relationship the way you reasonably see it:

- In particular, whether your agreement (i) delegates responsibility for programmatic decision making, and (ii) makes the “Sub” subject to the requirements of the Federal program.
- The Uniform Guidance provides, “All of the characteristics listed above may not be present in all cases, and the [PTE] must use judgment in classifying each agreement as a subaward or a procurement contract.” 2 C.F.R. §200.331(c).

Remember: It is not what you call it – a “subaward” may be called a “contract.” It is about the substance of the relationship – how you structure it. 2 CFR 200.1 (“Subaward” definition).

B. STRUCTURING AND MANAGING SUBAWARDS

B1. STRUCTURING

PRIOR APPROVAL

2 CFR §200.308(c)(6):

For non-construction Federal awards, recipients **must request prior approvals** from Federal awarding agencies for one or more of the following program or budget-related reasons: “. . . Unless described in the application and funded in the approved Federal awards, **the subawarding, transferring or contracting out of any work under a Federal award . . .**”

FLOW DOWN

2 CFR §200.101 – All of the terms and conditions “Flow Down”:

(b)(1) *Applicability to different types of Federal awards.* The following table describes what portions of this part apply to which types of Federal awards. The terms and conditions of Federal awards (including this part) flow down to subawards to subrecipients unless a particular section of this part or the terms and conditions of the Federal award specifically indicate otherwise. This means that non-Federal entities must comply with requirements in this part regardless of whether the non-Federal entity is a recipient or subrecipient of a Federal award. Pass-through entities must comply with the requirements described in Subpart D—Post Federal Award Requirements of this part, §§200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards, but not any requirements in this part directed towards Federal awarding agencies unless the requirements of this part or the terms and conditions of the Federal award indicate otherwise.

RISK AND FIT CONSIDERATIONS

Fit:

- Uniquely qualified
- Geographic location
- Access to resources
- Community need

Risk:

- Capacity of partner / Complexity of programmatic work and administration of particular funds
- Specifically:
 - Prior experience with federal projects
 - Direct federal awards
 - Systems (financial management, time and effort, procurement)
 - How will activities be integrated into existing activities

PARTIES' INDIVIDUAL INTERESTS

- PTE Perspective:
 - Accomplish the purpose of the federal award
 - Mitigate risk of Subrecipient causing compliance failure that affects PTE's award (e.g., disallowance, specific award conditions, etc.)
- Subrecipient Perspective:
 - Acquire funding
 - Comply with Terms and Conditions of the subaward
 - Minimize administrative burden

COMMON INTEREST CLARITY IN CORE TERMS

- That it is a subaward under a federal program
- Performance expectations
 - Purpose of award
 - Reporting requirements
 - Any performance metrics
 - Major ancillary compliance requirements (e.g., no transactions with suspended or debarred entities)
- Payment right
 - The nature of allowable and unallowable costs
 - Payment schedule and terms (e.g., advance payment)
 - Audit and reconciliation requirements / closeout

KEY SUBAWARD TERMS

Important:

1. Say it is a Subaward
2. Incorporating Prime Award Documents
3. Record Retention and Access
4. Governing Laws
5. Closeout

Really Important:

- a. Scope of Work / Scope of Project
- b. Payment Terms
- c. Financial and Administrative Management
- d. Insurance
- e. Oversight
- f. Termination

B2. MANAGING

EXTENT OF MONITORING RISK-BASED ANALYSIS

- Remember 2 CFR §200.332(b):
 - “Evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and terms and conditions of the subaward 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:”
 - Subrecipient’s prior experience with similar awards (past performance)
 - Results of prior audits
 - New personnel or systems
 - Direct federal monitoring on concurrent direct federal awards
- 2 CFR § 200.332(d) – then “monitor” to extent “necessary”

EXTENSION INTERNAL CONTROLS CONCEPT (RISK MANAGEMENT)

GAO Green Book:

Definition of an Internal Control System

OV1.04 An internal control system is a continuous built-in component of operations, effected by people, that provides reasonable assurance, not absolute assurance, that an entity's objectives will be achieved.

Example: Navy Risk Management Matrix.

Source:
Navy Instruction on
Operational Risk
Management
OPNAVINST 3500.39C
(2010)

Risk Assessment Matrix				PROBABILITY			
				Frequency of Occurrence Over Time			
				A Likely	B Probable	C May	D Unlikely
SEVERITY	Effect of Hazard	I	Loss of Mission Capability, Unit Readiness or Asset; Death	1	1	2	3
		II	Significantly Degraded Mission Capability or Unit Readiness; Severe Injury or Damage	1	2	3	4
		III	Degraded Mission Capability or Unit Readiness; Minor Injury or Damage	2	3	4	5
		IV	Little or No Impact to Mission Capability or Unit Readiness; Minimal Injury or Damage	3	4	5	5
Risk Assessment Codes							
1 - Critical 2 - Serious 3 - Moderate 4 - Minor 5 - Negligible							

UG-SPECIFIC IMPLEMENTATION

2 CFR § 200.332

- 2 CFR §200.332(d):
 - “Monitor” to extent “necessary” – must include:
 - Financial and Performance Reports
 - Follow-up on all deficiencies identified through audits, site visits, etc.
 - Issuing management decision on audit findings (*i.e.*, do your job in audit review)
- 2 CFR §200.332(e):
 - Also may find useful:
 - Training and Technical assistance
 - On-site reviews
 - “Agreed Upon Procedures” audit services
- 2 CFR §200.332(c):
 - Consider specific award conditions, if appropriate under § 200.208

C. FEDERAL INTEREST

CREATION OF THE FEDERAL INTEREST

- A Federal Interest is created by:
 - Federal funding of equity
- No Federal Interest is created by charging depreciation or mortgage interest to a grant. Depreciation is mere loss of value over time and mortgage interest is an operating expense

