

County of Brunswick
Office of the County Commissioners



**RESOLUTION ADOPTING POLICIES TO AID IN THE EXPENDITURE OF
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
UNDER H.R. 1319 AMERICAN RESCUE PLAN ACT OF 2021**

WHEREAS, on January 6, 2022, US Treasury issued its Final Rule implementing the Coronavirus State and Local Recovery Fund Program of H.R. 1319 American Rescue Plan Act of 2021 ("ARP/CSLFRF"); and

WHEREAS, under ARP/CSLFRF, certain recipients, including eligible units of local government, will receive allocated funds which may be used for approved expenditures in the following categories, to the extent authorized by state law:

1. Supporting the COVID-19 public health response by funding COVID-19 mitigation and prevention efforts, providing certain medical and behavioral healthcare services, and providing funding for certain public health and safety staff to the extent they perform duties in connection with the COVID-19 response;
2. Addressing negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;
3. Replacing lost public sector revenue and using funding to provide government services to the extent the reduction in revenue is due to the pandemic;
4. Providing premium pay for essential workers and offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors;
5. Investing in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, supporting vital wastewater and stormwater infrastructure, and expanding access to broadband internet; and

WHEREAS, Brunswick County will receive \$27,741,111 of ARP/CSLFRF funds, which are subject to the Award Terms and Conditions and the Assistance Listing, specifically including, without limitation, the provisions of Title 2 U.S. Code of Federal Regulations, Part 200, commonly known as Uniform Guidance ("UG"); and

WHEREAS, Brunswick County intends to fully implement all compliance requirements to ensure its proper expenditure of ARP/CSLFRF funds; and

WHEREAS, Brunswick County has revised its existing policies or created new policies to ensure compliance with the Award Terms and Conditions and UG.

NOW, THEREFORE, BE IT RESOLVED, that the following policies, attached hereto and incorporated herein by reference, are adopted by the Brunswick County Board of Commissioners:

1. Allowable Costs and Costs Principles Policy
2. Conflict of Interest Policy
3. Eligibility Determination Policy
4. Grant Project Ordinance (sample for projects falling within the \$10 million standard allowance)
5. Human Resources Policies
 - Premium Pay Policy (as adopted November 1, 2021)
 - Effort Certification Policy
6. Nondiscrimination Policy
7. Procurement Policy
 - Contract and Purchasing Policy (as amended)
8. Program Income Policy
9. Property Management Policy
10. Record Retention Policy
11. Subaward and Monitoring Policy

Adopted this the 2nd day of May, 2022.

Randell Thompson, Chairman
Brunswick County Board of Commissioners

ATTEST:

Daralyn Spivey, NCCCC
Clerk to the Board



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Allowable Costs and Costs Principles Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury has issued [Compliance and Reporting Guidance](#), which provides, in relevant part:

Allowable Costs/Cost Principles. As outlined in the Uniform Guidance at 2 C.F.R. Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

[ARP/CSLFRF] Funds may be, but are not required to be, used along with other funding sources for a given project. Note that [ARP/CSLFRF] Funds may not be used for a non-Federal cost share or match where prohibited by other Federal programs, e.g., funds may not be used for the State share for Medicaid.

Treasury's Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, per 2 C.F.R. 200.425, a reasonably proportionate share of the costs of audits required by the Single Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed in accordance with 2 C.F.R. Part 200, Subpart F are not allowable. Please see 2 C.F.R. Part 200, Subpart E regarding the Cost Principles for more information.

- a. Administrative costs: Recipients may use funds for administering the SLFRF 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 reasonable and allocable as outlined in 2 C.F.R. 200.404 and 2 C.F.R. 200.405. Pursuant to the [ARP/CSLFRF] Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the [ARP/CSLFRF] program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the [ARP/CSLFRF]

award such as the cost of facilities or administrative functions like a director's office. Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs. If a recipient has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 C.F.R. 200.414(f).

- b. Salaries and Expenses: In general, certain employees' wages, salaries, and covered benefits are an eligible use of [ARP/CSLFRF] award funds; and

WHEREAS Subpart E of the UG dictates allowable costs and cost principles for expenditure of ARP/CSLFRF funds; and

WHEREAS Subpart E of the UG (specifically, 200.400) states that:

The application of these cost principles is based on the fundamental premises that:

- (a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.
- (b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
- (c) The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award.
- (d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the non-Federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the Federal award.
- (e) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-Federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-Federal entity, the reasonableness and equity of such treatments should be fully considered.

- (f) The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award.

BE IT RESOLVED that the Board of Commissioners of Brunswick County hereby adopts and enacts the following UG Allowable Costs and Costs Principles Policy for the expenditure of ARP/CSLFRF funds.

I. Allowable Costs and Costs Principles Policy Overview

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart E, defines those items of cost that are allowable, and which are unallowable. The tests of allowability under these principles are: (a) the costs must be reasonable; (b) they must be allocable to eligible projects under the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the ARP/CSLFRF grant award as to types or amounts of cost items. Unallowable items fall into two categories: expenses which are by their nature unallowable (e.g., alcohol), and unallowable activities (e.g., fund raising).

Brunswick County shall adhere to all applicable cost principles governing the use of federal grants. This policy addresses the proper classification of both direct and indirect charges to ARP/CSLFRF funded projects and enacts procedures to ensure that proposed and actual expenditures are consistent with the ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with the Brunswick County ARPA Committee, which is charged with the administration and financial oversight of ARP/CSLFRF funds on behalf of Brunswick County. Further, all local government employees and officials who are involved in obligating, administering, expending, or monitoring ARP/CSLFRF grant funded projects should be well versed with the categories of costs that are generally allowable and unallowable. Questions on the allowability of costs should be directed to the ARPA Committee. As questions on allowability of certain costs may require interpretation and judgment, local government personnel are encouraged to ask for assistance in making those determinations.

II. General Cost Allowability Criteria

All costs expended using ARP/CSLFRF funds must meet the following general criteria:

- 1. Be necessary and reasonable for the proper and efficient performance and administration of the grant program.**

A cost must be *necessary* to achieve a project object. When determining whether a cost is necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the grant project.
- Whether the cost is identified in the approved project budget or application.
- Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- Whether the cost addresses project goals and objectives and is based on program data.

A cost is *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining reasonableness of a cost, consideration must be given to:

- Whether the cost is a type generally recognized as ordinary and necessary for the operation of Brunswick County or the proper and efficient performance of the federal award.
- The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the ARP/CSLFRF award.
- Market prices for comparable goods or services for the geographic area.
- Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to Brunswick County, its employees, the public at large, and the federal government.
- Whether Brunswick County significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the ARP/CSLFRF award's cost.

2. **Be allocable to the ARP/CSLFRF federal award.** A cost is allocable to the ARP/CSLFRF award if the goods or services involved are chargeable or assignable to the ARP/CSLFRF award in accordance with the relative benefit received. This means that the ARP/CSLFRF grant program derived a benefit in proportion to the funds charged to the program. *For example, if 50 percent of a local government program officer's salary is paid with grant funds, then the local government must document that the program officer spent at least 50 percent of his/her time on the grant program.*

If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable

documented basis. Where the purchase of equipment or other capital asset is specifically authorized by the ARP/CSLFRF, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.

3. **Be authorized and not prohibited under state or local laws or regulations.**
4. **Conform to any limitations or exclusions set forth in the principles, federal laws, ARP/CSLFRF award terms, and other governing regulations as to types or amounts of cost items.**
5. **Be consistent with policies, regulations, and procedures that apply uniformly to both the ARP/CSLFRF federal award and other activities of Brunswick County.**
6. **Be accorded consistent treatment.** A cost MAY NOT be assigned to a federal award as a direct cost and also be charged to a federal award as an indirect cost. And a cost must be treated consistently for both federal award and non-federal award expenditures.
7. **Be determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in the UGG.**
8. **Be net of all applicable credits.** The term “applicable credits” refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to and received by the local government related to the federal award, they shall be credited to the ARP/CSLFRF award, either as a cost reduction or a cash refund, as appropriate and consistent with the award terms. ***Please refer to the County’s ARP/CSLFRF Program Income Policy for additional information.***
9. **Be adequately documented.**

III. Selected Items of Cost

The UGG examines the allowability of fifty-five (55) specific cost items (commonly referred to as Selected Items of Cost) at 2 C.F.R. § 200.420-.475.

The requesting department must be familiar with the Selected Items of Cost. Brunswick County must follow the applicable regulations when charging these specific expenditures to the ARP/CSLFRF grant. The requesting department will check costs against the selected items of cost requirements to ensure the cost is allowable and that all process and documentation requirements are followed. In addition, state laws, Brunswick County regulations, and program-specific rules may deem a cost as unallowable, and the requesting department must follow those non-federal rules as well.

Schedule A attached hereto identifies and summarizes the Selected Items of Cost.

IV. Direct and Indirect Costs

Allowable and allocable costs must be appropriately classified as direct or indirect charges. It is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

Direct costs are expenses that are specifically associated with a particular ARP/CSLFRF-eligible project and that can be directly assigned to such activities relatively easily with a high degree of accuracy. Common examples of direct costs include salary and fringe benefits of personnel directly involved in undertaking an eligible project, equipment and supplies for the project, subcontracted service provider, or other materials consumed or expended in the performance of a grant-eligible project.

Indirect costs are (1) costs incurred for a common or joint purpose benefitting more than one ARP/CSLFRF-eligible project, and (2) not readily assignable to the project specifically benefited, without effort disproportionate to the results achieved. They are expenses that benefit more than one project or even more than one federal grant. Common examples of indirect costs include utilities, local telephone charges, shared office supplies, administrative or secretarial salaries.

For indirect costs, Brunswick County may charge a ten percent (10%) de minimis rate of modified total direct costs (MTDC). According to UGG Section 200.68 MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000.00 of each subaward (regardless of the period of performance the subawards under the award). MTDC EXCLUDES equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.00.

V. Special Provisions for State and Local Governments

There are some special provisions of the UG that apply only to states, local governments, and Indian Tribes.

§ 200.444 General costs of government.

(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in § 200.475). Unallowable costs include:

- (1)** Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe;
- (2)** Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;
- (3)** Costs of the judicial branch of a government;

(4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in § 200.435); and

(5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

(b) For Indian tribes and Councils of Governments (COGs) (see definition for *Local government* in § 200.1 of this part), up to 50% of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his or her staff can be included in the indirect cost calculation without documentation.

§ 200.416 Cost allocation plans and indirect cost proposals.

(a) For states, local governments and Indian tribes, certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provided to operating agencies on a centralized basis. Since Federal awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process.

(b) Individual operating agencies (governmental department or agency), normally charge Federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under Federal awards. Indirect costs include:

(1) The indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and

(2) The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

(c) The requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained in appendices V, VI and VII to this part.

§ 200.417 Interagency service.

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix V to Part 200.

VI. Cost Allowability Review Process

PREAPPROVAL COST ALLOWABILITY REVIEW

Before an ARP/CSLFRF-funded project is authorized, the requesting department must review the proposed cost items within an estimated project budget to determine whether they are allowable and allocable and whether cost items will be charged as direct or indirect expenses. This review will occur concurrently with the review of project eligibility and *before* obligating or expending any ARP/CSLFRF funds.

- Local government personnel must submit proposed ARP/CSLFRF projects to the County's ARPA Committee for review. In addition to other required information, all proposed project submissions must delineate estimated costs by cost item. Please refer to the Project Budget Template for a list of all potential cost items.
- Along with a general review of project eligibility and conformance with other governing board management directives, the ARPA Committee must review estimated costs for specific allowable cost requirements, budget parameters, indirect rates, fringe benefit rates, and those activities/costs that require pre-approval by the US Treasury. ***Please refer to the County's ARP/CSLFRF Eligibility Determination Policy for additional information and requirements.***
- If a proposed project includes a request for an unallowable cost, the ARPA Committee will return the proposal to the requesting department for review and, if practicable, resubmission with corrected cost items.
- Once a proposed project budget is pre-approved by the ARPA Committee, the local government personnel responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget.

POST-EXPENDITURE COST ALLOWABILITY REVIEW

Once an expenditure is incurred related to an eligible project, and an invoice or other demand for payment is submitted to the local government, the ARPA Committee must perform a second review to ensure that actual expenditures comprise allowable costs.

