

**COUNTY OF GRAYS HARBOR PROCUREMENT AND AWARD POLICY  
FOR THE AMERICAN RESCUE PLAN ACT 2021**

**SCOPE**

This Procurement Policy applies to expenditures of all federal assistance received from the American Rescue Plan Act (“ARPA”) and Coronavirus State and Local Fiscal Recovery Funds (“LFRF”) for Grays Harbor County, Washington. The purpose of this policy is to provide guidelines for all aspects of requests for, use and allocation of the funds that the County receives under ARPA.

This policy does not govern expenditure of awards received from other sources.

**POLICY STATEMENT**

The Department of the Treasury imposes particular requirements in the use of ARPA and LFRF funds. This Procurement Policy is designed to ensure that Grays Harbor County (the “County”) complies with those requirements in addition to all other Washington State Statutes pertaining to government procurement, expenditures and accounting to the extent that they apply to this funding including, but not limited to, RCW Title(s) 36, 39, 40, 42, and 43. Further, this policy is consistent with federal uniform guidance.

**GENERAL PROCUREMENT STANDARDS**

A. Ethics and Conflicts of Interest

The County employees involved in expenditure of federal grant funds must avoid any actual or apparent conflict of interest. Employees may not derive any personal financial or other benefit from any contract or transaction using ARPA funds. This prohibition includes parents, children and siblings, as such close relationships could give rise to an appearance of conflict. Conflicts of interest must be disclosed in writing. In addition, contractors or consultants who draft bid specifications or requests for proposal on the County’s behalf are thereby disqualified from bidding on those opportunities. While contractors or consultants are not automatically disqualified from other opportunities, care must be taken to ensure that their work for the County does not give them unfair advantage over competitors.

County employees may not accept kickbacks, rebates, gratuities or other gifts or tokens of appreciation from vendors paid through federal grants. Rebates and discounts to the County are permitted provided they (1) comply with all applicable laws; (2) provide a direct benefit to the County; (3) result from an arm’s length negotiation, which is fully documented; and (4) are consistent with the vendor’s standard pricing or discounting policies.

Failure to comply with these requirements may result in disciplinary action including termination of employment.

To avoid conflict or the appearance of conflict, contractors or consultants and affiliates who prepare specifications, statements of work or other material portions of requests for proposal are excluded from bidding on the underlying work.

Suspected or observed violations of this Policy shall be reported to the County Prosecuting Attorney. The County strictly prohibits retaliation of any type or nature against anyone for making such reports in good faith.

## B. General Requirements

The following requirements are applicable to all procurement transactions regardless of size. Procurement transactions shall be conducted in a lawful and ethical manner. Unnecessary or duplicative purchases are not permitted. Avoid stockpiling. ARPA funds shall be used for the current pandemic and shall avoid consideration of future circumstances.

Contractor performance in accordance with their contracts or purchase orders must be reviewed in accordance with their expectations. Change orders substantially affecting the negotiated fees are not permitted.

Capital expenditures are discouraged. If permitted, construction must be completed and money expended by December 31, 2026. Contracts will not be awarded to federally debarred bidders according to [sam.gov](http://sam.gov).

Funds can be placed in interest-bearing account(s) and interest is not required to be remitted to the Treasury Department nor is the interest restricted to LFRF eligible uses.

### METHODS OF PROCUREMENT

Purchasing Guidelines: The County implemented Capital Asset Policy and Procedures which were last updated in April of 2018, as well as Resolution No. 2016-136 pertaining to small public works roster procedures for the award of public works contracts, services and purchase of goods. Those policies are incorporated herein by this reference to the extent they are applicable to ARPA/LFRF funding.

Definitions of Purchases: For the purpose of ARPA/LFRF funding only, levels of spending are defined as:

**Micropurchase**: Not to exceed \$10,000; no quotations required if price is reasonable; reason will be documented using online price checking and documented accordingly.

**Small Purchase**: \$10,001 to \$250,000; rate quotations from an adequate number of qualified sources. Purchases larger than \$10,000 but less than the Simplified Acquisition

Threshold require additional research and documentation. At a minimum, written quotations should be obtained from at least two competing sources. There is no requirement that contract be awarded solely on the basis of price.

**Sealed Bid:** Over \$250,000; primarily construction projects, firm fixed price contract with formal bidding process required. Sealed bids are publicly solicited requests for bids or proposals at a fixed contract price. The contracts are awarded to the bidder whose bid conforms in all material aspects to the specified requirements and offers the lowest price. Sealed bids are the preferred method for procuring construction contracts if the procurement lends itself to a fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- The invitation for bids shall be advertised for 13 days in the Daily World newspaper, or any other newspaper of general circulation in Grays Harbor County with which the County has contracted for such purposes
- The invitation for bids must fully describe the items or services sought
- All bids will be opened at the same time and place prescribed in the invitation for bids
- A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder
- Any or all bids may be rejected if there is a sound and documented reason.