VALUATION

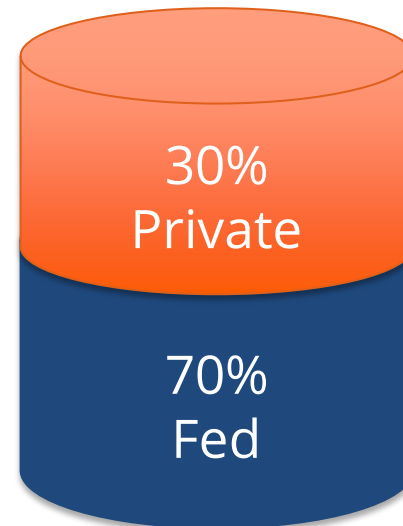
- The **Real Property rule** is explicitly stated at 2 CFR § 200.311(c)(2) / 45 CFR § 75.318(c)(2). *It is now also stated in the “federal interest” definition of 2 CFR Part 200.*
 - Upon disposition by sale, “[t]he amount due the Federal awarding agency will be calculated by applying the Federal awarding agency’s percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale...”
- The **Equipment rule** is explicitly stated at 2 CFR § 200.313(e)(2) / 45 CFR § 75.320(e)(2):
 - Upon disposition by sale, “[t]he 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...”

VALUATION

- There are two common scenarios in which the grantee's "share" and the government's "share" of **equitable ownership** are typically calculated:
 1. Original Acquisition Funded in Whole or In Part with Federal Funds (easy)
 2. Federally Funded Improvements

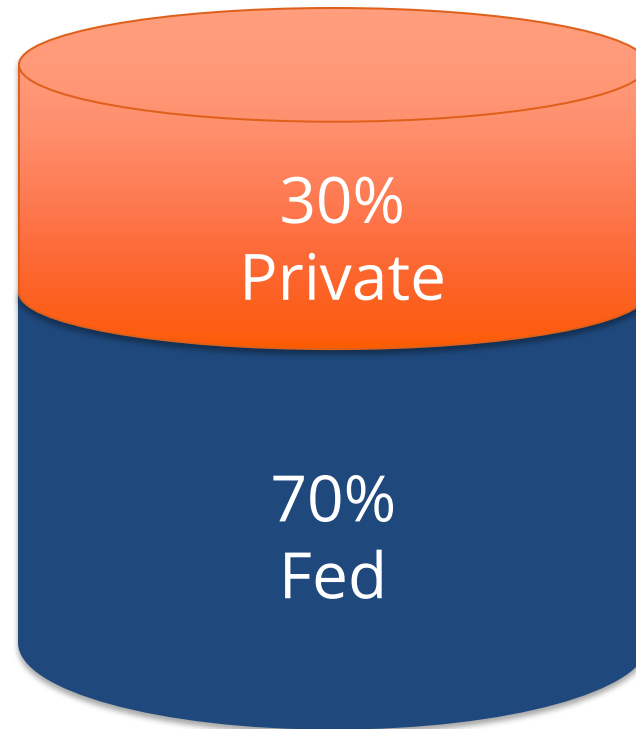
1. ORIGINAL ACQUISITION FUNDED ALL/PART WITH FED FUNDS

\$1 Million
Purchase Price



1. ORIGINAL ACQUISITION FUNDED ALL/PART WITH FED FUNDS

\$10 Million
Sale Price



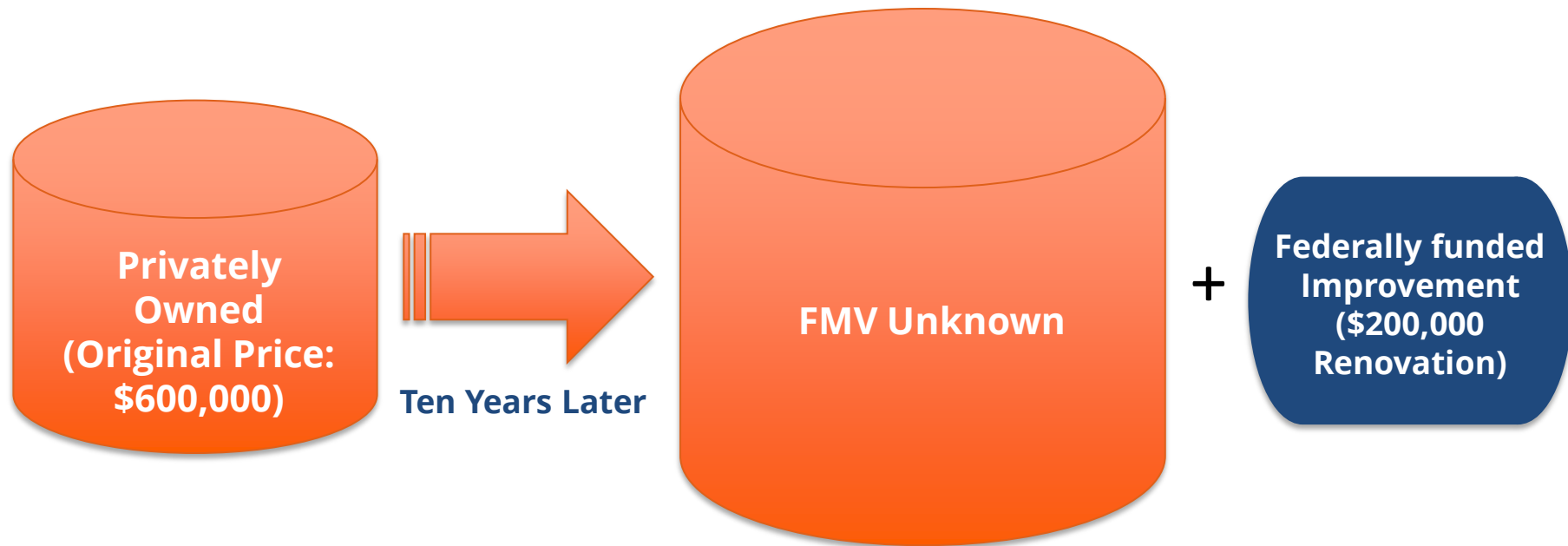
2. FEDERALLY FUNDED IMPROVEMENT

Same Basic Rule / Concept:

- At disposition, federal agency entitled to:
 - Federal awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) x the proceeds of the sale