- All invoices or other demands for payment must include a breakdown by cost item. The cost items should mirror those presented in the proposed budget for the project. If an invoice or other demand for payment does not include a breakdown by cost item, the ARPA Committee will return the invoice to the project manager and/or vendor, contractor, or subrecipient for correction.
- The ARPA Committee must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.
- If all cost items are deemed allowable and properly allocable, the requesting department must proceed through the local government's normal disbursement process.
- If any cost item is deemed unallowable, the ARPA Committee will notify the project management and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARP/CSLFRF funds. The ARPA Committee may in their discretion, and consistent with this policy, allow an invoice or other demand for payment to be resubmitted with a revised cost allocation. If the local government remains legally obligated by contract or otherwise to pay the disallowed cost item, it must

identify other local government funds to cover the disbursement. ***The Board of Commissioners must approve any allocation of other funds for this purpose.***

- The Brunswick County Finance Department must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

VII. Cost Transfers

Any costs charged to the ARP/CSLFRF federal award that do not meet the allowable cost criteria must be removed from the award account and charged to an account that does not require adherence to federal UGG or other applicable guidelines.

Failure to adequately follow this policy and related procedures could result in questioned costs, audit findings, potential repayment of disallowed costs and discontinuance of funding.

SCHEDULE A

Selected Items of Cost	Uniform Guidance General Reference	Allowability
Advertising and public relations costs	2 C.F.R. § 200.421	Allowable with restrictions
Advisory councils	2 C.F.R. § 200.422	Allowable with restrictions
Alcoholic beverages	2 C.F.R. § 200.423	Unallowable
Alumni/ae activities	2 C.F.R. § 200.424	Not specifically addressed
Audit services	2 C.F.R. § 200.425	Allowable with restrictions
Bad debts	2 C.F.R. § 200.426	Unallowable
Bonding costs	2 C.F.R. § 200.427	Allowable with restrictions
Collection of improper payments	2 C.F.R. § 200.428	Allowable
Commencement and convocation costs	2 C.F.R. § 200.429	Not specifically addressed
Compensation – personal services	2 C.F.R. § 200.430	Allowable with restrictions; Special conditions apply (e.g., § 200.430(i)(5))
Compensation – fringe benefits	2 C.F.R. § 200.431	Allowable with restrictions
Conferences	2 C.F.R. § 200.432	Allowable with restrictions
Contingency provisions	2 C.F.R. § 200.433	Unallowable with exceptions
Contributions and donations	2 C.F.R. § 200.434	Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or

		matching (made to non-federal entity)
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 C.F.R. § 200.435	Allowable with restrictions
Depreciation	2 C.F.R. § 200.436	Allowable with qualifications
Employee health and welfare costs	2 C.F.R. § 200.437	Allowable with restrictions
Entertainment costs	2 C.F.R. § 200.438	Unallowable with exceptions
Equipment and other capital expenditures	2 C.F.R. § 200.439	Allowability based on specific requirement
Exchange rates	2 C.F.R. § 200.440	Allowable with restrictions
Fines, penalties, damages and other settlements	2 C.F.R. § 200.441	Unallowable with exceptions
Fund raising and investment management costs	2 C.F.R. § 200.442	Unallowable with exceptions
Gains and losses on disposition of depreciable assets	2 C.F.R. § 200.443	Allowable with restrictions
General costs of government	2 C.F.R. § 200.444	Unallowable with exceptions
Goods and services for personal use	2 C.F.R. § 200.445	Unallowable (goods/services); allowable (housing) with restrictions
Idle facilities and idle capacity	2 C.F.R. § 200.446	Idle facilities - unallowable with exceptions; Idle capacity - allowable with restrictions
Insurance and indemnification	2 C.F.R. § 200.447	Allowable with restrictions

Intellectual property	2 C.F.R. § 200.448	Allowable with restrictions
Interest	2 C.F.R. § 200.449	Allowable with restrictions
Lobbying	2 C.F.R. § 200.450	Unallowable
Losses on other awards or contracts	2 C.F.R. § 200.451	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)
Maintenance and repair costs	2 C.F.R. § 200.452	Allowable with restrictions
Materials and supplies costs, including costs of computing devices	2 C.F.R. § 200.453	Allowable with restrictions
Memberships, subscriptions, and professional activity costs	2 C.F.R. § 200.454	Allowable with restrictions; unallowable for lobbying organizations
Organization costs	2 C.F.R. § 200.455	Unallowable except federal prior approval
Participant support costs	2 C.F.R. § 200.456	Allowable with prior approval of the federal awarding agency
Plant and security costs	2 C.F.R. § 200.457	Allowable; capital expenditures are subject to § 200.439
Pre-award costs	2 C.F.R. § 200.458	Allowable if consistent with other allowabilities and with prior approval of the federal awarding agency
Professional services costs	2 C.F.R. § 200.459	Allowable with restrictions
Proposal costs	2 C.F.R. § 200.460	Allowable with restrictions
Publication and printing costs	2 C.F.R. § 200.461	Allowable with restrictions

Rearrangement and reconversion costs	2 C.F.R. § 200.462	Allowable (ordinary and normal)
Recruiting costs	2 C.F.R. § 200.463	Allowable with restrictions
Relocation costs of employees	2 C.F.R. § 200.464	Allowable with restrictions
Rental costs of real property and equipment	2 C.F.R. § 200.465	Allowable with restrictions
Scholarships and student aid costs	2 C.F.R. § 200.466	Not specifically addressed
Selling and marketing costs	2 C.F.R. § 200.467	Unallowable with exceptions
Specialized service facilities	2 C.F.R. § 200.468	Allowable with restrictions
Student activity costs	2 C.F.R. § 200.469	Unallowable unless specifically provided for in the federal award
Taxes (including Value Added Tax)	2 C.F.R. § 200.470	Allowable with restrictions
Termination costs	2 C.F.R. § 200.471	Allowable with restrictions
Training and education costs	2 C.F.R. § 200.472	Allowable for employee development
Transportation costs	2 C.F.R. § 200.473	Allowable with restrictions
Travel costs	2 C.F.R. § 200.474	Allowable with restrictions
Trustees	2 C.F.R. § 200.475	Not specifically addressed



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Conflict of Interest Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury has issued [Compliance and Reporting Guidance](#) dictating implementation of the ARP/CSLFRF award terms and compliance requirements.

BE IT RESOLVED that Board of Commissioners of Brunswick County hereby adopts and enacts the following Conflict of Interest Policy for ARP/CSLFRF funds.

I. Scope of Policy

- a. Purpose of Policy. This Conflict of Interest Policy ("Policy") establishes conflict of interest standards that (1) apply when Brunswick County enters into a Contract (as defined in Section II hereof) or makes a Subaward (as defined in Section II hereof), and (2) meet or exceed the requirements of North Carolina law and 2 C.F.R. § 200.318(c).
- b. Application of Policy. This Policy shall apply when Brunswick County enters into a Contract to be funded, in part or in whole, by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies, or (2) makes any Subaward to be funded by Federal Financial Assistance to which 2 C.F.R. § 200.318(c) applies. If a federal statute, regulation, or the terms of a financial assistance agreement applicable to a particular form of Federal Financial Assistance conflicts with any provision of this Policy, such federal statute, regulation, or terms of the financial assistance agreement shall govern.

II. Definitions

Capitalized terms used in this Policy shall have the meanings ascribed thereto in this Section II. Any capitalized term used in this Policy but not defined in this Section II shall have the meaning set forth in 2 C.F.R. § 200.1.

- a. *"COI Point of Contact"* means the individual identified in Section III(a) of this Policy.
- b. *"Contract"* means, for the purpose of Federal Financial Assistance, a legal instrument by which Brunswick County purchases property or services needed to carry out a program or project under a Federal award.

- c. *“Contractor”* means an entity or individual that receives a Contract.
- d. *“Covered Individual”* means a Public Officer, employee, or agent of Brunswick County.
- e. *“Covered Nonprofit Organization”* means a nonprofit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State of North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes, excluding any board, entity, or other organization created by the State of North Carolina or Brunswick County.
- f. *“Direct Benefit”* means, with respect to a Public Officer or employee of Brunswick County, or the spouse of any such Public Officer or employee, (i) having a ten percent (10%) ownership interest or other interest in a Contract or Subaward; (ii) deriving any income or commission directly from a Contract or Subaward; or (iii) acquiring property under a Contract or Subaward.
- g. *“Federal Financial Assistance”* means Federal financial assistance that Brunswick County receives or administers in the form of grants, cooperative agreements, non-cash contributions or donations of property (including donated surplus property), direct appropriations, food commodities, and other Federal financial assistance (except that the term does not include loans, loan guarantees, interest subsidies, or insurance).
- h. *“Immediate Family Member”* means, with respect to any Covered Individual, (i) a spouse, and parents thereof, (ii) a child, and parent thereof, (iii) a parent, and spouse thereof, (iv) a sibling, and spouse thereof, (v) a grandparent and grandchild, and spouses thereof, (vi) domestic partners and parents thereof, including domestic partners of any individual in (ii) through (v) of this definition; and (vii) any individual related by blood or affinity whose close association with the Covered Individual is the equivalent of a family relationship.
- i. *“Involved in Making or Administering”* means (i) with respect to a Public Official or employee, (a) overseeing the performance of a Contract or Subaward or having authority to make decisions regarding a Contract or Subaward or to interpret a Contract or Subaward, or (b) participating in the development of specifications or terms or in the preparation or award of a Contract or Subaward, (ii) only with respect to a Public Official, being a member of a board, commission, or other body of which the Public Official is a member, taking action on the Contract or Subaward, whether or not the Public Official actually participates in that action.
- j. *“Pass-Through Entity”* means a non-Federal entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.

- k. *“Public Officer”* means an individual who is elected or appointed to serve or represent Brunswick County (including, without limitation, any member of the Brunswick County Board of Commissioners), other than an employee or independent contractor of Brunswick County.
- l. *“Recipient”* means an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency. The term does not include Subrecipients or individuals that are beneficiaries of the award.
- m. *“Related Party”* means (i) an Immediate Family Member of a Covered Individual, (ii) a partner of a Covered Individual, or (iii) a current or potential employer (other than Brunswick County) of a Covered Individual, of a partner of a Covered Individual, or of an Immediate Family Member of a Covered Individual.
- n. *“Subaward”* means an award provided by a Pass-Through Entity to carry out part of a Federal award received by the Pass-Through Entity. It does not include payments to a contractor or payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- o. *“Subcontract”* means mean any agreement entered into by a Subcontractor to furnish supplies or services for the performance of a Contract or a Subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.
- p. *“Subcontractor”* means an entity that receives a Subcontract.
- q. *“Subrecipient”* means an entity, usually but not limited to non-Federal entities, that receives a subaward from a Pass-Through Entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

III. COI Point of Contact

- a. The requesting department shall be responsible for completing the required Conflict of Interest Compliance Checklist and Disclosure Forms, based on the nature of the project, to disclose any potential or actual conflicts of interest. Please refer to Exhibits A through D attached hereto. All completed forms must be submitted to the ARPA Committee (herein designated as the *“COI Point of Contact”*), which shall have primary responsibility for managing the resolution of potential or actual conflicts of interest arising under this Policy.
- b. Distribution of Policy. The COI Point of Contact shall ensure that each Covered Individual, as defined herein, receives a copy of this Policy.

IV. Conflict of Interest Standards in Contracts and Subawards

- a. North Carolina Law. North Carolina law restricts the behavior of Public Officials and employees of Brunswick County involved in contracting on behalf of Brunswick County. Brunswick County shall conduct the selection, award, and administration of Contracts and Subawards in accordance with the prohibitions imposed by the North Carolina General Statutes and restated in this Section III.
 - i. G.S. § 14-234(a)(1). A Public Officer or employee of Brunswick County Involved in Making or Administering a Contract or Subaward on behalf of Brunswick County shall not derive a Direct Benefit from such a Contract or Subaward.
 - ii. G.S. § 14-234(a)(3). No Public Officer or employee of Brunswick County may solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a Contract or Subaward by Brunswick County.
 - iii. G.S. § 14-234.3. If a member of the Brunswick County Board of Commissioners serves as a director, officer, or governing board member of a Covered Nonprofit Organization, such member shall not (1) deliberate or vote on a Contract or Subaward between Brunswick County and the Covered Nonprofit Corporation, (2) attempt to influence any other person who deliberates or votes on a Contract or Subaward between Brunswick County and the Covered Nonprofit Corporation, or (3) solicit or receive any gift, favor, reward, service, or promise of future employment, in exchange for recommending or attempting to influence the award of a Contract or Subaward to the Covered Nonprofit Organization.
 - iv. G.S. § 14-234.1. A Public Officer or employee of Brunswick County shall not, in contemplation of official action by the Public Officer or employee, or in reliance on information which was made known to the public official or employee and which has not been made public, (1) acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit which may be affected by such information or other information, or (2) intentionally aid another in violating the provisions of this section.
- b. Federal Standards.
 - i. Prohibited Conflicts of Interest in Contracting. Without limiting any specific prohibition set forth in Section IV(a), a Covered Individual may not participate in the selection, award, or administration of a Contract or Subaward if such Covered Individual has a real or apparent conflict of interest.