**Competitive Proposals:** Over \$250,000; fixed price or cost reimbursement; RFP with evaluation methods for an adequate number of qualified sources.

Competitive proposals are used when more than one source is submitting an offer and either a fixed price or cost reimbursement contract is awarded. When this method is used the following conditions apply:

- Requests for proposals will be published for 13 days in the Daily World newspaper, or any other newspaper of general circulation in Grays Harbor County with which the County has contracted for such purposes
- The County will have a written method for evaluating proposals and for selecting recipients
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program with price and other factors considered
- All factors used in evaluating bids shall be included in the RFP

**Sole Source:** Pursuant to RCW 39.04.280(1)(a), agencies may waive competitive bidding if a purchase is clearly and legitimately limited to a single supplier. Any dollar amount applies.

## COMPETITION

All procurement transactions must be conducted in a manner providing full and open communication. Situations considered restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business
- Requiring unnecessary experience and excessive bonding
- Noncompetitive pricing practices between firms or between affiliated companies
- Organizational conflicts of interest
- Noncompetitive contracts to consultants that are on retained contracts
- An arbitrary action in the procurement process

## **CONFLICT OF INTEREST POLICY**

### SCOPE

This conflict of interest policy governs the activities of the County Commissioners and all affiliated staff related to the ARPA funds for the County. It is the duty of all board members and staff to be aware of this policy and to identify conflicts of interest and situations that may result in the appearance of a conflict of interest and to disclose those situations in open record. This policy provides guidelines for identifying conflicts, disclosing conflicts and procedures to be followed to assist the County in managing those situations.

The Department of the Treasury imposes particular requirements in the use of ARPA funds. This conflict of interest policy is designed to ensure that the County complies with those requirements. This policy is consistent with federal uniform guidelines.

### CONFLICT OF INTEREST DEFINED

RCW 42.52.020 provides that no state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties. In addition, the County has a policy regarding conflicts of interest. In addition thereto, the following applies to all ARPA/FLRF funds and transactions.

A conflict of interest arises when a Commissioner or staff member has a personal interest that conflicts with the interests of the County or when a Commission or staff member has a duality of interests. The former can result in situations that result in inappropriate financial gain to persons in authority within the County which can lead to financial penalties and violations of IRS regulations. Similarly, transactions arising out of a conflict of interest can result in either inappropriate financial gain or the appearance of a lack of

integrity in the County's decision-making process. Both results are damaging to the County and are to be avoided.

For the purposes of this policy, the following circumstances shall be deemed to create a conflict of interest:

- A commissioner, director, staff, or family member of any of the foregoing is a party to a contract or involved in a transaction with the County for goods or services.
- A commissioner, director, staff or family member of any of the foregoing has a material financial interest in a transaction between the County and an entity in which they are an officer, director, agent, partner, associate, employee, trustee, personal representative, custodian or other legal representative.
- Other situations may create the appearance of a conflict or present a duality of interests in connection with a person who has influence over the activities or finances of the nonprofit. All such circumstances should be disclosed in open record and a decision made as to what course of action the county should take so that the best interests of the County are not compromised.

## PROCEDURES TO MANAGE CONFLICTS

For each interest disclosed, the Board Chair will determine whether the organization should: (a) take no action; or (b) disclose the situation more broadly and invite discussion or resolution by the full Board of what action to take; or (c) refrain from taking action and otherwise avoid the conflict. In most cases the broadest disclosure is advisable so that decision-makers can make informed decisions that are in the best interests of those concerned.

When the conflict involves a decision-maker, the person with the conflict must fully disclose the conflict to all other decision-makers; may NOT be involved in the decision of what action to take (e.g. may not participate in the vote). In some cases the person with a conflict may be asked to recuse themselves from the discussion so as not to unduly influence the discussion of the conflict.

In all cases, decisions involving a conflict will be made only by disinterested persons. The fact that a conflict was managed and the outcome will be documented in the minutes.

## **RECORD RETENTION POLICY**

### SCOPE

The purpose of this policy is to ensure that necessary records and documents related to the ARPA funds for the County are adequately protected and maintained. This policy is also for the purpose of aiding employees and affiliates of the County in understanding their

obligations in retaining electronic documents including e-mail, Web files, text files, sound and movie files, PDF documents and all Microsoft Office or other formatted files.

The Department of the Treasury imposes particular requirements in the use of ARPA funds. This records retention policy is intended to ensure that the County complies with those requirements. This policy is consistent with federal uniform guidance and Local Government CORE Ver. 4.2 (2021).