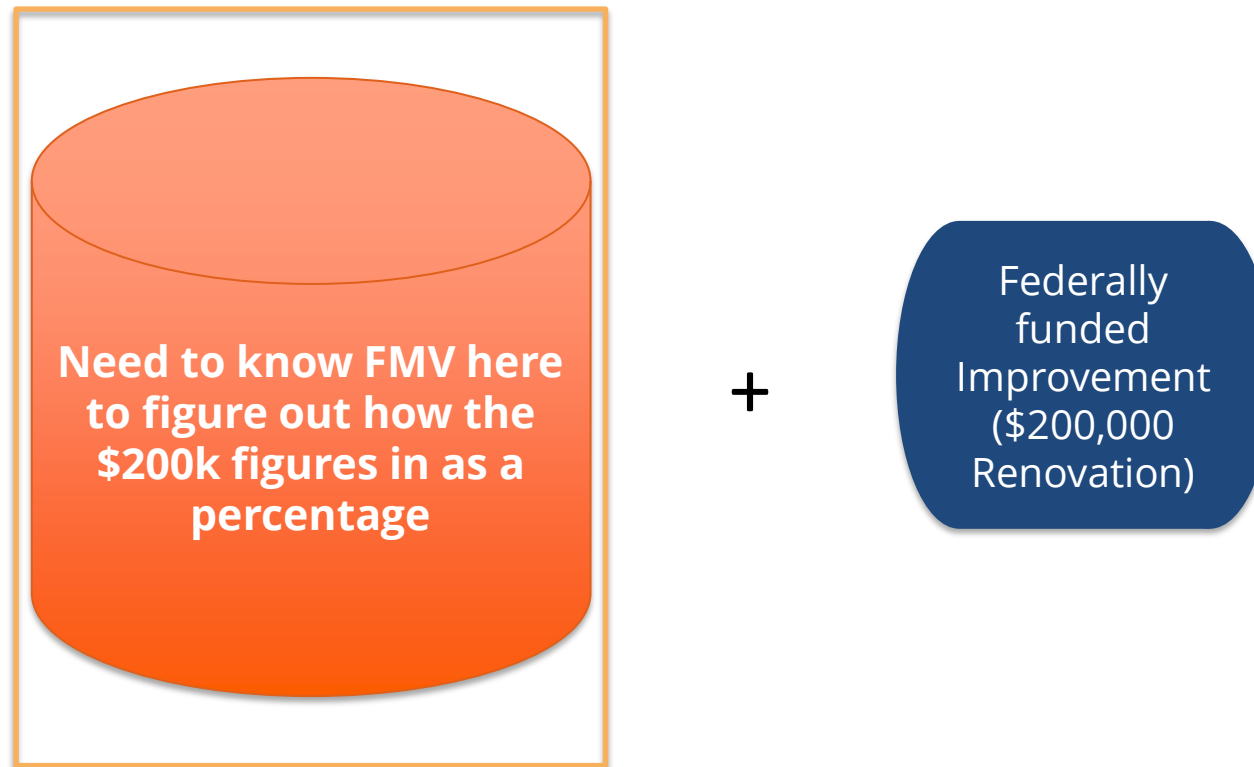
2. FEDERALLY FUNDED IMPROVEMENT

But harder to calculate...



2. FEDERALLY FUNDED IMPROVEMENT

Need Appraisal Just Before the Improvement



Document contemporaneously and keep your documentation.

FEDERAL CONTROL AND DISPOSITION RIGHTS OUTLINE

A. Use Requirements

- Real Property
- Equipment (State flexibility under § 200.313(b))

B. Management Requirements

- Real Property
- Equipment (State flexibility under § 200.313(b))

C. Disposition Requirements

- Real Property
- Equipment (State flexibility under § 200.313(b))

QUESTIONS?

Scott Sheffler
ssheffler@ftlf.com

Feldesman Tucker Leifer Fidell LLP
1129 20th Street N.W. – Suite 400
Washington, D.C. 20036
(202) 466-8960
www.ftlf.com
Learning.ftlf.com



Stacie Massey

Senior Financial Manager

Ohio Office of Budget and Management

Federal Procurement Standards



The Ohio Grants Partnership

Federal Procurement

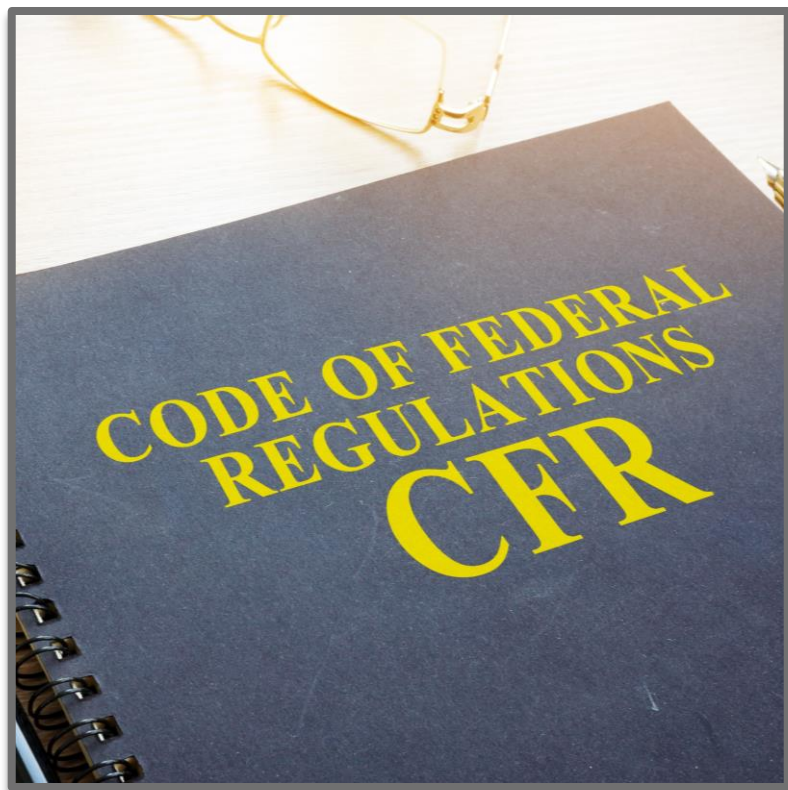
Stacie Massey, MBA
Ohio Grants Partnership
Office of Budget and Management

Why is this topic so important?