1. Real Conflict of Interest. A real conflict of interest shall exist when the Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward.
2. Apparent Conflict of Interest. An apparent conflict of interest shall exist where a real conflict of interest may not exist as set forth herein, but where a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the appearance that a Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract or Subaward.

ii. Identification and Management of Conflicts of Interest.

1. Duty to Disclose and Disclosure Forms.

- a. Prior to Brunswick County's award of a Contract or Subaward, the Department Head or Project Manager shall advise Covered Individuals expected to be involved in the selection, award, or administration of the Contract or Subaward of such duty.
- b. Each Covered Individual expected to be or actually involved in the selection, award, or administration of a Contract or Subaward has an ongoing duty to disclose to the Department Head or Project Manager potential real or apparent conflicts of interest arising under this Policy.
- c. If the value of a proposed Contract or Subaward exceeds \$250,000.00 (the Simplified Acquisition Threshold), the requesting department shall complete a Conflict of Interest Disclosure Form contained in Exhibit B (for Contracts) and Exhibit D (for Subawards) from each Covered Individual and submit such form to the COI Point of Contact.

2. Identification Prior to Award of Contract or Subaward.

- a. Prior to Brunswick County's award of a Contract or Subaward, the requesting department shall complete the appropriate Compliance Checklist contained in Exhibit A (for Contracts) and Exhibit C (for Subawards) attached hereto and submit such form to the COI Point of Contact.

3. Management Prior to Award of Contract or Subaward.

- a. If, after reviewing the completed Conflict of Interest Disclosure Form and Compliance Checklist, the COI Point of Contact determines that a potential real or apparent conflict of interest relating to a proposed Contract or Subaward exists, the COI Point of Contact shall disclose such finding in writing to the County Manager and to each member of the Board of Commissioners. If the Board of Commissioners desires to enter into the proposed Contract or Subaward despite the identification by the COI Point of Contact of a potential real or apparent conflict of interest, it may either:
 - i. accept the finding of the COI Point of Contact and direct the COI Point of Contact to obtain authorization to enter into the Contract or Subaward from (a) if Brunswick County is a Recipient of Federal Financial Assistance, the Federal awarding agency with appropriate mitigation measures, or (b) if Brunswick County is a Subrecipient of Federal Financial Assistance, from the Pass-Through Entity that provided a Subaward to Brunswick County; or
 - ii. reject the finding of the COI Point of Contact and enter into the Contract or Subaward. In rejecting any finding of the COI Point of Contact, the Board of Commissioners shall document a justification supporting such rejection in writing.
- b. If the COI Point of Contact does not identify a potential real or apparent conflict of interest relating to a proposed Contract or Subaward, Brunswick County may enter into the Contract or Subaward in accordance with Brunswick County's Contract and Purchasing Policy and/or its Subaward Policy.

4. Identification After Award of Contract or Subaward.

- a. If the requesting department discovers that a real or apparent conflict of interest has arisen after Brunswick County has entered into a Contract or Subaward, the requesting department shall, as soon as possible, disclose such finding to the COI Point of Contact. The COI Point of Contact will report such real or apparent conflict of interest to the County Manager and to each member of the Board of Commissioners. Upon

discovery of such a real or apparent conflict of interest, Brunswick County shall cease all payments under the relevant Contract or Subaward until the conflict of interest has been resolved.

5. Management After Award of Contract or Subaward.

- a. Following the receipt of such disclosure of a potential real or apparent conflict of interest, the Board of Commissioners may reject the finding of the COI Point of Contact by documenting a justification supporting such rejection in writing. If the Board of Commissioners fails to reject the finding of the COI Point of Contact within fifteen (15) days of receipt, the COI Point of Contact shall:
 - i. if Brunswick County is a Recipient of Federal Financial Assistance funding the Contract or Subaward, disclose the conflict to the Federal awarding agency providing such Federal Financial Assistance in accordance with 2 C.F.R. § 200.112 and/or applicable regulations of the agency, or
 - ii. if Brunswick County is a Subrecipient of Federal Financial Assistance, to the Pass-Through Entity providing a Subaward to Brunswick County in accordance with 2 C.F.R. § 200.112 and applicable regulations of the Federal awarding agency and the Pass-Through Entity.

V. Oversight of Subrecipient's Conflict of Interest Standards

- a. Subrecipients of Brunswick County Must Adopt Conflict of Interest Policy. Prior to Brunswick County's execution of any Subaward for which Brunswick County serves as a Pass-Through Entity, the COI Point of Contact shall ensure that the proposed Subrecipient of Federal Financial Assistance has adopted a conflict of interest policy that satisfies the requirements of 2 C.F.R. § 200.318(c)(1), 2 C.F.R. § 200.318(c)(2), and all other applicable federal regulations.
- b. Obligation to Disclose Subrecipient Conflicts of Interest. The COI Point of Contact shall ensure that the legal agreement under which Brunswick County makes a Subaward to a Subrecipient shall require such Subrecipient to disclose to the COI Point of Contact any potential real or apparent conflicts of interest that the Subrecipient identifies. Upon receipt of such disclosure, the COI Point of Contact shall disclose such

information to the Federal awarding agency that funded the Subaward in accordance with that agency's disclosure policy.

VI. Gift Standards

- a. Federal Standard. Subject to the exceptions set forth in Section VI(b), a Covered Individual may not solicit or accept gratuities, favors, or anything of monetary value from a Contractor or a Subcontractor.
- b. Exception. Notwithstanding Section VI(a), a Covered Individual may accept an unsolicited gift from a Contractor or Subcontractor of one or more types specified below if the gift has an aggregate market value of \$20.00 or less per source per occasion, provided that the aggregate market value of all gifts received by the Covered Individual pursuant to this Section VI(b) does not exceed \$50.00 in a calendar year:
 - i. honorariums for participating in meetings;
 - ii. advertising items or souvenirs of nominal value; or
 - iii. meals furnished at banquets.
- c. Internal Reporting. A Covered Individual shall report any gift accepted under Section VI(b) to the COI Point of Contact. If required by regulation of a Federal awarding agency, the COI Point of Contact shall report such gifts to the Federal awarding agency or a Pass-Through Entity for which Brunswick County is a Subrecipient.

VII. Violations of Policy

- a. Disciplinary Actions for Covered Individuals. Any Covered Individual that fails to disclose a real, apparent, or potential real or apparent conflict of interest arising with respect to the Covered Individual or Related Party may be subject to disciplinary action, including, but not limited to, an employee's termination or suspension of employment with or without pay, the consideration or adoption of a resolution of censure of a Public Official by the Board of Commissioners, or termination of an agent's contract with Brunswick County.
- b. Disciplinary Actions for Contractors and Subcontractors. Brunswick County shall terminate any Contract with a Contractor or Subcontractor that violates any provision of this Policy.
- c. Protections for Whistleblowers. In accordance with 41 U.S.C. § 4712, Brunswick County shall not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross

mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant: (i) a member of Congress or a representative of a committee of Congress; (ii) an Inspector General; (iii) the Government Accountability Office; (iv) a Treasury or other federal agency employee responsible for grant oversight or management; (v) an authorized official of the Department of Justice or other law enforcement agency; (vi) a court or grand jury; of (vii) a management official or other employee of Brunswick County, a Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

EXHIBIT A

COMPLIANCE CHECKLIST FOR OVERSIGHT OF CONTRACT CONFLICTS OF INTEREST

Brunswick County has adopted a Conflict of Interest Policy (“Policy”) that governs Brunswick County’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Brunswick County ARPA Committee as the “COI Point of Contact.” The Policy requires the requesting department to complete this Compliance Checklist to identify potential real or apparent conflicts of interest in connection with proposed Contracts (as defined in Section II) and to submit the Compliance Checklist to the COI Point of Contact.

Instructions for Completion

1. The requesting department shall complete Steps 1 through 5 of the Checklist below.
2. If the value of the proposed Contract exceeds \$250,000.00, the requesting department shall collect a Conflict of Interest Disclosure Form (Exhibit B) from each Covered Individual.
3. If after reviewing this completed Compliance Checklist, the COI Point of Contact determines that a potential real or apparent conflict of interest exists, the COI Point of Contact shall report such potential conflict of interest to the County Manager and to each member of the Board of Commissioners.

Step				
1	Identify the proposed Contract, counterparty, and the subject of the Contract.	<u>Name of Contract:</u> <hr/> <u>Name of Counterparty:</u> <hr/> <u>Subject of Contract:</u> <hr/>		
2	Identify all individuals involved in the selection, award, or administration of the Contract. These individuals are "Covered Individuals". Ensure that each Covered Individual has been provided with a copy of the Conflict of Interest Policy.			
	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>	
3	Identify whether any Covered Individual has a (i) financial or other interest in, or (ii) tangible personal benefit from the firm considered for a Contract. [If the estimated Contract amount exceeds \$250,000.00, ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.]			
Any identified interest in Step 3 is a potential "real" conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>	
4	Identify whether any Related Party has a (i) financial or other interest in or (ii) tangible personal benefit from the firm considered from a Contract. If the estimated Contract amount exceeds \$250,000.00, ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.			

Any identified interest in Step 4 is a potential “real” conflict of interest.	<u>Public Officials – Related Party</u>	<u>Employees – Related Party</u>	<u>Agents – Related Party</u>
5	Identify whether a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the <i>appearance</i> that a Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Contract? If yes, explain.		
Any identified interest in Step 5 is a potential “apparent” conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>

COI POINT OF CONTACT AUTHORIZED REPRESENTATIVES:

ARPA Funding Manager

Date

County Attorney

Date

Director of Fiscal Operations

Date

EXHIBIT B

CONTRACT CONFLICT OF INTEREST DISCLOSURE FORM

FOR OFFICIALS, EMPLOYEES, AND AGENTS

Brunswick County has adopted a Conflict of Interest Policy ("Policy") that governs Brunswick County's expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Brunswick County ARPA Committee as the "COI Point of Contact."

The requesting department has identified you as an official, employee, or agent of Brunswick County that may be involved in the selection, award, or administration of the following contract: _____ (the "Contract"). To safeguard Brunswick County's expenditure of Federal Financial Assistance, the requesting department has requested that you identify any potential real or apparent conflicts of interest in the Firm considered for the award of a Contract. Please answer the following questions:

1. Do you have a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

2. Will you receive any tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

3. For purposes of Question 3(a) and 3(b), your "Immediate Family Members" include: (i) your spouse and their parents, (ii) your child, (iii) your parent and any spouse of your parent, (iv) your sibling and any spouse of your sibling, (v) your grandparents or grandchildren, and the spouses of each, (vi) any domestic partner of any individual in (ii) through (v) of this definition; and (vii) any individual related by blood or affinity whose close association with you is the equivalent of a family relationship.

- a. Do you have an Immediate Family Member with a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

- b. Do you have an Immediate Family Member that will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure _____

4. Do you have any other partner with a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

5. Will any other partner of yours receive any tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

6. Does your current or potential employer (other than Brunswick County) have a financial or other interest in a firm considered for this Contract or will such current or potential employer receive a tangible personal benefit from this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

7. Benefits to Employers

- a. Does a current or potential employer (other than Brunswick County) of any of your Immediate Family Members have a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

- b. Will a current or potential employer (other than Brunswick County) of any of your Immediate Family Members receive a tangible personal benefit from this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

- c. Does a current or potential employer (other than Brunswick County) of any partner of yours have a financial or other interest in a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

- d. Will a current or potential employer (other than Brunswick County) of any partner of yours receive a tangible personal benefit from this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

8. Does any existing situation or relationship create the appearance that you have a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

9. Does any existing situation or relationship create the appearance that any Immediate Family Member of yours has a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

10. Does any existing situation or relationship create the appearance that your current or potential employer (other than Brunswick County) has a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

11. Does any existing situation or relationship create the appearance that any current or potential employer (other than Brunswick County) of any of your Immediate Family Members has a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

12. Does any existing situation or relationship create the appearance that any current or potential employer (other than Brunswick County) of any other partner has a financial or other interest in a firm considered for this Contract or will receive a tangible personal benefit from a firm considered for this Contract?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

* * * * *

Sign Name: _____

Print Name: _____

Name of Employer _____

Job Title: _____

Date of Completion: _____

* * * * *

EXHIBIT C

COMPLIANCE CHECKLIST FOR SUBAWARD OVERSIGHT

Brunswick County has adopted a Conflict of Interest Policy (“Policy”) that governs Brunswick County’s expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Brunswick County ARPA Committee as the “COI Point of Contact.” The Policy requires the requesting department to complete this Compliance Checklist to identify potential real or apparent conflicts of interest in connection with proposed Subawards (as defined in Section II) and to submit the Compliance Checklist to the COI Point of Contact.