### POLICY

This policy represents the County's policies regarding the retention and disposal of records and the retention and disposal of electronic documents related to ARPA funds.

### APPLICABILITY

This policy applies to all physical records generated in the course of the County's ARPA fund administration, including both original documents and reproductions. It also applies to the electronic documents described above.

### RECORD RETENTION SCHEDULE

Any and all documents including, but not limited to, handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored which is related to the administration of the County's ARPA FUNDS shall be maintained as set forth by the Records Retention guidelines (Local Government CORE Ver. 4.2 (2021)), but in no event for less than a period of six (6) years after creation. Record destruction or disposal shall occur in accordance with the County's standard operating procedure for such disposal.

### **SUSPENSION AND DEBARMENT POLICY**

The County is prohibited from contracting with or making sub awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred by the federal government. The County will assure compliance to this federal regulation via confirmation from the Federal System for Award Management (SAM) for all transactions related to the ARPA for the County.

The Department of the Treasury imposes particular requirements in the use of ARPA funds. This Suspension and Debarment Policy is designed to ensure that the County complies with those requirements. This policy is consistent with federal uniform guidance.

## PROCEDURE

The purchase of goods or services with an expected value exceeding \$25,000 related to ARPA funds will require review of SAM to determine the possible suspended or debarred standing of the third party vendor. Therefore, all applicants must be registered with SAM.gov. Prior to completing procurement the County Clerk or ARPA Administrator will verify that the third party vendor is not currently listed as suspended or debarred.

## **RISK ASSESSMENT POLICY**

The County was the recipient of federal assistance passed through to the County as a result of the American Rescue Funds Act. The allocation for the County was \$14,579,719.00, to be received in two tranches.

The Department of the Treasury imposes particular requirements in the use of ARPA funds. This risk assessment policy is designed to ensure that the County complies with those requirements. This policy is consistent with federal uniform guidance.

Control risks should be assessed for each dollar allocation and tests should be developed to support low risk decision-making. When control risk is assessed as high, the reason should be documented and the compliance officer should draft significant deficiencies or material weaknesses.

All sub recipients of ARPA funds will be required to complete a Pre-Award Risk Assessment which is designed to test their ability to conform to the Uniform Guidance. Sub recipients will be required to sign a Memorandum of Agreement with the County which regulates their performance requirements in accepting ARPA funds including, but not limited to, reporting, documentation, and compliance (form provided).

Pre-Award Risk Assessments will be scored by a panel of three and risks shall be evaluated prior to receiving ARPA funds (form provided). Sub recipients decisions will be made as follows:

**Low Risk (0-60):** Prior to issuing an award, the County will not incorporate additional special requirements or enhanced monitoring oversight.

**Moderate Risk (61-125):** Prior to issuing an award, the County will consider additional special requirements or monitoring oversight to avoid potential non-compliance.

**High Risk (126-310):** Prior to issuing an award, the County will meet with the primary contacts and other relevant staff to discuss issues that require improvement, additional reporting requirements and additional monitoring.

As part of the reporting and sub recipient monitoring process, random samples may be pulled during each quarter to determine eligibility, reporting, compliance and documentation.

The County will require all sub recipients and vendors of the fund to certify that they either meet or do not meet the Uniform Administrative Requirements, Cost Principles and Audit Requirements. If the sub recipient or vendor indicates that they meet or exceed the audit threshold, a copy of their single audit is required to be sent to county staff.



SINGLE AUDIT CERTIFICATION FORM

Dear ARPA Relief Fund Sub recipient:

The County of Grays Harbor is subject to the requirements of 2 CFR, which includes the OMB Circular A-133. In accordance with 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements, Subpart F, §200.501(a), Audit Requirements, non-Federal entities that expend \$750,000 or more during their fiscal year in Federal awards from all funding sources must agree to have a single audit conducted. In addition, § 200.512 requires that the final report for such audit be completed within nine months of the end of the non-federal entity’s fiscal year. As part of the County’s sub recipient monitoring process and to determine compliance with Uniform Guidance, this document must be completed and signed by the fiscal agent’s organization. Please complete the fields below and provide all appropriate documentation regarding the organization’s compliance with the audit requirement. Sign and date the certification and return to the mail/address below as part of the agency Memorandum of Understanding with the County.

Name of Organization: \_\_\_\_\_  
EIN: \_\_\_\_\_ Fiscal Year Ending: \_\_\_\_\_

Please check the appropriate box:

- We are not subject to the audit requirements because our federal awards expended from all funding sources are less than the federal threshold of \$750,000 for the fiscal year noted above.
  
- We had our Single Audit for the above noted fiscal year completed and a copy of the audit report is attached.
  