- Required in the Uniform Guidance (2 CFR 200.318 through 327)
- This area is **ALWAYS** reviewed by auditors
- Non-compliance could lead to questioned cost and repayment
 - Tarnishes reputation, attracts media attention, overshadows successes of program or use of funds
 - Purchase may have been legitimate, forwarded the program purpose, and was of reasonable cost

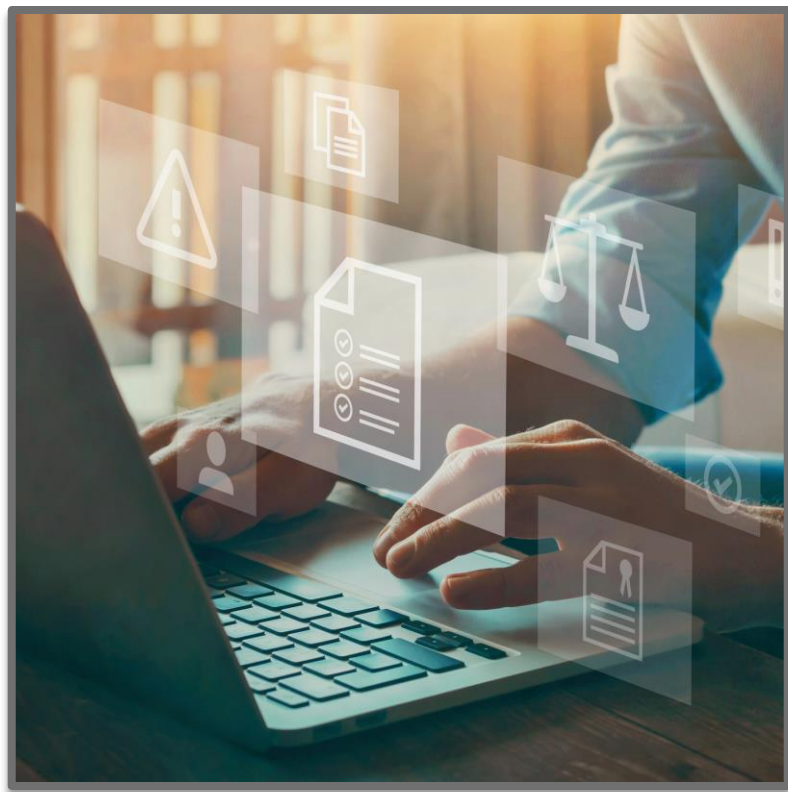
What procurement rules apply?



- Must follow the most restrictive requirements (federal, state, or local)
- 2 CFR 200.317 allows for a State to follow the same policies and procedures it uses for procurement from its non-federal funds
- All other non-federal entities must follow 2 CFR 200.318 through 327

General Procurement Standards

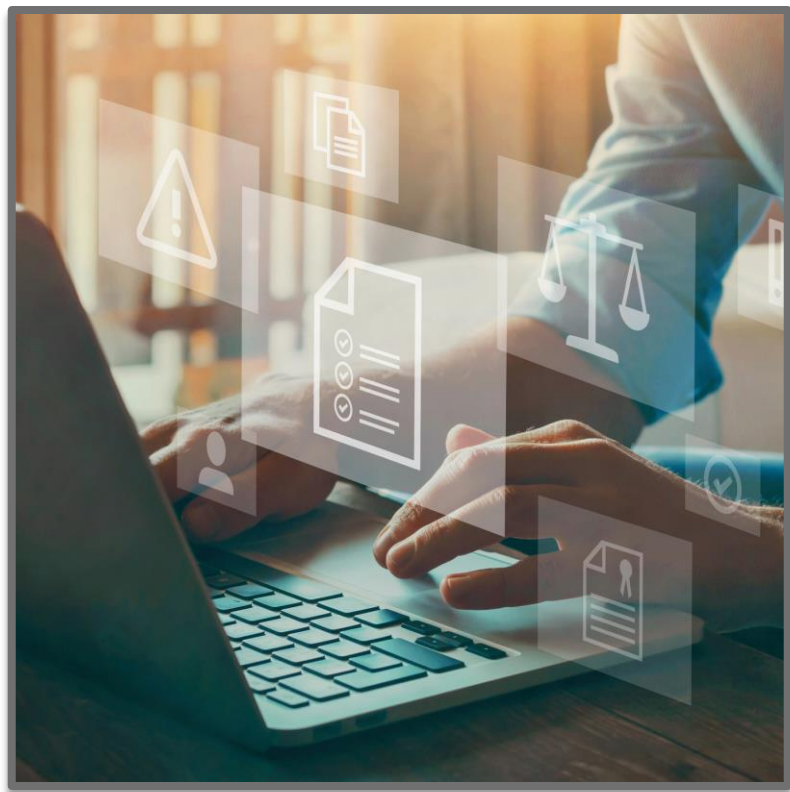
2 CFR 200.318



- a) Documented policies and procedures;
- b) Contract oversight;
- c) Written standards of conduct covering conflicts of interest;
- d) Avoid unnecessary or duplicative items;
- e) Encourages state and local intergovernmental agreements;
- f) Encourages use of surplus property instead of buying new;
- g) Encourages use of value engineering clauses;
- h) Award contracts only to responsible contractors;
- i) Maintain procurement records;
- j) Limit use of time-and-materials contracts; and
- k) Settle issues arising out of procurements

Written procurement procedures

200.318(a); 200.319(d)



All non-federal entities must have and use documented procurement procedures consistent with state and local laws and regulations and conform to the procurement rules in 2 CFR 200.317 through 200.327.