Instructions for Completion

1. The requesting department shall complete Steps 1 through 5 of the Checklist below.
2. If the value of the proposed Subaward exceeds \$250,000.00, the requesting department shall collect a Conflict of Interest Disclosure Form (Exhibit D) from each Covered Individual.
3. If after reviewing this completed Compliance Checklist, the COI Point of Contact determines that a potential real or apparent conflict of interest exists, the COI Point of Contact shall report such potential conflict of interest to the County Manager and to each member of the Board of Commissioners.

Step				
1	Identify the proposed Subaward, Subrecipient, and the subject of the Subaward.	<u>Name of Contract:</u> <hr/> <u>Name of Counterparty:</u> <hr/> <u>Subject of Subaward:</u> <hr/>		
2	Identify all individuals involved in the selection, award, or administration of the Subaward. These individuals are "Covered Individuals". Ensure that each Covered Individual has been provided with a copy of the Conflict of Interest Policy.			
	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>	
3	Identify whether any Covered Individual has a (i) financial or other interest in, or (ii) tangible personal benefit from the firm considered for a Subaward. [If the estimated Subaward amount exceeds \$100,000.00, ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.]			
Any identified interest in Step 3 is a potential "real" conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>	
4	Identify whether any Related Party has a (i) financial or other interest in or (ii) tangible personal benefit from the firm considered from a Subaward. If the estimated Subaward amount exceeds \$100,000.00, ensure that each Covered Individual files a Conflict of Interest Disclosure Form with the COI Point of Contact.]			

Any identified interest in Step 4 is a potential “real” conflict of interest.	<u>Public Officials – Related Party</u>	<u>Employees – Related Party</u>	<u>Agents – Related Party</u>
5	Identify whether a reasonable person with knowledge of the relevant facts would find that an existing situation or relationship creates the <i>appearance</i> that a Covered Individual or any Related Party has a financial or other interest in or a tangible personal benefit from a firm considered for a Subaward? If yes, explain.		
Any identified interest in Step 5 is a potential “apparent” conflict of interest.	<u>Public Officials</u>	<u>Employees</u>	<u>Agents</u>

COI POINT OF CONTACT AUTHORIZED REPRESENTATIVES:

ARPA Funding Manager

Date

County Attorney

Date

Director of Fiscal Operations

Date

EXHIBIT D

SUBAWARD CONFLICT OF INTEREST DISCLOSURE FORM

FOR OFFICIALS, EMPLOYEES, AND AGENTS

Brunswick County has adopted a Conflict of Interest Policy ("Policy") that governs Brunswick County's expenditure of Federal Financial Assistance (as defined in Section II of the Policy). The Policy designates the Brunswick County ARPA Committee as the COI Point of Contact.

The requesting department has identified you as an official, employee, or agent of Brunswick County that may be involved in the selection, award, or administration of the following subaward: _____ (the "*Subaward*"). To safeguard Brunswick County's expenditure of Federal Financial Assistance, the requesting department has requested that you identify any potential real or apparent conflicts of interest in the Firm considered for the award of a Subaward. Please answer the following questions:

1. Do you have a financial or other interest in a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

2. Will you receive any tangible personal benefit from a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

3. For purposes of Question 3(a) and 3(b), your "Immediate Family Members" include: (i) your spouse and their parents, (ii) your child, (iii) your parent and any spouse of your parent, (iv) your sibling and any spouse of your sibling, (v) your grandparents or grandchildren, and the spouses of each, (vi) any domestic partner of any individual in (ii) through (v) of this definition; and (vii) any individual related by blood or affinity whose close association with you is the equivalent of a family relationship.

- a. Do you have an Immediate Family Member with a financial or other interest in a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

- b. Do you have an Immediate Family Member that will receive a tangible personal benefit from a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

4. Do you have any other partner with a financial or other interest in a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

5. Will any other partner of yours receive any tangible personal benefit from a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

6. Does your current or potential employer (other than Brunswick County) have a financial or other interest in a firm considered for this Subaward or will such current or potential employer receive a tangible personal benefit from this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

7. Benefits to Employers

- a. Does a current or potential employer (other than Brunswick County) of any of your Immediate Family Members have a financial or other interest in a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

- b. Will a current or potential employer (other than Brunswick County) of any of your Immediate Family Members receive a tangible personal benefit from this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

- c. Does a current or potential employer (other than Brunswick County) of any partner of yours have a financial or other interest in a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

- d. Will a current or potential employer (other than Brunswick County) of any partner of yours receive a tangible personal benefit from this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

8. Does any existing situation or relationship create the appearance that you have a financial or other interest in a firm considered for this Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

9. Does any existing situation or relationship create the appearance that any Immediate Family Member of yours has a financial or other interest in a firm considered for this Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

10. Does any existing situation or relationship create the appearance that your current or potential employer (other than Brunswick County) has a financial or other interest in a firm considered for this Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

11. Does any existing situation or relationship create the appearance that any current or potential employer (other than Brunswick County) of any of your Immediate Family Members has a financial or other interest in a firm considered for this Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

12. Does any existing situation or relationship create the appearance that any current or potential employer (other than Brunswick County) of any other partner has a financial or other interest in a firm considered for this Subaward or will receive a tangible personal benefit from a firm considered for this Subaward?

Yes _____ No _____ Unsure _____

If the answer is Yes or Unsure, please explain:

* * * * *

Sign Name: _____

Print Name: _____

Name of Employer _____

Job Title: _____

Date of Completion: _____

* * * * *



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Eligibility Determination Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

WHEREAS US Treasury has issued [Compliance and Reporting Guidance](#) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

WHEREAS the Compliance and Reporting Guidance states, in relevant part, that:

Per 2 C.F.R. Part 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.

BE IT RESOLVED that Brunswick County hereby adopts and enacts the following Eligibility Determination Policy for ARP/CSLFRF funds.

I. Permissible Uses of ARP/CSLRF Funding

US Treasury issued its [Final Rule](#) regarding use of ARP/CSLFRF funds on January 6, 2022. (The Final Rule is effective as of April 1, 2022. Until that date, a local government may proceed under the regulation promulgated by US Treasury in its [Interim Final Rule](#) or the Final Rule). The Final Rule (and the Interim Final Rule) identifies permissible uses of ARP/CSLFRF funds and certain limitations and process requirements. Local governments must allocate ARP/CSLFRF funds no later than December 31, 2024 and disburse all funding no later than December 31, 2026. Failure of an entity to expend all funds by December 31, 2026 will result in forfeiture of ARP/CSLFRF funds.

II. Prohibited Uses of ARP/CSLRF Funding

The ARP/CSLFRF and US Treasury's Final Rule prohibit certain uses of ARP/CSLFRF funds. Specifically, ARP/CSLFRF funds may not be used for projects within the following categories of expenditures:

1. To make a deposit into a pension fund that constitutes an extraordinary payment of an accrued, unfunded liability (Note that routine contributions as part of a payroll obligation for an eligible project are allowed);
2. To borrow money or make debt service payments;
3. To replenish rainy day funds or fund other financial reserves;
4. To satisfy an obligation arising from a settlement agreement, judgment, consent decree, or judicially confirmed debt restricting in a judicial, administrative, or regulatory proceeding (There is an exception to this prohibition if the settlement or judgment requires Brunswick County to provide services to respond to the COVID-19 public health emergency or its negative economic impacts or to provide government services, then the costs of those otherwise ARP/CSLFRF-eligible projects are allowed);
5. For a project that includes a term or condition that undermines efforts to stop the spread of COVID-19 or discourages compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19;
6. In violation of the conflict of interest requirements imposed by the award terms and 2 C.F.R. § 200.318(c).
7. For any expenditure that would violate other applicable federal, state, and local laws and regulations.

Brunswick County, and any of its contractors or subrecipients, may not expend any ARP/CSLFRF funds for these purposes.

III. Procedures for Project Approval

The following are procedures for ARP/CSLFRF project approvals. All Brunswick County employees and officials must comply with these requirements.

1. Requests for ARP/CSLFRF funding must be made in writing by the requesting department on the County's Project Approval Template, as may be amended from time to time, and must include all of the following:
 - a. Brief description of the project.
 - b. Identification of ARP/CSLFRF Expenditure Category (EC) (A list of ECs in in the Appendix to the [US Treasury Compliance and Reporting Guidance](#)).
 - c. Required justifications for applicable projects, according to the requirements in the Final Rule. Employees or any applicant seeking ARP/CSLFRF funding should review the [Final Rule](#) and [Final Rule Overview](#) prior to submitting a proposal.
 - d. Proposed budget, broken down by cost item, in accordance with Brunswick County's Allowable Costs and Costs Principles Policy.
 - e. A project implementation plan and estimated implementation timeline (All ARP/CSLFRF funds must be fully obligated by December 31, 2024, and fully expended by December 31, 2026).
2. Requests for funding must be submitted to the County's ARPA Committee (composed of the ARPA Funding Manager, County Attorney, and Director of Fiscal Operations) for approval. All requests will be reviewed by the ARPA Committee for ARP/CSLFRF compliance and for allowable costs and other financial review.

3. No ARP/CSLFRF may be obligated or expended before final written approval by authorized members of the ARPA Committee is obtained. ***Additionally, all projects with expenditures of ARP/CSLFRF funds, whether in whole or in part, will require approval by the Board of Commissioners.***
4. If a proposal does not meet the required criteria, it will be returned to the requesting department for revision and resubmittal.
5. Following approval, employees responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget. Changes in project budgets must be approved by the Director of Fiscal Operations and may require a budget amendment before proceeding. Any delay in the projected project completion date shall be communicated to the ARPA Committee immediately.
6. The requesting department is responsible for collecting and documenting all required information for each EC for submission to the ARPA Committee for approval and for purposes of completing the required Project and Expenditure tracking reports.
7. The Brunswick County Finance Department must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Grant Project Ordinance

BE IT ORDAINED by the Board of Commissioners of Brunswick County, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1: This ordinance is to establish a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). Brunswick County has received the first tranche in the amount of [\$] of CSLFRF funds. The total allocation is [\$], with the remainder to be distributed to Brunswick County within twelve (12) months. These funds may be used for the following categories of expenditures, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Section 2: Brunswick County has elected to take the standard allowance, as authorized by 31 C.F.R. Part 35.6(d)(1) and expend its standard allowance of ARP/CSLFRF funds for the provision of government services.

Section 3: The following amounts are appropriate for the project and authorized for expenditure:

Internal Project Code	Project Description	Expenditure Category (EC)	Cost Object	Appropriation of ARP/CSLFRF Funds
	TOTAL			

Section 4: The following revenues are anticipated to be available to complete the project:

ARP/CSLFRF Funds: \$[]
General Fund Transfer: \$[]
Total: \$[]

Section 5: The Director of Fiscal Operations is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements, including payroll documentation and effort certifications, in accordance with 2 C.F.R. 200.430 & 2 C.F.R. 200.431 and Brunswick County's Uniform Guidance Allowable Costs and Cost Principles Policy.

Section 6: The Director of Fiscal Operations is hereby directed to report the financial status of the project to the governing board on a quarterly basis.

Section 7: Copies of this grant project ordinance shall be furnished to the Clerk to the Board of Commissioners.

Section 8: This grant project ordinance expires on December 31, 2026, or when all the ARP/CSLFRF funds have been obligated and expended by Brunswick County, whichever occurs sooner.



Brunswick County COVID – 19 Essential Public Service Premium Pay Policy

PURPOSE:

The County recognizes the unique challenges that the COVID-19 pandemic has presented and will provide a fixed dollar premium payment to eligible employees as set forth in this policy.

On March 27, 2020, North Carolina Governor Roy Cooper issued a “Stay at Home Order” in response to rising COVID-19 cases but exempted a number of essential operations and services. These essential work services included services provided by county governments to ensure the continuing operation of the county government and to provide for or support the health, safety, and welfare of the public. Among those jobs expressly identified as essential, the Governor’s declaration included first responders, emergency management personnel, emergency dispatchers, law enforcement and corrections personnel, child welfare and child protection personnel, water and sewer utility workers, and any other employees working to support essential operations. For the County to provide services during this time without interruption or decline in service level, ALL County employees were deemed essential to the core operations of our organization. These employees faced a higher risk of exposure to COVID-19 in order to continue providing essential services to the public.

On March 11, 2021, President Biden signed P.L. 117-2, now known as the American Rescue Plan Act (ARPA) and on May 10, 2021 the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations. Under the Interim Final Rule, recipients of Coronavirus State and Local Fiscal Recovery Funds (CLFRF) may use those funds to retroactively provide premium pay to eligible employees who performed essential work during the COVID-19 emergency.

This policy is implemented in recognition of county staff who have continued to support our community and provide essential public services during this critical time when stay at home orders and social distancing measures were in effect and the county continued to be open to the public and provide services to the community.