- We will have a Single Audit for the above noted fiscal year completed by \_\_\_\_\_ and a copy of the audit report will be sent to the County upon completion.

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

American Rescue Plan Act (ARPA) Memorandum of Understanding

**WHEREAS**, securing the health, safety and economic well-being of the County of Grays Harbor and its residents is the County Commissioners' to priority; and

**WHEREAS**, The World Health Organization declared a pandemic on March 11, 2020; and

**WHEREAS**, on March 11, 2021, the American Rescue Plan Act (ARPA) of 2021 was signed into law which included the Coronavirus Local Fiscal Recovery Funds act (LFRF). Through LFRF, Washington counties, cities and Non-Entitlement Units (NEU) of Local Government are projected to receive over \$1 billion in direct funding from the federal government. Potential uses of LFRF include supporting COVID-19 response efforts, revenue replacement, economic stabilization and addressing systemic public health and economic challenges; and

**WHEREAS**, the County must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while simultaneously beginning the process of safely, strategically and incrementally reopening businesses and facilitating economic recovery and revitalization; and

**WHEREAS**, for the aforementioned and other reasons, and in recognition of further of the responsibility to provide for and ensure the health, safety, security and welfare of the people of the Grays Harbor community, the County has determined that the evolving public health and economic threats posed by COVID-19 require a proactive approach to provide immediate financial relief and long-term economic investment in the community; and

**WHEREAS**, in these challenging times, the Board of County Commissioners will do whatever it can to avoid immediate dangers to the health, safety and welfare of our constituents and prepare for future waves of COVID-19 and related illnesses.

**NOW, THEREFORE**, pursuant to the authority vested in the Board of County Commissioners and in order to begin the process of safely, strategically and proactively providing the resources the community needs to both mitigate the spread of COVID-19 and invest in long-term economic recovery, the County accepts any funds appropriated to the County by the State of Washington through LFRF and distributed by the County pursuant to the Department of the Treasury's Interim Final Rule and Final Rule, which allows use of funds for the following: Support Public Health Response, Water and Sewer Infrastructure; Premium Pay for Essential Workers; Replace Public Sector Revenue Loss; Address Negative Economic Impacts; and Broadband Infrastructure.

As a beneficiary of the ARPA LFRF funds, \_\_\_\_\_  
(the "undersigned") hereby agrees to comply with the following:

1. To ensure transparency and accountability in the deliberation, expenditure and oversight processes associated with ARPA funds, the undersigned will comply with all applicable requirements as set forth by the County including, but not limited to, the Washington open meeting laws and public records act (“OPMA”) to the extent the undersigned is subject to the OPMA.
2. ARPA LFRF funds must be used for eligible purposes. The undersigned agrees to provide all required and requested documentation and information needed to comply with due diligence and reporting of these funds. Requests for information must be responded to and complied with immediately. Fund payments that are deemed to have been used for ineligible purposes are treated as a debt owed by the implementing government to the Treasury. This Memorandum signifies that, upon approval, the undersigned agrees to cooperate with any audits or inquiries by the Department of the Treasury or the County of Grays Harbor concerning ARPA funds and agrees to pay any debt incurred to the Department of the Treasury due to ineligible expenditures of appropriated ARPA funds.
3. The undersigned acknowledges that the United States Department of the Treasury or the Governor’s Office of Recovery may issue additional guidance or requirements regarding the transfer, expenditure, reimbursement or other conditions to the use of ARPA funds.
4. The undersigned acknowledges and agrees that any unspent funds must be returned to the County for recoupment; and further understands that any unspent funds must be returned to the County prior to January 31, 2024. All reconciliation documents submitted to the County are subject to the state Public Records Act (Chapter 42.56 RCW) and shall not be considered proprietary or confidential. The undersigned agrees that all records in his or her possession related to ARPA/LFRF funding shall be provided within five (5) days of the County’s request for the same.
5. To ensure effective and timely oversight of local spending, the undersigned will comply with reporting requirements established by the County. Funds MUST be spent in accordance with the request for funds approved by the County and shall not be considered “unrestricted”.
6. The Department of the Treasury specifically prohibits the duplication of federal funds. Execution of this Memorandum by the undersigned certifies that the ARPA assistance requested does not duplicate other covered assistance that has been received or is reasonably expected to be received by the undersigned. Beneficiaries found to have duplicated federal funds will be required to pay them back to the County.

This Memorandum shall be filed with the Clerk of the Board of County Commissioners. It shall become effective as of the date signed below.

\_\_\_\_\_  
 Jill Warne, Chair  
 Grays Harbor Board of County Commissioners

\_\_\_\_\_  
 By: \_\_\_\_\_  
 Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
 Clerk to the Board