Written procurement procedures

200.318(a); 200.319(d)



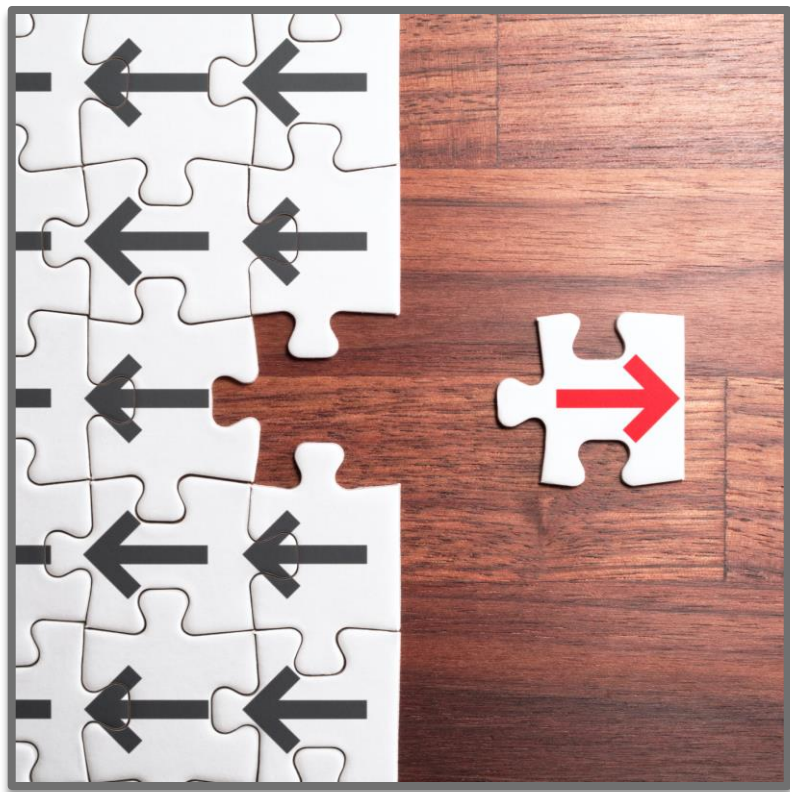
Procurement procedures must ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the desired procurement; and
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Conflicts of interest

2 CFR 200.318(c)

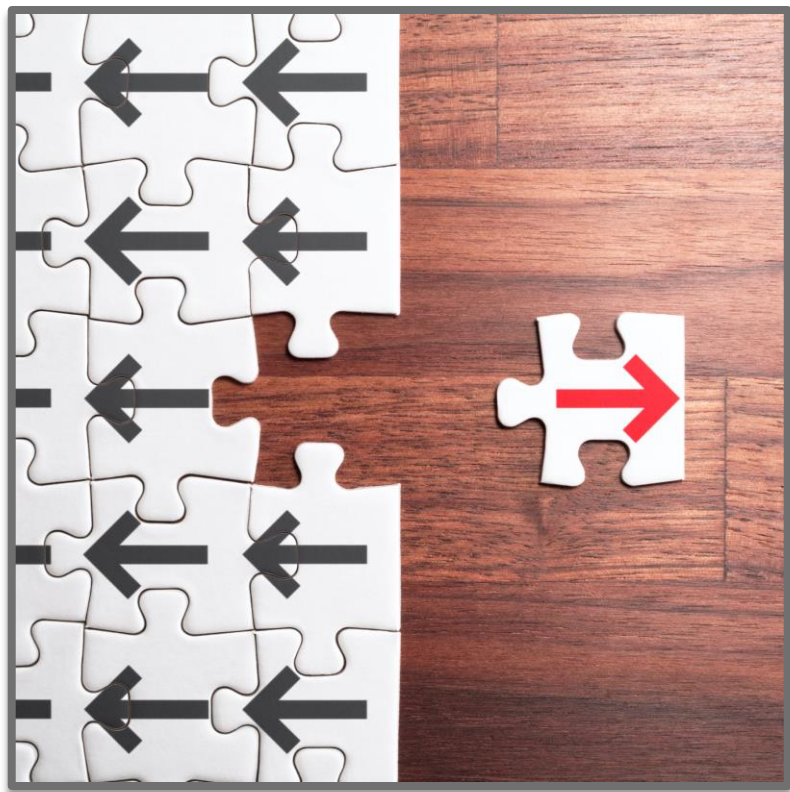


Must have written standards of conduct governing conflicts of interest.

Federal rule: Those who have a real or apparent conflict cannot participate in the selection, award, or administration of a contract supported by a federal award.

Conflicts of interest

2 CFR 200.318(c)



A conflict of interest:

- Arises when any of the following has a financial or other interest in the firm selected for award
 - Employee, officer, or agent;
 - Member of that person's immediate family;
 - That person's partner; or
 - An organization that employs any of the above.
- Includes the acceptance of gratuities, favors, or anything of monetary value from contractors or parties to subcontracts

Procurement, Suspension, and Debarment

Restrictions/Considerations



- Required to ensure contractor/recipient is not suspended, debarred, or excluded on SAM.gov (2 CFR 200.214; 2 CFR Part 180);
- Never contract with the enemy (2 CFR 200.215; 2 CFR Part 183);
- Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216); and
- Domestic preferences for procurements (2 CFR 200.322)

Never contract with the enemy

2 CFR 200.215; 2 CFR Part 183



Applies to covered contracts, grants, and cooperative agreements that are expected to exceed \$50,000 within the period of performance and that are performed outside the United States, including territories, and that are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

Recipients are required to flow down the provisions in award terms covered in Appendix A to 2 CFR Part 183 to all contract and subawards under the award.