POLICY AND PROCEDURE:

ELIGIBILITY

Employees that meet all of the following criteria are eligible to receive a pro-rated fixed dollar premium payment, based on the number of months worked in a full-time position during the eleven-month period of **April 1, 2020 through February 28, 2021, or other dates as approved by the Board:**

- Employee was employed in a full-time essential position during the identified time period.
- Employee worked on-site and provided in-person services* during the above time period.
- Employee is in active full-time status at the time the premium payment is issued.

**In-person services is defined as work involving regular in-person interactions with patients, the public, or co-workers, OR regular physical handling of items that were handled by patients, the public, or co-workers. By way of example, Employees who teleworked for a monthly period without handling items which were handled by others, are not eligible for the monthly premium. Also, Employees who did not work for a monthly period, such as an employee using FMLA, leave, or workers compensation, are not eligible for the monthly premium.*

CALCULATION AND METHOD OF PAYMENT

The premium payment is pro-rated based on the number of months worked by an eligible full-time employee during the identified time period.

The fixed dollar premium payment is considered taxable income.

IMPLEMENTATION & OVERSIGHT

- The Human Resources Department, in coordination with the Finance Department, will certify eligibility of each employee for premium payment. They will also certify eligibility by position classification and employee interaction for qualification under ARPA guidelines. Eligible employees that meet ARPA eligibility requirements will receive premium payments funded by ARPA funding.
- Premium pay will not exceed \$13 per hour or a total of \$25,000 to any single worker, per Federal guidelines.
- In the event Premium Pay would increase an eligible employee's total salary above 150 percent of the state's annual wage, written justification shall be documented to demonstrate that the employee meets the eligibility criteria. Based on the current North Carolina average annual wage of \$51,010, the justification shall be required for any employee with an annual wage of at least \$74,315. This is approximately 87 employees.
- The Finance Department will be responsible for issuing fixed dollar premium payment(s) to eligible employees. The premium payment will be implemented through payroll following the date of Board approval.
- The Finance Department will be responsible for all policy monitoring, internal controls, and required ARPA compliance reporting related to the premium payment(s).
- All premium pay distribution records will be retained by the County for at least five (5) years from final payment made using ARPA funding. Records and documentation will be made available to US Treasury, or any other authorized oversight body, by request.



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Effort Certification Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury has issued [Compliance and Reporting Guidance](#), which provides that, in general, certain employees' wages, salaries, and covered benefits are an eligible use of ARP/CSLFRF award funds; and

WHEREAS as a recipient of ARP/CSLFRF award funds, Brunswick County must maintain a system of internal controls that provides reasonable assurance that charges to ARP/CSLFRF projects are accurate, allowable, and properly allocated, including evidence to support the reasonable approximation of employee time and effort devoted directly to projects funded, in whole or in part, with ARP/CSLFRF funds.

BE IT RESOLVED that the Board of Commissioners of Brunswick County hereby adopts and enacts the following Effort Certification Policy to ensure compliance with Uniform Guidance and other ARP/CSLFRF grant award requirements related to employee time and effort certification.

I. Effort Certification Policy Overview

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart E, defines those items of cost that are allowable, and which are unallowable. Tests of allowability under these principles are that costs: (a) must be reasonable; (b) must be allocable to eligible projects under the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021; (c) must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) must conform to any limitations or exclusions set forth in these principles or in the ARP/CSLFRF grant award as to types or amounts of cost items.

Brunswick County shall adhere to all applicable cost principles governing the use of federal grants, including those related to employee time and effort certification. Brunswick County shall utilize a formal reporting system to certify that employee compensation, including, without limitation, salaries and fringe benefits, paid with the use of ARP/CSLFRF funds, whether in whole or in part, are reasonable and consistent with the work performed. This payroll certification process is separate and distinct from Brunswick County's standard payroll procedures.

Responsibility for following these guidelines lies with the Brunswick County ARPA Committee, which is charged with the administration and financial oversight of ARP/CSLFRF funds on behalf of Brunswick County.

II. Applicability

This policy applies to any employee whose compensation, including, without limitation, salary and fringe benefits, will be paid with the use of ARP/CSLFRF funds, whether in whole or in part.

Pursuant to 2 C.F.R § 200.430:

- Salaries paid must “reasonably reflect the activity for which the employee is compensated....”
- An “after-the-fact confirmation” of activity must be performed, so that the certification is based on actual, not proposed, costs.
- Activities must be “confirmed by responsible persons with suitable means of verification that the work was performed.”
- Pay must be allocated proportionally among multiple activities in which the employee is involved.
- Salary certification “may reflect categories of activities expressed as a percentage distribution of total activities,” since activities constituting a “full workload” may be defined differently by various entities.

III. Effort Certification Forms

All employees, including exempt and non-exempt, whose compensation, including, without limitation, salary and fringe benefits, will be paid with ARP/CSLFRF funds, whether in whole or in part, must complete an Effort Certification Form. Please refer to Exhibit A (for 100% Covered Employees) or Exhibit B (for Less than 100% Covered Employees).

For 100% Covered Employees. The applicable Effort Certification Form must be completed by the employee **quarterly**, or at such other interval as requested by the ARPA Committee, signed by the employee and the employee’s supervisor, and submitted to the ARPA Committee. The ARPA Committee will review each Effort Certification Form for accuracy and compliance with the ARP/CSLFRF grant award and will maintain the documentation with the County’s records in accordance with the ARP/CSLFRF Record Retention Policy.

For Less than 100% Covered Employees. The applicable Effort Certification Form must be completed by the employee **quarterly**, or at such other interval as requested by the ARPA Committee, signed by the employee and the employee’s supervisor, and submitted to the ARPA Committee. The Effort Certification Form must clearly and accurately reflect all ARP/CSLFRF eligible activities performed by the employee for each month of the preceding quarter. The ARPA Committee will review each Effort Certification Form for accuracy and compliance with the ARP/CSLFRF grant award and will maintain the documentation with the County’s records in accordance with the ARP/CSLFRF Record Retention Policy.

Non-Exempt Employees Who Are Less Than 100% Covered Employees. In addition to the foregoing reporting requirements, all non-exempt employees who are less than 100% covered employees must also submit an approved timesheet with the quarterly Effort Certification Form, detailing the allocation of time spent each day on eligible ARP/CSLFRF projects and job duties. The timesheet should cover the same timeframe as the Effort Certification Form. This timesheet is *in addition to* the County's standard timekeeping methods. Non-exempt employee timesheets for less than 100% covered employees will become an integral part of the Effort Certification Form and will be maintained with the County's records pursuant to the ARP/CSLFRF Record Retention Policy.

Budget estimates or other distribution percentages determined before an employee's services are performed do not qualify as support for charges to the ARP/CSLFRF award, but they may be used for interim accounting purposes *provided that* they reflect reasonable approximations of the activities actually performed.

IV. Change or Termination of Employment

If an employee changes positions, he/she must complete an Effort Certification Form prior to such change, even if the new position is also to be compensated, in whole or in part, with ARP/CSLFRF funds. If an employee voluntary or involuntary terminates his/her employment with Brunswick County, he/she must complete the applicable Effort Certification Form prior to departure.

V. Violation of Policy

Any employee who violates any provision of this policy, or who falsifies timekeeping records hereunder, may be subject to disciplinary action up to and including immediate termination of employment. Such employee may also be held personally liable for the repayment of any ARP/CSLFRF grant funds received as a result of such violation or falsified records.

EXHIBIT A

Individual Time and Effort Certification

Uniform Guidance provisions, 2 CFR 200.430(i)(1), state that charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

- (i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
- (ii) Be incorporated into the official records of the non-Federal entity;
- (iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities;
- (iv) Encompass federally-assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;
- (v) Comply with the established accounting policies and practices of the non-Federal entity.

Where employees are expected to work solely (100%) on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared **quarterly** and will be signed by the employee or a supervisory official having first-hand knowledge of the work performed by the employee.

Employees working on multiple activities or cost objectives, must document their work according to the distribution of their salaries or wages through monthly personnel activity reports instead of semi-annual certifications.

Organization Name:			
Employee Name:			
Position/Title:			
Department:			
Performance Period Start Date:		Performance Period End Date:	
CSLFRF Project Name:			
CSLFRF Project ID #:			

*Employee's Signature: _____ Date Signed: _____

* I certify that 100% of my time during the period covered by this certification was spent performing duties and responsibilities for the federally funded cost object identified above.

**Supervisor's Signature: _____ Date Signed: _____

** I certify that I have first-hand knowledge of the activities performed by the employee identified above and that the employee worked solely on the federally funded cost objective identified above during the period covered by this certification.

EXHIBIT B

Individual Personnel Activity Report

Uniform Guidance provision 2 CFR 200.430(i)(1)(vii) states that employees working on multiple activities or cost objectives must document their work according to the distribution of their salaries or wages among specific activities or objectives. This will be supported through the use of a **quarterly** Personnel Activity Report. The Log must reflect 100% of the total activity and be based upon actual time and effort charged to all funding sources (not budgeted or estimated time).

Organization Name:			
Employee Name:			
Position/Title:			
Department:			
Performance Period Start Date:		Performance Period End Date:	
Total Hours Worked During Performance Period:			

Federal Funding Effort Detail (Identify the federally funded project(s) and include a brief detail of work performed.)	CSLFRF Project ID #	Hours Worked	Percent (%) of Total Hours

Total Federally Funded Distribution (%):

Non-Federal Funding Effort Summary (Provide a summary of all work not associated with a federally funded project. To ensure this report covers all paid hours during the performance period, also include vacation hours when applicable.)	Hours Worked	Percent (%) of Total Hours
Summary of All Non-Federal Work		
Vacation		

Total Non-Federally Funded Distribution (%):

Total Effort:

(This must equal 100% and be representative of all hours worked during performance period tracked in this report)

*Employee's Signature: _____ Date Signed: _____

* I certify that the distributions of effort reflected in this report represents the actual work performed during the period covered by this report.

**Supervisor's Signature: _____ Date Signed: _____

** I certify that I have first-hand knowledge of the activities performed by the employee identified above and that the distribution of effort shown represents the actual work performed during the period covered by this report to the best of my knowledge.



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Nondiscrimination Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS ARP/CSLFRF funds are subject to US Treasury regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22; and

WHEREAS pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving ARP/CSLFRF funds, Brunswick County agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of ARP/CSLFRF funds under the terms and conditions of the ARP/CSLFRF award, including, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and US Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and US Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

BE IT RESOLVED that the Board of Commissioners of Brunswick County hereby adopts and enacts the following Nondiscrimination Policy, which shall apply to the operations of any program, activity, or facility that is supported in whole, or in part, by expenditures of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award.

It is the policy of Brunswick County to ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity administered by Brunswick County, including programs or activities that are funded in whole or part, with ARP/CSLFRF funds, which Brunswick County received from US Treasury pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

I. Governing Statutory & Regulatory Authorities

As required by the ARP/CSLFRF [Award Terms and Conditions](#), Brunswick County shall ensure that each “activity,” “facility,” or “program”¹ that is funded in whole, or in part, with ARP/CSLFRF funds and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and US Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and US Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age within programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

¹ 22 C.F.R. § 22.3 defines “program” and “activity” as all operations of an entity, including local governments, that receive Federal financial assistance, and the departments, agencies, or special purpose districts of the local governments to which Federal financial assistance is distributed. “Federal financial assistance” includes, among other things, grants and loans of federal funds. “Facility” includes all or any part of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

II. Discriminatory Practices Prohibited in the Administration of the ARP/CSLFRF Award

To ensure compliance with Title VII of the Civil Rights Act of 1964, and Title 31 Code of Federal Regulations, Part 22, the Civil Rights Restoration Act of 1987, and other pertinent nondiscrimination authorities, Brunswick County shall prohibit, at a minimum, the following practices in its administration of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award:

1. Denying to a person any service, financial aid, or other program benefit without good cause;
2. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program;
3. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
4. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;
6. Implementing different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
7. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
8. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;
9. Discriminating against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
10. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

III. Reporting & Enforcement

1. Brunswick County shall cooperate in any enforcement or compliance review activities by US Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. Brunswick County shall comply with information requests, on-site compliance reviews, and reporting requirements.
2. Brunswick County shall maintain a complaint log and inform US Treasury of any complaints of discrimination on the grounds of race, color, or national origin

(including limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the outcome. Brunswick County shall inform US Treasury if it has received no complaints under Title VI.

