

Contract #00000000000000000074357

MEMORANDUM OF UNDERSTANDING

Between the

INDIANA STATE BUDGET AGENCY

and the

OFFICE OF THE LT. GOVERNOR,

OFFICE OF COMMUNITY AND RURAL AFFAIRS

This Memorandum of Understanding (“MOU”) is entered into by and between the Office of the Lt. Governor, Office of Community and Rural Affairs (“OCRA”) and the Indiana State Budget Agency (“SBA”). In consideration of those mutual undertakings, the parties agree as follows:

WHEREAS, SBA, an agency of the Office of Management and Budget (“OMB”), is designated by OMB to accept and administer funds from the federal American Rescue Plan (ARPA) Act, sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 (the “Act”), Pub. L. No. 117-2 (Mar. 11, 2021); and

WHEREAS, OCRA is tasked with expanding the available of broadband connectivity throughout Indiana under IC 4-4-38.5; and

WHEREAS, the parties enter into the MOU to memorialize their understanding of the mutual advantages of this cooperative relationship.

NOW, THEREFORE, the parties agree to the terms and conditions set forth below:

I. Purpose

The purpose of this MOU is to memorialize an agreement to reimburse OCRA for necessary expenditures in compliance with the ARPA Act, as more fully set forth in Attachment A, (the “Program”) and provide guidance to OCRA for the purpose of complying with federal requirements of the Program.

II. Grant Information

- a. Assistance listing (CFDA) number: 21.027
- b. Federal Award Name: Coronavirus State Fiscal Recovery Funds (CSFRF)
- c. Federal Award Identification Number: SLFRP4176
- d. Federal Award Date: March 11, 2021
- e. Name of Federal Agency: U.S. Department of the Treasury
- f. Total Amount of Funds obligated to substate agency: \$46,867,851
- g. Statutory Uses:
 - To respond to the COVID-19 public health emergency or its negative economic impacts;
 - To respond to workers performing essential work during the COVID-19 public health emergency by providing grants to eligible employers that have eligible workers who performed essential work;
 - For the provision of government services, to the extent 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
 - To make necessary investments in water, sewer or broadband infrastructure.
- h. Period of time substate agency can obligate funds:
 - **Federal Covered Period**
The Federal covered period to obligate CSFRF funds is March 3, 2021, through December 31, 2024. See also State Covered Period (State Appropriation). Funds must be expended by December 31, 2026.

- **State Covered Period (State Appropriation)**
As provided in Section 284 of HEA 1001 (2023) and under the terms of the CSFRF program guidelines funds must be obligated by December 31, 2024, and expended by December 31, 2026.
- i. Requirements imposed on the substate agency so that the award is used in accordance with Federal statutes and regulations, and the terms and conditions of the award:
 - 2 CFR 200, Uniform Administrative Requirement, Cost Principles and Audit Requirements for the Federal Awards.
 - i. The following 2 CFR policy requirements apply to this Assistance Listing:
 1. Subpart A, Definitions
 2. Subpart B, General Provisions
 3. Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards
 4. Subpart D, Post Federal Award Requirements
 5. Subpart E, Cost Principles
 6. Subpart F, Audit Requirements
 - ii. The following 2 CFR policy requirements apply to this assistance listing:
 1. 2 CFR Part 25, Universal Identifier and System for Award Management
 2. 2 CFR Part 170, Reporting Subaward and Executive Compensation Information
 3. 2 CFR part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-Procurement)
 - The following 2 CFR policy requirements are excluded from coverage under this Assistance Listing:
 - i. For 2 CFR Part 200, Subpart C, the following provisions do not apply to the CSFRF program:
 1. 2 CFR 200.204 Notices of Funding Opportunities
 2. 2 CFR 200.205 Federal Awarding Agency review of merit proposal
 3. 2 CFR 200.210 Pre award costs
 4. 2 CFR 200.213 Reporting a determination that a non-Federal entity is not qualified for a Federal award.
 - ii. For 2 CFR 200, Subpart D, the following provisions do not apply to the CSFRF program:
 1. 2 CFR 200.308 Revision of budget or program plan
 2. 2 CFR 200.309 Modifications to period of performance
 3. 2 CFR 200.305 (b)(8) and (9) Federal payment
- j. Compliance with CSFRF required programmatic data requirements and performance indicators.
- k. Compliance with applicable sections of 2 CFR 200, ARPA Act, CSFRF rules and guidance which may be updated throughout the term of the grant.
- l. Administrative Expenses
 - Recipients may use funds for administering the CSFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be allowable under 2 CFR 403, and be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 405.
- m. Match requirements: None.
- n. Indirect costs: None.

III. Term

The MOU shall be in effect from July 1, 2021 through January 31, 2027.