Prohibition on certain telecommunications and video surveillance services or equipment

2 CFR 200.215; 2 CFR Part 183

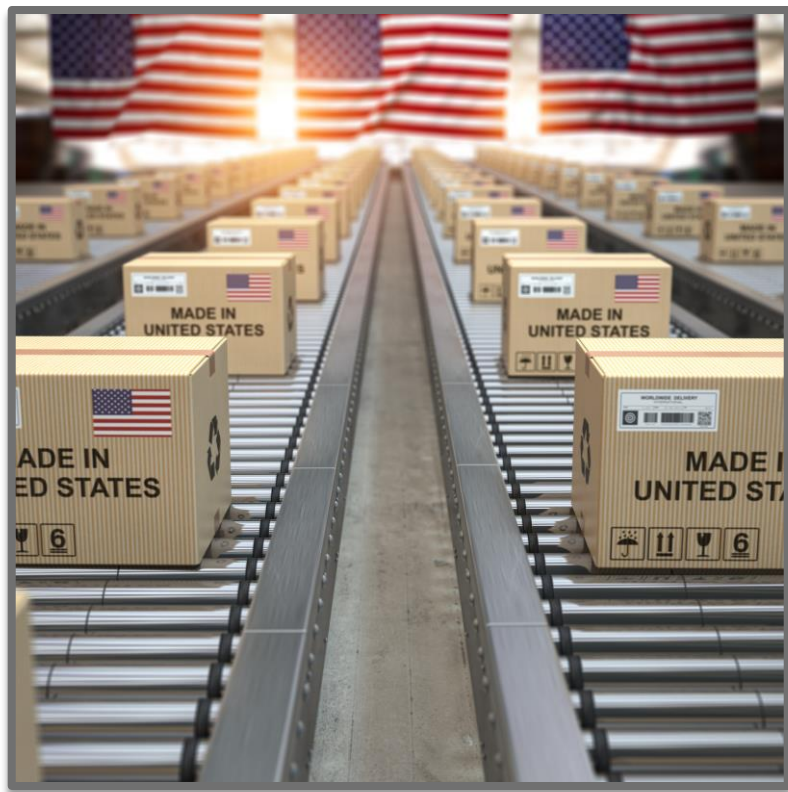


Prohibited to procure or obtain equipment, services, or systems that use equipment or services as a substantial or essential component of any system, or as critical technology as part of any system that are connected to:

- Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate)
- Hytera Communication Corporation
- Hangzhou Hikvision Digital Technology Company
- Dahua Technology Company (or any subsidiary or affiliate)