3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with US Treasury. Any such complaint must be in writing and filed with US Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.
4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by Brunswick County in violation of this policy should contact the following office within one hundred eighty (180) days from the date of the alleged discriminatory occurrence:

Brunswick County Government
Attn: ARPA Funding Manager
P. O. Box 249
Bolivia, NC 28422

With a copy to:

Brunswick County Government
Attn: County Attorney
P. O. Box 249
Bolivia, NC 28422



BRUNSWICK COUNTY

CONTRACT AND PURCHASING POLICY

Adopted by the Board of Commissioners: May 6, 2019

As amended and adopted: May 2, 2022

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1. PREAMBLE

This Contract and Purchasing Policy is intended for use as a guide to Brunswick County's contracting and procurement methods and practices. The goal of this policy is to standardize Brunswick County's contracting and procurement methods and to establish and implement a system of internal controls that provide reasonable assurance that the County is in compliance with N.C.G.S. Chapter 143, Article 8: Public Contracts and the Uniform Guidance for Federal Awards, 2 C.F.R. Part 200. While this policy does not answer all procurement related questions, it provides a foundation for County procurement methods.

The goals of Brunswick County's purchasing program are as follows:

1. To comply with legal and ethical requirements for public purchasing and procurement.
2. To assure vendors that impartial and equal treatment is afforded to all who conduct business with the County.
3. To receive maximum value for money spent by awarding purchase orders to the lowest responsive, responsible bidder, taking into consideration quality, performance, support, delivery schedule, previous performance, business location, and other relevant factors.
4. To provide County departments the required goods and services in a timely manner in the proper quantity and quality while providing necessary information to the County Finance Department.
5. To professionally administer the search for sources of supplies, the development of new sources, and the selection of suppliers.
6. To promote healthy business relationships through informed and fair purchasing practices and maintenance of ethical standards.

This policy supersedes all prior or contemporaneous policies and resolutions related to contracting and procurement methods and practices by Brunswick County, including, without limitation, the Resolution for Approval of Construction Contract Modifications and Change Orders dated March 17, 2008, and the Resolution for Approval of Professional and Service Contracts dated July 1, 2013.

Any questions or concerns about this policy or the established procedures should be directed to the County Attorney's office or the Director of Fiscal Operations.

2. GENERAL GUIDELINES

2.1 Planning

It is imperative that all County departments take time to properly plan purchases. Purchasing plans should be made for goods and services to be purchased in both the near and distant future, thereby minimizing small orders and last-minute purchases. Planning is of highest importance to the County because proper planning reduces unnecessary clerical and supervisory time and costs associated with the procurement process.

2.2 Incurring Obligations

No obligation may be incurred in a program, function, or activity accounted for in a fund unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction as required by N.C.G.S. § 159-28(a).

2.3 Local Buying

It is the desire of Brunswick County to contract with vendors within Brunswick County provided that such vendors provide the County with the lowest price on equivalent goods or services meeting the County's needs. The County has a responsibility to its citizens and local businesses which is bilateral; both to spend locally when possible, but always to ensure that whenever taxpayer money is spent, it is spent with prudence. Because state statute uses an award standard of the lowest responsive, responsible bidder, the County prohibits the use of geographical preference in the selection of a vendor in competitively bid contracts. However, every effort will be made to encourage qualified local vendors and suppliers to compete for County business.

2.4 Buying Proper Quality

Quality and service are as important as price when considering goods for purchase. It is the duty of the requesting department to secure the most cost-effective goods or services that will meet the requirements for which the goods or services are intended. In some instances, the lowest price does not necessarily mean the lowest cost. A higher price, higher quality product may save the County from excess expenses in the future. The requesting department should take this into consideration when making a purchase. However, when making a purchase of other than the lowest cost goods or services, the requesting department should be prepared to justify such a purchase to County Administration based on standards directly related to the quality of the goods or services to be obtained, or the terms on which such goods or services are to be provided.

2.5 Standard of Award

Vendors will be selected on a competitive basis, unless exceptions apply. Bid awards, purchase orders, and/or contracts will be issued to the lowest responsive, responsible bidder, unless otherwise noted herein.

2.6 Purchase Procedures

2.6.1 Purchase Orders

All obligations of the County of \$5,000 or more and all recurring/blanket obligations must be supported by an official purchase order (PO). The dollar amount of any single item under a blanket purchase order shall not exceed \$5,000.

The following exceptions apply:

1. Salaries and wages
2. Fringe benefits
3. Travel and registration expenditures
4. Fuel
5. Telephone and utilities
6. Routine maintenance agreements
7. Legal services
8. Medical services
9. Postage
10. Payments for appropriations to non-profit entities, public schools, and community colleges
11. Debt service payments
12. Advertisements in local newspapers
13. Beneficiary payments to social services recipients
14. Social services payments to medical transportation providers
15. Animal services payments for veterinary service providers
16. Payments made to or on behalf of beneficiaries of the Public Housing Section 8 program
17. County credit card purchases
18. Others as periodically determined by the Director of Fiscal Operations or other designated purchasing official
19. Small obligations of less than \$5,000 under the following conditions:
 - a. Non-reoccurring expenditures (i.e. certain dues, subscriptions, or services)
 - b. An unencumbered balance is available for obligation
 - c. Shall be supported with a properly executed original invoice
 - d. Any abuse/misuse as determined by the Director of Fiscal Operations or other designated purchasing official of the small obligation procedure shall cause it to be discontinued for that respective department.

2.6.2 Emergency Purchases Orders

Emergency purchase orders may be issued on a case-by-case basis in accordance with all sections of this policy. If it is anticipated that a purchase will be submitted for FEMA reimbursement, the purchase order must include certain clauses required by FEMA, which may be obtained from Finance or the County Attorney's office.

2.7 Limitations of Procurement

2.7.1 Debarment

Brunswick County is prohibited from and will not use vendors who have been debarred by federal, state, or local governments. Vendor verification can be made through the federal System for Award Management (SAM) website, the NC Debarred Vendor List, and any County list maintained by the Finance Department and published on the County's intranet site.

2.7.2 E-Verification Requirement

No contract can be entered unless the contractor agrees to comply with NC E-Verify hiring requirements pursuant to N.C.G.S. § 143-133.3. Under the law the entity must possess twenty-five (25) or more employees for E-Verify to be applicable.

The following exceptions apply:

1. Expenses related to travel, including transportation and lodging, for employees, officers, agents, elected officials, or members of state or local boards, commissions, committees, or councils.
2. Contracts solely for the purchase of goods, apparatus, supplies, materials, or equipment (contracts that involve a combination of purchase and construction or purchase and service would not be exempt).
3. Contracts let under N.C.G.S. § 143-129(e)(1), (9) or (9a) (the exceptions to competitive bidding requirements for purchases made directly from another unit of government or from a vendor under contract with the State of North Carolina or a federal agency).
4. Contracts let under N.C.G.S. § 143-129(g) (the piggyback exception to competitive bidding requirements).

2.7.3 Divestment from Companies that Boycott Israel

N.C.G.S. Chapter 147, Article 6G prohibits the investment of state funds in, or governmental contracting with, any company that boycotts or is involved in a boycott of Israel. To verify companies please visit the NC Treasurers website at www.nctreasurer.com.

2.7.4 Non-appropriation of Funds Clause for Contracts Spanning More Than One County Fiscal Year

In any contract or other agreement in which the other party's performance occurs in more than one County fiscal year, the following language shall be included in the contract:

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Agreement for a given fiscal year, the County will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the County will promptly notify the Provider of the non-appropriation, and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

2.7.5 Contract Renewals

Automatic renewals and options to renew must be included in calculating the contract amount for purposes of the approval thresholds in this policy.

2.7.6 Maximum Length of Contract

The maximum length of any contract, including automatic renewals and options to renew, shall not exceed three (3) years without the approval of the signatory authority based on a determination that the longer period is in the best interests of the County.

2.8 Contract Approval Process / Review by County Attorney

2.8.1 Contracts and Documents Subject to Review

The following types of contracts, contract amendments, and documents must go through the contract approval process:

1. Service contracts \$10,000 or more, except those for services that fall under the Mini-Brooks Act (Architectural, Engineering and/or Surveying) for which a qualification-based selection applies.
2. Service contracts for services that fall under the Mini-Brooks Act (Architectural, Engineering and/or Surveying) for which a qualification-based selection applies, regardless of the amount.
3. Contracts for the purchase or lease of goods (apparatus, supplies, materials, and/or equipment) \$30,000 or more.
4. Construction or repair contracts \$30,000 or more.

5. Any contract for which Board of Commissioners approval or signature of the Chairman of the Board is sought or required.
6. Any contract \$10,000 or more for which FEMA reimbursement will be sought.
7. Any contract \$10,000 or more with federal source of funds.
8. Any contract involving a grant.
9. Franchise agreements.
10. Leases, licenses or other agreements for the use of County property.
11. Funded Agency.
12. Interlocal.
13. Sole source (all documentation).
14. All Requests for Proposals, Requests for Qualifications, and Invitations to Bid.

Please refer to Appendix B for additional information regarding contract approval requirements.

Contracts requiring approval must be submitted for County Attorney review through the iContracts portal. This process serves as a tool to ensure the correct execution of contracts and to provide instruction and information necessary to assist in the process. A department should not permit a contractor to start work, and create an obligation on the part of the County, until the contract has been fully executed and copies are in the possession of the department, the County, and the contractor.

2.8.2 Use of Document Templates

Departments should utilize standard County contract and document templates available through the iContracts portal if possible. The County Attorney's office has created a library of standard templates that are tailored for use for many specific types of contracts and circumstances. Non-standard (vendor-generated) contracts should be limited, but may be necessary in some circumstances. Contact the County Attorney's office for guidance on use of the appropriate form of contract.

3. PREAUDIT CERTIFICATION

Except as otherwise provided by law, no obligation may be incurred by the County unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year.

If an obligation is reduced to a written contract or written agreement requiring the payment of money or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited and shall be signed by the Director of Fiscal Operations to assure compliance with N.C.G.S. §159-28(a1). The certificate will take substantially the following form:

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.”

(Date)

(Signature of Director of Fiscal Operations)

No preaudit certification is required for: (1) an obligation, or a document related to the obligation, that has been approved by the Local Government Commission; (2) payroll expenditures, including employee benefits; or (3) electronic payments, as specified in the rules adopted by the Local Government Commission.

An obligation incurred in violation of the requirements of state law as specified in this policy is invalid and may not be enforced. The Director of Fiscal Operations shall establish procedures in accordance with any rules adopted by the Local Government Commission to ensure compliance with statutory requirements and this policy.

4. ELECTRONIC PAYMENTS

In order for electronic transactions to qualify for an exemption from the preaudit requirements in N.C.G.S. § 159-28(d1), the disbursement must be in compliance with the rules adopted by the Local Government Commission as detailed below:

1. The amount claimed is payable.
2. There is a budget, project, or grant ordinance appropriation authorizing the expenditure.
3. The monies remain within the appropriation to cover the amount that is due.

5. CONFLICTS OF INTEREST; GIFTS AND FAVORS

Employees and officers shall not, pursuant to their public authority, make or administer any contracts for their own direct financial benefit. Employees and officers who derive a direct benefit, but are not involved in making or administering the contract, are further prohibited from influencing or attempting to influence the award of contracts, or from soliciting or receiving gifts or rewards for recommending, and influencing or attempting to influence contract awards. These matters are generally governed by N.C.G.S. § 14-234.

Pursuant to N.C.G.S. § 133-32, no employee or officer of Brunswick County who is charged with the duty of: (1) preparing plans, specifications, or estimates for public contracts; (2) awarding or

administering public contracts; or (3) inspecting or supervising construction, shall accept any gifts or favors from any vendor or service provider who has a contract with a governmental agency, or has performed under such a contract within the past year, or anticipates bidding on such a contract in the future.

This Section is not intended to prevent a gift a public servant would be permitted to accept under N.C.G.S. § 138A-32, or the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This Section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended to prevent governmental employees and officers who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting.

This Section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship, rather than the business of the individual concerned, which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the recipient to their Department Head if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.

Please note that Brunswick County has adopted a separate Conflict of Interest Policy for procurements utilizing American Rescue Plan Act of 2021/Coronavirus State and Local Fiscal Recovery Funds (ARP/CSLFRF). Please refer to the specific ARP/CSLFRF Conflict of Interest Policy contained in the ARP/CSLFRF Policies and Procedures Manual for additional guidance and requirements.

6. GENERAL PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING

6.1 Application

This Section applies to all local and state funded procurement. Such procurement must be in compliance with local, state and federal rules and regulations, including, without limitation, N.C.G.S. Chapter 143, Article 8: Public Contracts, and the Uniform Guidance for Federal Awards, 2 C.F.R. Part 200.