When the Director of SBA makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this MOU, the MOU shall be canceled. A determination by the Director of SBA that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

IV. Obligation of the Parties

The parties agree to the following obligations under this MOU:

- a. SBA agrees to provide OCRA from the ARPA Act an amount not to exceed the amount listed in Section II(f), which may be amended from time to time. OCRA agrees to return to SBA any unused funds.
- b. OCRA will follow federal expenditure procedures as outlined in the State Board of Accounts manual.
- c. OCRA acknowledges that it is a Substate Agency as the term is used in the State Board of Accounts manual.
- d. OCRA will administer the Program in accordance with federal laws and guidance of the ARPA Act, U.S. Treasury guidance and policies, OMB and SBA policies and procedures, State Board of Accounts guidance on administration and tracking of federal COVID funds, and any policies or procedure implemented by OCRA for administration of the program. OCRA's responsibilities to administer the Program include:
 - Provide communications and quarterly reports to the Director of the OMB and the Director of SBA regarding the status of the Program, including a detailed breakdown of the expenditures reimbursed under the Program and an explanation of why those expenditures were necessary to respond to the COVID-19 public health emergency.
 - SBA will assist OCRA as necessary with the administration of the Program.

V. ARPA Reporting Requirement

- a. OCRA agrees to provide SBA with timely information that allows SBA to comply with reporting requirements of the ARPA Act. This includes interim report, Program and Expenditures Reports, and Recovery Plan Reports.
- b. OCRA agrees to provide information by deadlines established by SBA.
- c. OCRA agrees to collect data from sub-awards and contracts as required by SBA.

VI. Records Retention

Agency agrees to maintain records to support compliance with the ARPA Act. This may include, but is not limited to, copies of the following:

- a. General ledger and subsidiary ledgers used to account for: (a) the receipt of ARPA Act payments and (b) the disbursements from such payments to meet the eligible expenses related to the public health emergency due to COVID-19;
- b. Budget records;
- c. Payroll, time records, and human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
- d. Receipts of purchases made related to addressing the public health emergency due to COVID-19;

- e. Contracts and subcontracts entered into using ARPA Act payments and all documents related to such contracts;
- f. Grant agreement and grant subaward agreements entered into using ARPA Act payments and all documents related to such awards;
- g. All documentation of reports, audits, and other monitoring of contractors, including subcontractors, grant recipients, and subrecipients;
- h. All documentation supporting the performance outcomes of contracts, subcontracts, grant awards and grant recipient subawards;
- i. All internal and external email/electronic communications related to use of ARPA Act payments; and
- j. All investigative files and inquiry reports involving ARPA Act payments.

OCRA will maintain records for a period of five (5) years after final payment is made using ARPA Act monies. These record retention requirements are applicable to all prime recipients and their grantees, subgrant recipients, contractors, and other levels of government that received transfers of ARPA Act payments from prime recipients.

OCRA agrees to provide SBA, its contractors, and State Board of Accounts full access to the OCRA's records and financial statements, as necessary to determine compliance with the Federal award for audit purposes.

VII. SEFA Reporting

OCRA will identify Emergency Act expenditures separately on its Schedule of Expenditure of Federal Awards (SEFA).

VIII. Modifications

The parties may modify this MOU by a written, mutual, signed amendment.

IX. Transfer of Funds to Another State Agency

OCRA is prohibited from transferring CSFRF funds to another state agency without prior approval of the State Budget Agency.

X. Notices

Any notice required or permitted to be given under this MOU shall be sent to the following:

State Budget Agency
Attn: Lisa Acobert
State House Room 212
200 W. Washington Street
Indianapolis, IN 46204
LiAcobert@sba.IN.gov

Office of Lt. Governor,
Office of Community and Rural Affairs
Attn: Anne Valentine
avalentine@lg.in.gov

XI. Termination or Suspension

This MOU may be terminated or suspended by either party if the other party has failed to comply with the terms of this MOU, or for any reason if such termination is in the best interest of the terminating agency, upon thirty (30) days written notice. The notice of termination or suspension shall state the reasons for termination or suspension. Regardless of the reason for termination or suspension, the parties will be compensated for services properly rendered prior to termination or suspension of this MOU.

XII. Entire Agreement


This MOU constitutes the entire agreement of the parties and may only be amended by the written mutual consent of the parties.

XIII. Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the agreeing party, or that he/she is the representative, agent, member or officer of the agreeing party, that he/she has not, nor has any other member, employee, representative, agent or officer of the division, firm, company, corporation or partnership represented by him/her, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this MOU other than that which appears on the face of this MOU.

In Witness Whereof, the SBA and OCRA have, through their duly authorized representatives, entered into this MOU. The parties, having read and understood the foregoing terms of this MOU, do by their respective signatures dated below agree to the terms.

Office of Community and Rural Affairs

By: 
D30046C2D31C44D...

Title: Executive Director

Date: 6/21/2023 | 15:32 EDT

Indiana State Budget Agency

By: 
C08285FB886741A...

Title: State Budget Director

Date: 6/21/2023 | 16:45 EDT

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Electronically Approved by: State Budget Agency By: Zachary Q. Jackson, Director (for)	

Attachment A

Program Description: Indiana's Next Level Connections Broadband Grant Program (NLC) is a competitive grant program designed to provide funding to extend broadband infrastructure and service to areas and locations currently lacking access to at least 25/3 Mbps. Indiana developed NLC to incentivize the provision of service to school buildings, rural health clinics, and households with students.

- The program is designed to provide internet service with speeds of 100/100 Mbps symmetrical to households and businesses upon project completion.
- Each of the internet service providers funded by the program will participate in the FCC's Affordable Connectivity Program (ACP) – a \$30 per month subsidy for low-income families.