Domestic preferences for procurements

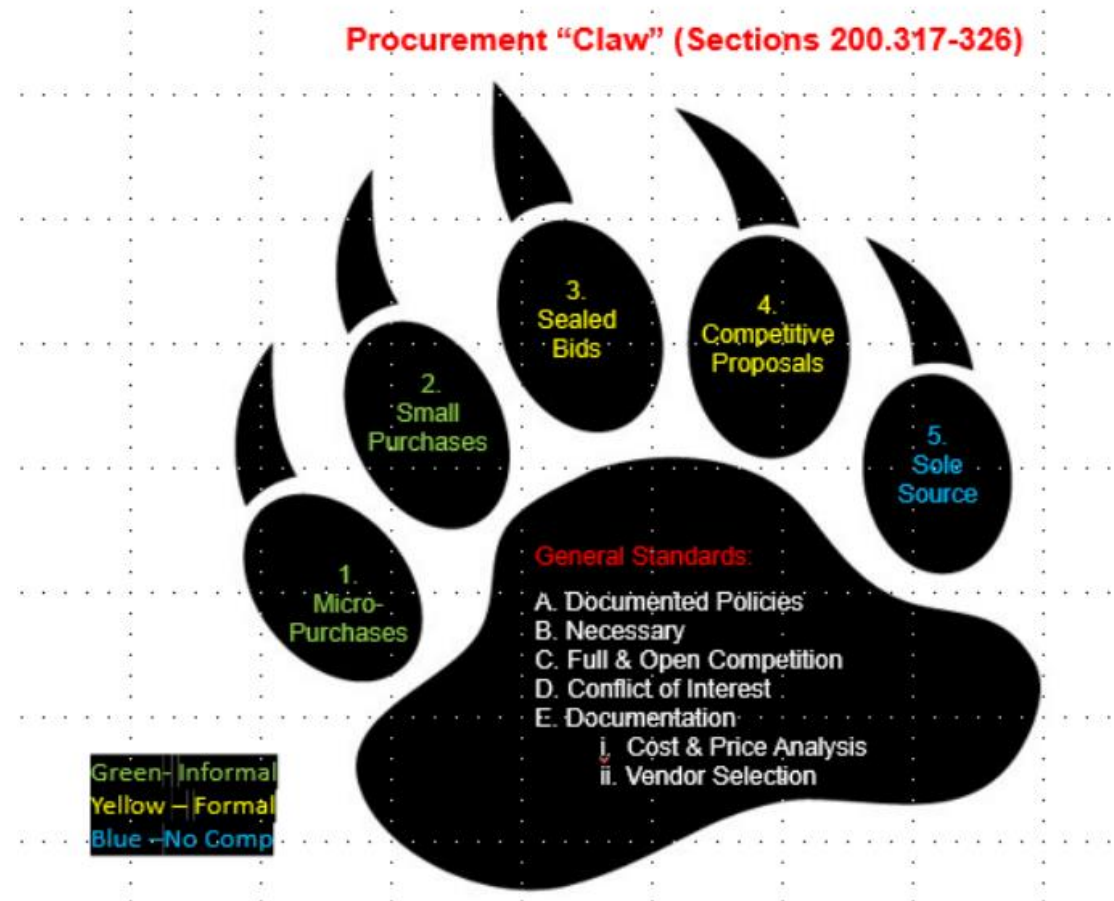
2 CFR 200.215; 2 CFR Part 183



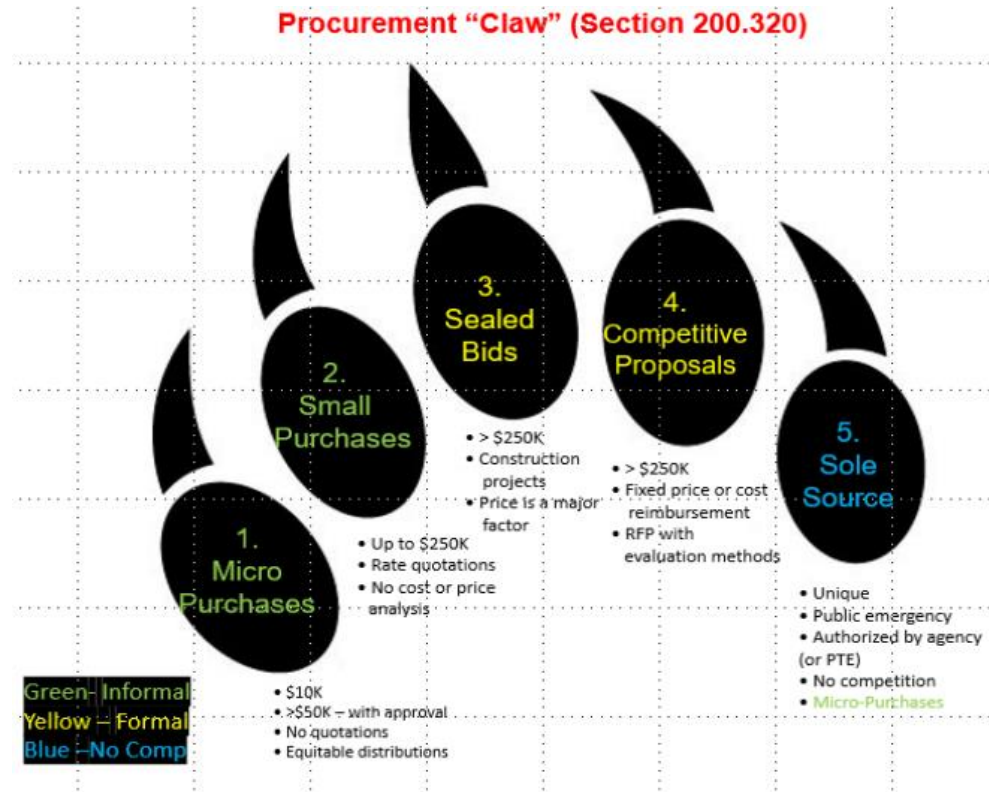
To the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.

Requirements of this section must be included in all subawards and contracts.

The Procurement “Claw” (Sections 200.317-326)



The Procurement “Claw” (Sections 200.320)



Competition

2 CFR 200.319



All procurement must be conducted in a manner to provide full and open competition.

- Contractors that develop specs, bids, etc. are excluded from competing for that procurement.
- Competition cannot be restricted through unreasonable requirements, requiring unnecessary experience or bonding, specifying a “brand name,” etc.

Non-competitive procurements must be awarded in accordance with 2 CFR 200.320(c).

Informal Procurement Methods

2 CFR 200.320



Two types of informal procurement:

- 1) Micro-purchases**
- 2) Small Purchases**

Informal Procurement Methods

2 CFR 200.320

Micro-purchases

Responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and documented procurement procedures not to exceed the FAR (**\$10k or less, unless self-certify up to \$50k**)

Self-certify a threshold up to \$50k on an annual basis and must maintain documentation including justification, clear identification of threshold, and supporting documentation of:

- Low-risk auditee (200.520) for most recent audit;
- Annual internal risk assessment; or
- Higher threshold consistent with State law for public institutions.



Informal Procurement Methods

2 CFR 200.320



Small Purchases

- Above Micro and below the Simplified Acquisition Threshold (SAT)
- Responsible for determining an appropriate SAT based on internal controls, an evaluation of risk, and documentation of procurement procedures not to exceed the threshold in the FAR (currently \$250k)
- Price or rate quotes must be obtained from an adequate number of qualified sources.

Formal Procurement Methods

2 CFR 200.320



Exceeds the SAT (over \$250K or lower threshold determined by recipient)

1. Sealed Bids – bids are publicly solicited, and a firm fixed price contract is awarded to the responsible bidder whose bid conforms materially and is the lowest in price.

2. Proposals – either fixed price or cost-reimbursement type contract is awarded and is used when conditions are not appropriate for the use of sealed bid.

Non-Competitive Procurement (Sole Source)

2 CFR 200.320

Can only be used if one or more of the following circumstances apply:

1. Aggregate dollar amount does not exceed the micro-purchase threshold;
2. Item is available only from a single source;
3. Public exigency or emergency;
4. Authorization granted from the Federal awarding agency or pass-through entity in response to a written request from the non-Federal entity; or
5. Competition is determined inadequate after solicitation of a number of sources.



Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms

2 CFR 200.321



Must take necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps include (see CFR for more items):

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assuring they are solicited when potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks to permit maximum participation; and
- Require prime contractors to take the affirmative steps.

Contract Cost and Price

2 CFR 200.324

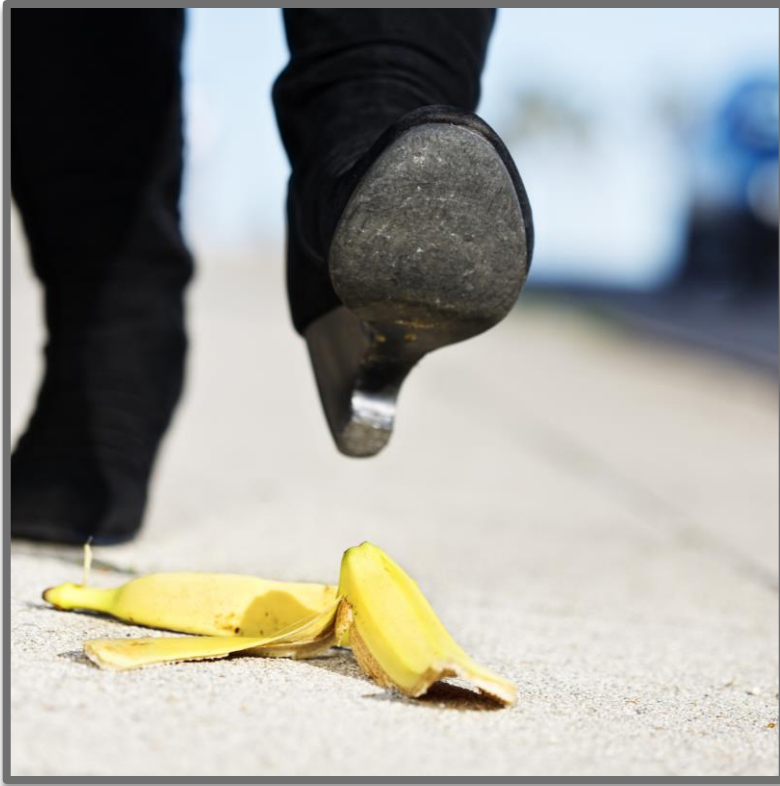


Must perform either a cost or price analysis for all procurement transactions, including modifications, over the SAT (\$250K)

Must make independent estimates before receiving bids or proposals.