6.2 Minority and Women-Owned Business Enterprises

For building construction and repair projects in excess of \$30,000, the County must make a good faith effort to provide minority and women-owned businesses, as defined in N.C.G.S. § 143-128.2(g), with equal access and opportunity to participate in the County's business opportunities. To that end, at a minimum, contractor bid opportunities must be timely posted to the North Carolina Department of Administration, Office for Historically Underutilized Businesses Bid Posting Website

located at: <https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub/submit-contractor-bid-opportunity-hub>.

7. SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – LOCAL AND STATE FUNDING

7.1 Purchases or Leases for Apparatus, Supplies, Materials and/or Equipment

7.1.1 Purchases or Leases up to \$30,000

Purchases or leases in this price range shall be procured through an informal price comparison process. A minimum of three (3) price comparisons is required. All documentation related to price comparisons must be maintained within the requesting department's records, and such records are subject to audit. Non-responsive submissions do not qualify. If three (3) price comparisons cannot be obtained, a detailed explanation must be submitted to the County Attorney's office.

7.1.2 Purchases or Leases between \$30,000 and \$90,000

Purchases or leases in this price range shall be procured through an informal bid process pursuant to N.C.G.S. § 143-131. The requesting department is required to secure a minimum of three (3) informal bids. Informal bids may be received via telephone, facsimile, or email, and they must be documented on the electronic requisition with a copy provided to the Finance Department. The Finance Department or County Attorney's office may request additional bids if deemed necessary. If three (3) informal bids cannot be obtained, a detailed explanation must be submitted to the Finance Department and County Attorney's office. *Please refer to Section 7.3 for proper procedures related to Construction and Non-Emergency Repair in this price range.*

7.1.3 Delegation of Approval Authority to County Manager (up to \$90,000)

The Board of Commissioners delegates approval authority to the County Manager for the purchase of goods or services in an amount up to \$90,000 *provided that* there is a budget appropriation available and the item(s) were included in the annual budget presentation that supports the budget ordinance.

7.1.4 Purchases or Leases \$90,000 or more

Purchases or leases in this price range shall be procured through a formal bid process pursuant to N.C.G.S. § 143-129. All formal bids shall be procured through the County Attorney's office and must be approved by the Board of Commissioners. The formal bid package along with all supporting documentation must be submitted to the County Attorney's office for review through iContracts at least thirty (30) days prior to the advertisement for bids.

Please refer to Section 7.3 for proper procedures related to Construction and Non-Emergency Repair in this price range.

7.2 Special Considerations for Construction or Repair

No contract may be divided for the purpose of avoiding bidding or notice requirements pursuant to N.C.G.S. § 143-133.

7.3 Construction and Non-Emergency Repair Procedures

7.3.1 Construction and Repair up to \$30,000

Construction and repair contracts in this price range shall be procured through an informal price comparison process. A minimum of three (3) price comparisons is required. All documentation related to price comparisons must be maintained within the requesting department's records, and such records are subject to audit. Non-responsive submissions do not qualify. If three (3) price comparisons cannot be obtained, a detailed explanation must be submitted to the County Attorney's office.

7.3.2 Construction and Repair between \$30,000 and \$500,000

Construction and repair contracts in this price range shall be procured through an informal bid process pursuant to N.C.G.S. § 143-131. The requesting department is required to secure a minimum of three (3) informal bids. Informal bids may be received via telephone, facsimile, or email, and they must be documented on the electronic requisition with a copy provided to the Finance Department. The Finance Department or County Attorney's office may request additional bids if deemed necessary. If three (3) informal bids cannot be obtained, a detailed explanation must be submitted to the Finance Department and County Attorney's office. Informal bids in this price range must be approved by the Board of Commissioners. *If the contract involves construction or repair of a building \$300,000 or more, please refer to 7.3.4.*

7.3.3 Construction and Repair \$500,000 or more

Construction and repair contracts in this price range shall be procured through a formal bid process pursuant to N.C.G.S. § 143-129. Three (3) competitive bids are required for construction and/or repairs. All formal bids shall be procured through the County Attorney's office. The formal bid package along with all supporting documentation must be submitted to the County Attorney's office for review through iContracts at least thirty (30) days prior to the advertisement for bids. If three (3) bids are not received, the County will re-advertise. If three (3) bids are not received for the re-advertisement, the contract may be awarded with less than three (3) bids. Formal bids in this price range must be approved by the Board of Commissioners. *If the contract*

involves construction or repair of a building \$300,000 or more, please refer to 7.3.4.

7.3.4 Construction and Repair involving a building \$300,000 or more

All construction and repair contracts involving a building \$300,000 or more must also comply with the following additional requirements:

1. Formal Historically Underutilized Business (“HUB”) participation required under N.C.G.S. § 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C.G.S. § 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under N.C.G.S. § 143-129(a1).

7.3.5 Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts

The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

7.4 Architectural, Engineering or Surveying Contracts

Procurement of all architectural, engineering or surveying services shall be in accordance state Mini-Brooks Act/Qualification Based Selection requirements pursuant to N.C.G.S. § 143-64.31. All such services shall be procured through the use of a Request for Qualifications, which must be submitted to the County Attorney’s office for review through iContracts. Award of qualification-based services must be approved by the Board of Commissioners in accordance with the terms of this policy and applicable general statutes. Initial selection must be based on qualifications rather than price. The Board of Commissioners may exempt a contract of this type estimated to cost less than \$50,000 from these requirements.

7.5 Non-Emergency Services

All non-emergency service contracts, for which the contractor will perform work while on County property, must be accompanied by a written contract. All contracts must be delivered to the County Manager, the Director of Fiscal Operations, and the County Attorney for review prior to execution. The requesting department should utilize iContracts for such review, as applicable, pursuant to the thresholds set forth in this policy. The contract must follow all signature procedures and contain all necessary insurance and payment options and be compliant with the Local

Government Budget and Fiscal Control Act. The completed and signed contract must be reviewed as to form by the County Attorney, signed by the County Manager and/or Board of Commissioners, as appropriate, pre-audited by the Director of Fiscal Operations, and be filed in the respective department. If a contract requires action by the Board of Commissioners, the Chairman of the Board's signature may be required. The executed contract should be scanned and attached to the department requisition that is forwarded to the Finance Department. The County will attempt to structure contracts to coincide with the fiscal year unless another arrangement is in the best interest of the County.

Contracts directly authorized by the Board of Commissioners through direct award or budget authorization may be executed by the County Manager. Subsequent orders changing the original contract, which do not exceed the approved cost of the contract, will be executed by the County Manager.

7.6 Special Procurement Procedures for Technology Goods and Services

All technology purchases require the approval of the Information Technology ("IT") Director. This includes, but is not limited to, hardware, software, licensing, maintenance, and all technology-related service contracts. Please note that there are specific requirements related to the purchase of IT goods and services contained in N.C.G.S. § 143-129.8. For additional information or assistance, please contact the County Attorney's office.

7.7 Exceptions to Competitive Bidding Requirements

North Carolina General Statutes provide Exceptions to State Competitive Bidding Requirements for NC Local Governments. Brunswick County departments are encouraged to utilize these alternative procurement methods when the appropriate exception allows the County to procure the goods or services desired more conveniently and efficiently than normal competitive bidding procedures. The intent to use an exception should be submitted to the Director of Fiscal Operations and the County Attorney for review prior to submitting a purchase requisition as some of the exceptions may require approval by the Board of Commissioners. Exceptions are detailed in N.C.G.S. § 143-129, but the most commonly utilized exceptions are described below.

7.7.1 Sole Source

A sole source exception may apply to certain purchases that fall within the competitive bidding ranges (informal or formal) set forth herein. Pursuant to N.C.G.S. § 143-129(e)(6), a sole source exception may apply to purchases made with local or state funding when: (1) performance or price competition for a product are not available; (2) a needed product is available from only one source of supply; or (3) standardization or compatibility is the overriding consideration. Departments that seek to procure goods from a sole source must: (1) ensure the correct application of the sole source exception; (2)

complete a Sole Source Justification Form; (3) complete a resolution for approval by the Board of Commissioners authorizing the purchase under the applicable sole source exception (a template form is available in the iContracts library); and (4) maintain all required documentation, including without limitation, the justification for and lack of available competition for the item. The required documentation must be attached to the Sole Source Justification Form, and the documentation must be reviewed and approved by the Department Head, Director of Fiscal Operations or other designated purchasing official, and the County Attorney. By statute, sole source purchases require approval by the Board of Commissioners prior to the award of the contract. Any sole source purchase approval intended to apply to reoccurring purchases must be reviewed and approved by the Board of Commissioners at least every three (3) years to ensure that a sole source exception still applies. *Please refer to Section 9.4.1 for specific information related to sole source purchases made, in whole or in part, with the use of federal funds, as federal exceptions to competitive bidding are more restrictive.*

7.7.2 Purchasing on “State Contract” N.C.G.S. § 143-129(e)(9)

An exception applies for purchases from contracts established by the State or any agency of the State, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the State contract.

7.7.3 “Piggybacking” on Other Government Agency Purchases N.C.G.S. § 143-129(g)

Although commonly called “piggybacking,” this exception is actually a waiver for previously bid contracts. It applies to the purchase of apparatus, supplies, materials or equipment (excludes services) when a department seeks to purchase goods from a person or entity that has, through a competitive bidding process within the past twelve (12) months, contracted to furnish an item to: (1) the federal government or any federal agency; (2) the State of North Carolina or any agency or political subdivision of the state; or (3) any other state or agency or political subdivision of that state. The price and terms must be as good as or better than those that could be obtained through a formal bidding process, and the item specifications must be the same.

7.7.4 Group Purchasing Program Exception N.C.G.S. § 143-129(e)(3)

This exception applies to purchases made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively obtained purchasing services at discount prices to two (2) or more public agencies. Some of the most common group purchasing programs include, without limitation, the NC Sheriff’s Association Vehicle Procurement

Program, Sourcewell (formerly NJPA), U.S. Communities, and The Cooperative Purchasing Network.

7.7.5 Special Emergencies

The County Manager may exempt the procurement of any goods or services from the requirements of this policy in cases of special emergency involving the health and safety of the people or their property pursuant to N.C.G.S. § 143-129(e)(2). In order to exercise this emergency exemption, the emergency must be present, immediate, and existing. It cannot be a condition that is merely anticipated and may never actually occur. If the condition can be foreseen in time to take action to prevent harm to the public (or if the required procurement method can be completed before any harm would occur), the emergency exception cannot be invoked. Further, if harm to the public can be averted through temporary measures while the proper procurement method is being conducted, the emergency exception cannot be used. The failure to take proper precautions to prevent the need for an emergency procurement will not be accepted as a justification for exemption from the requirements of this policy.

7.8 Delegation of Approval Authority to County Manager for Certain Change Orders and Contract Modifications or Amendments

The Board of Commissioners delegates approval authority to the County Manager for change orders and contract modifications for previously approved contracts in an amount up to \$30,000 *provided that* there is a current budget appropriation available.

8. GENERAL PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING

8.1 Application

This Section applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). All federally funded projects, loans, grants, and sub-grants, whether funded in whole or in part, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200. These requirements also apply to any subrecipient of federal funds.

8.2 Compliance with Federal Law

All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The County will follow all applicable local, state, and federal procurement requirements when expending federal

funds. Should the County have more stringent requirements, the most restrictive requirement shall apply as long as it is consistent with state and federal law.

8.3 Minority and Women-Owned Business Enterprise (“M/WBE”) Solicitation

For all federally-funded contracts, subcontracts, and procurements for services (including engineering and legal), supplies, equipment, and construction or repair, the County must make minority businesses aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. Pursuant to 2 C.F.R. § 200.321, the County must take affirmative steps, otherwise known as “six good faith efforts,” to ensure that minority firms, women’s business enterprises, and labor surplus area firms are afforded equal contracting opportunities. The affirmative steps include:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Ensuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources of products or services to be bid;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises (i.e. provide alternate bidding scenarios);
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises (i.e. timing and flexibility);
5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the United States Department of Commerce; and
6. Requiring any prime contractor to take the affirmative steps listed above, if they will be awarding subcontracts.

The County and any prime contractor must maintain documentation evidencing compliance with these “six good faith efforts.”

If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. However, as noted below, the procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this policy.

8.4 No Evasion

No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this policy or state and federal law.

8.5 Contract Requirements

All contracts, except those that fall at or below the “micro-purchase” threshold as set forth in 2 C.F.R. § 200.67, that are paid for, in whole or in part, with federal funds shall be in writing and must be submitted through iContracts for review by the County Attorney’s office. *Please note that the “micro-purchase” threshold is periodically adjusted for inflation. As of the date of this policy, the threshold is \$10,000.* The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

8.6 Necessity

Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Department Head or other designated purchasing official should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.

8.7 Clear Specifications

All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

8.8 Notice of Federal Funding

All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.

8.9 Compliance by Contractors

All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.