- Cost analysis: evaluating the separate cost elements that make up the total price
- Price analysis: evaluating the total price without looking at the individual cost elements

Avoid Procurement Pitfalls



- Use of legacy purchase renewals (maintenance renewals or upgrades) when original procurement was not competitive;
- Use of “name brand” in bid specifications thus exempting competition;
- Use of a master service or supply agreement that was not competitive;
- Follow agency policy or ORC with belief either meets the federal requirements;
- Conflicts of Interest;
- Repeated use of same personal service contractors without re-bidding;
- Use of joint contracting programs (may not be competitive);
- Inappropriate justification for sole source;
- Short timeframe of grant funds does not constitute a public emergency for sole source;
- Cost analysis indicating reasonable price/cost benefit not performed;
- Failure to keep documentation, especially on no bid responses, solicitation, etc.; and
- Solicitation was limited.

Ohio

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Resources

Code of Federal Regulations (Uniform Guidance)

https://ecfr.io/Title-02/cfr200_main

Example Written Procurement Policies and Procedures (Licking County)

<https://lickingcounty.gov/civicax/filebank/blobdload.aspx?t=48995.32&BlobID=108484>

Coronavirus Relief Fund Information and Guidance

<https://home.treasury.gov/policy-issues/cares/state-and-local-governments>

CARES Act Reporting and Record-keeping Information (US Treasury OIG)

<https://oig.treasury.gov/cares-act-reporting-and-record-keeping-information>

Coronavirus State and Local Fiscal Recovery Funds

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

System for Award Management <https://sam.gov/SAM/>

Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) <https://www.fsrs.gov/>

USASpending.gov <https://www.usaspending.gov/#/>

Pandemic Response Accountability Committee

<https://pandemic.oversight.gov/>

Ohio

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Questions?



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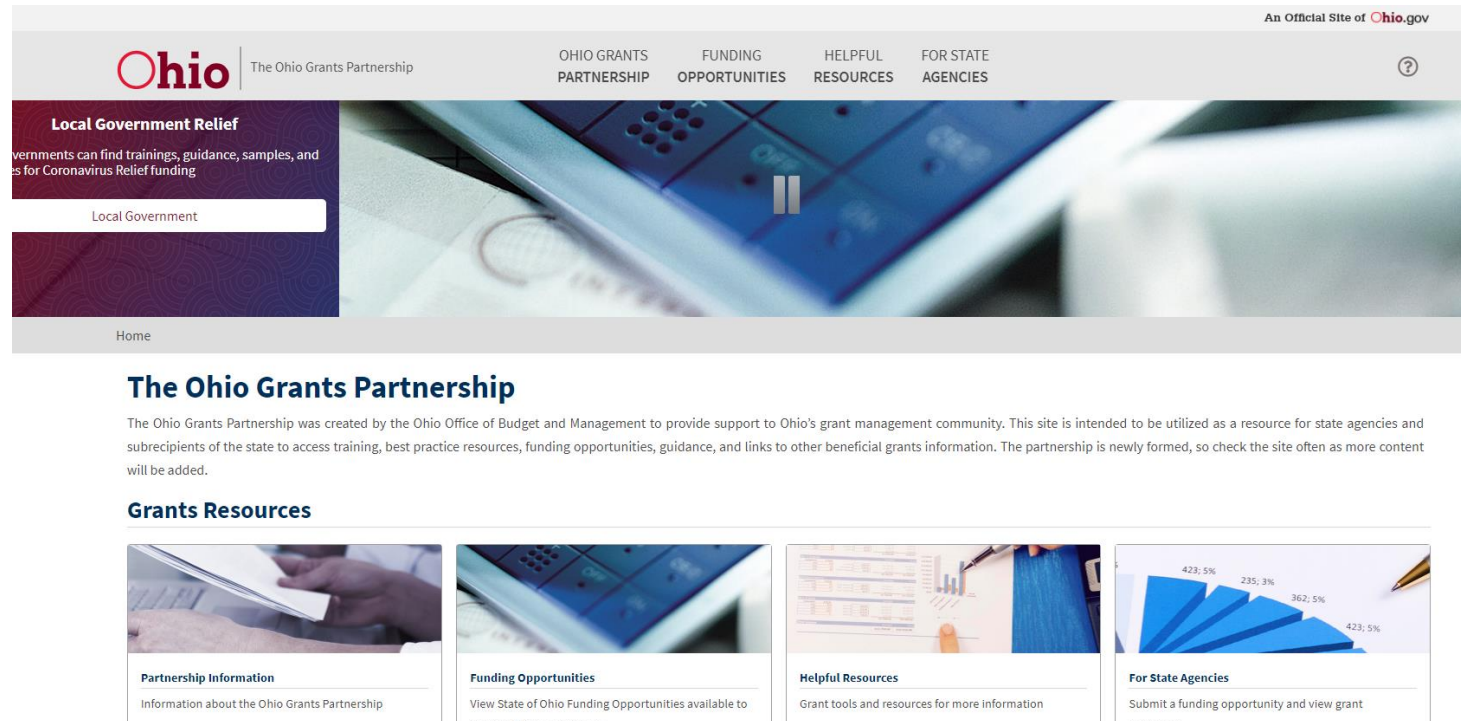
Previous Webinars

<https://grants.ohio.gov/>

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Helpful Resources > Grant
Training

Funding Opportunities >
American Rescue Plan Act
Local Fiscal Recovery
Fund



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