8.10 Fixed Price

Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a “Not to Exceed” amount. A time and materials contract shall not be awarded without the express written permission of the federal agency or state pass-through agency that awarded the funds. If a time and materials federal contract is awarded, the requesting department must exercise a high degree of oversight to be reasonably assured that the contractor is using efficient methods and effective cost controls.

8.11 Use of Brand Names

When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to achieve the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.

8.12 Lease versus Purchase

Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.

8.13 Documentation

Documentation must be maintained by the requesting department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.

8.14 Cost Estimate

For all procurements costing \$250,000 or more, the requesting department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

8.15 Contractor Oversight

The County department receiving the federal funding must maintain oversight of the contract to ensure that the contractor is performing in accordance with the contract terms, conditions, and specifications.

8.16 Open Competition

Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to, unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for “or equal” products, or other unnecessary requirements that have the effect of restricting competition.

8.17 Geographic Preference

No contract shall be awarded on the basis of a geographic preference.

8.18 Settlement of Issues

The County, *not* the federal government, shall be solely responsible for settling all contract disputes and claims. The federal government will not be a party to or defend contract claims for any reason.

9. SPECIFIC PROCUREMENT STANDARDS AND PROCEDURES – FEDERAL FUNDING

The County shall solicit bids in accordance with the requirements under this Section of the policy based on the type and cost of the contract.

9.1 Purchase or Service Contracts

Except for Architectural, Engineering or Surveying services which are covered in the Mini-Brooks Act and for which a qualification-based selection process is required:

9.1.1 Purchases of Goods and/or Services up to \$10,000

Goods and/or services in this price range shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)(1)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered fair and reasonable. Reasonableness may be determined by comparing the price to past purchases or other published prices and/or requesting prices from more than one vendor.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

9.1.2 Purchases of Goods Only between \$10,000 and \$90,000

This process only applies to the procurement of goods, not services, in this price range. Goods in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis.

9.1.3 Purchases of Goods Only \$90,000 or more

This process only applies to the procurement of goods, not services, in this price range. Goods in this price range shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) and state formal bidding procedures (N.C.G.S. § 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven (7) full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the Board of Commissioners in advance. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Board of Commissioners the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of two (2) bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-

price basis. Board of Commissioners approval is required unless the Board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

9.1.4 Purchases of Services Only between \$10,000 and \$250,000

This process only applies to the procurement of services, not goods, in this price range. Services in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).

9.1.5 Purchases of Services Only \$250,000 or more

This process only applies to the procurement of services, not goods, in this price range. Services in this price range shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(b)(2)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposal (“RFP”) must be publicly advertised. Formal advertisement in a newspaper is not required as long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.

5. There must be a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with the most advantageous proposal taking into consideration price and other factors identified in the RFP.
7. Award the contract on a fixed-price or cost-reimbursement basis.

9.1.6 Delegation of Approval Authority to County Manager (up to \$90,000)

The Board of Commissioners delegates approval authority to the County Manager for the purchase of goods or services in an amount up to \$90,000 *provided that* there is a budget appropriation available and the item(s) were included in the annual budget presentation that supports the budget ordinance.

9.2 Architectural, Engineering or Surveying Contracts

Procurement of all architectural, engineering or surveying services shall be in accordance state Mini-Brooks Act/Qualification Based Selection requirements pursuant to N.C.G.S. § 143-64.31. All such services shall be procured through the use of a Request for Qualifications (“RFQ”), which must be submitted to the County Attorney’s office for review through iContracts. Award of qualification-based services must be approved by the Board of Commissioners in accordance with the terms of this policy and applicable general statutes. Initial selection must be based on qualifications rather than price. The Board of Commissioners may exempt a contract of this type estimated to cost less than \$50,000 from these requirements.

9.2.1 Architectural, Engineering or Surveying Services up to \$250,000

All architectural, engineering or surveying services in this price range shall be procured using the state “Mini-Brooks Act” requirements as follows:

1. An RFQ must be issued to solicit qualifications from qualified firms. A formal advertisement in a newspaper is not required. The price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Respondent qualifications should be evaluated based on the evaluation criteria developed by the requesting department.
4. Respondents should be ranked based solely on qualifications, not price. Preference may be given to in-state, but not local, firms.
5. Fair and reasonable compensation will be negotiated with the best qualified firm. If negotiations are not successful, the County will commence negotiations with the second-best qualified firm.

6. The contract should be awarded to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated.

9.2.2 Architectural, Engineering or Surveying Services \$250,000 or more

All architectural, engineering or surveying services in this price range shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(b)(2)(iv)) as follows:

1. An RFQ must be publicly advertised to solicit qualifications from an “adequate number of qualified sources.” A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued. A formal advertisement in a newspaper is not required. The price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. The RFQ should identify the evaluation criteria and relative importance of each criteria (the criteria weight).
4. The County must consider all responses to the publicized RFQ to the maximum extent practical.
5. There must be a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Respondent qualifications should be evaluated to rank respondents and for selection of the most qualified firm. Preference may be given to in-state, but not local, firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
7. Price cannot be a factor in the initial selection of the most qualified firm.
8. Once the most qualified firm is selected, fair and reasonable compensation will be negotiated. If negotiations are not successful, the County will commence negotiations with the second-best qualified firm.
9. The contract should be awarded to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated.

9.3 Construction and Repair Contracts

9.3.1 Construction and Repair up to \$10,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)(1)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered fair and reasonable. Reasonableness may be determined by comparing the price to past purchases or other published prices and/or requesting prices from more than one vendor.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

9.3.2 Construction and Repair between \$10,000 and \$250,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. 200.320(a)(2)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources. A federal grantor agency may issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract to the lowest responsive, responsible bidder on a fixed-price or not-to-exceed basis.

9.3.3 Construction and Repair between \$250,000 and \$500,000

Construction and repair contracts in this price range shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) as follows:

1. Cost or price analysis is required prior to soliciting bids (the cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. The bid solicitation must be publicly advertised for a period of time sufficient to give bidders notice of opportunity to submit bids. A formal advertisement in a newspaper is not required as long as other means of advertising will provide sufficient notice of the opportunity to bid. The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.

5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of two (2) bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. The winning bidder must also provide performance and payment bonds of 100% of the contract price.
7. The contract may only be awarded to the lowest responsive, responsible bidder on a firm fixed-price basis. Any and all bids may be rejected only for “sound documented reasons.” *If the contract involves construction or repair of a building \$300,000 or more, please refer to 9.3.5.*

9.3.4 Construction and Repair \$500,000 or more

Construction and repair contracts in this price range shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(b)(1)) and state formal bidding procedures (N.C.G.S. § 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (the cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven (7) full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the Board of Commissioners in advance. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the Board of Commissioners the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Bids must be open at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of three (3) bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the three-bid minimum requirement). The winning bidder must also provide performance and payment bonds of 100% of the contract price.
7. The contract may only be awarded to the lowest responsive, responsible bidder on a firm fixed-price basis. Board of Commissioners approval is required and cannot be delegated. The Board of Commissioners may reject and all bids only for “sound documented reasons.” *If the contract involves*

construction or repair of a building \$300,000 or more, please refer to 9.3.5.

9.3.5 Construction and Repair involving a building \$300,000 or more

Construction and repair involving a building \$300,000 or more must also comply with the following additional requirements under state law:

1. Formal Historically Underutilized Business (“HUB”) participation required under N.C.G.S. § 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C.G.S. § 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under N.C.G.S. § 143-129(a1).

9.3.6 Delegation of Approval Authority to County Manager for Certain Construction or Repair Contracts

The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

9.4 Exceptions

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

9.4.1 Sole Source

A contract may be awarded without competitive bidding when the item is available from only one source. The requesting department shall document the justification for and lack of available competition for the item. Departments that seek to procure goods from a sole source using federal funds must: (1) ensure the correct application of the sole source exception pursuant to 2 C.F.R. § 200.320(c); (2) complete a Sole Source Justification Form; (3) complete a resolution for approval by the Board of Commissioners authorizing the purchase under the applicable sole source exception (a template form is available in the iContracts library); and (4) maintain all required documentation, including without limitation, the justification for and lack of available competition for the item. The required documentation must be attached to the Sole Source Justification Form, and the documentation must be reviewed and approved by the Department Head, Director of Fiscal Operations

or other designated purchasing official, and the County Attorney. By statute, sole source purchases require approval by the Board of Commissioners prior to the award of the contract. Any sole source purchase approval intended to apply to reoccurring purchases must be reviewed and approved by the Board of Commissioners at least every three (3) years to ensure that a sole source exception still applies.

9.4.2 Public Exigency

A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.

9.4.3 Inadequate Competition

A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this policy does not result in a qualified winning bidder.

9.4.4 Federal Contract

A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.

9.4.5 Awarding Agency Approval

A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

9.4.6 Piggybacking

The piggybacking exception that may apply to local and state funded contracts is not permitted for federally-funded contracts.

9.5 Special Consideration for Purchases Utilizing American Rescue Plan Act of 2021/Coronavirus State and Local Fiscal Recovery Funds

On January 6, 2022, US Treasury issued its Final Rule implementing the Coronavirus State and Local Recovery Fund program of the American Rescue Plan Act of 2021 (ARP/CSLFRF). Under ARP/CSLFRF, certain recipients, including eligible units of local government, will receive allocated funds which may only be used for approved expenditures, as determined by US Treasury. In its Final Rule, US Treasury

established strict regulations for a local government's use of ARP/CSLFRF funds, including, without limitation, stringent contracting and reporting requirements. To ensure compliance with the Final Rule, the County has adopted separate policies and procedures, including, without limitation, a detailed project eligibility and pre-approval process, for any procurement made with the use of ARP/CSLFRF funds, whether in whole or in part. ***Please refer to the specific ARP/CSLFRF Policies and Procedures Manual for additional guidance and requirements applicable to ARP/CSLFRF-funded procurements. While these separate policies are intended to be an integral part of this overall policy, to the extent the terms of any of the ARP/CSLFRF policies and procedures conflict with the provisions contained in this policy, the provisions of the specific ARP/CSLFRF policies and procedures shall govern for all ARP/CSLFRF-funded expenditures.***

10. DISPOSITION OF SURPLUS PROPERTY

When apparatus, supplies, materials, and/or equipment purchased for use by a County department are no longer suitable for use by that department, but may be useful to another department, the Department Head shall apprise all County departments of such property in order to maximize its benefit to the County. If, after a reasonable period of time, the Department Head determines that such property is not suitable for use by another County department, the Department Head, through the County Manager's office, may dispose of such surplus property as outlined below. All disposition methods set forth below, as well as any disposition of property for circumstances not specifically described below, shall be governed by the procedures set forth in Article 12 of Section 160A of the North Carolina General Statutes (160A-265 through 160A-280). (Although these statutes reference cities, note that all of these procedures are made applicable to counties by 153A-176).

10.1 Real or Personal Property Valued Greater Than or Equal To \$30,000

Upon authorization by the Board of Commissioners, such property may be disposed of by public auction, sealed bid, negotiated offer and upset bid, or exchange.

10.2 Real or Personal Property Valued Greater Than or Equal To \$5,000 but Less Than \$30,000

Upon authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Section 10.1 or by private negotiation.

10.3 Personal Property Valued at Less Than \$5,000

Without authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Section 10.2 or as set out below. Such property may be declared surplus and disposed of by the County Manager or his/her designee for fair market value at public or private sale. The County Manager or his/her designee shall have authority to convey title to any property disposed of pursuant to this Section. The County Manager or his/her designee's estimate of value for any one item or group

of items disposed of pursuant to this Section shall be verified by the Director of Fiscal Operations or his/her designee prior to sale.

The County Manager or his/her designee shall keep a record of all property sold under this Section, and the record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

Regarding the disposition of personal property, the County Manager or his/her designee is authorized to use existing private or public electronic auction services and to publish notice of all auctions solely by electronic means. The County Manager or his/her designee is authorized to discard any personal property that: (1) is determined to have no value; (2) remains unsold or unclaimed after the County has exhausted efforts to sell the property using any applicable procedure under this policy; or (3) poses a potential threat to public health or safety.

10.4 Special Consideration for Real Property Surplus; Minimum Terms

Notwithstanding the foregoing, any bids received for real property (of any value) which do not meet the criteria set forth below will be refused and will not be forwarded to the Board of Commissioners for consideration.

1. For properties that have been held by the County for a period of ten (10) years or longer, bids that meet or exceed the lesser of \$750 or 25% of current tax value.
2. For properties that have been held by the County for a period of less than ten (10) years, bids that meet or exceed the lesser of the County's basis in the property or 50% of current tax value.

10.5 Purchase of Surplus Property by Employees

County officials, employees and their immediate family shall be permitted to purchase County surplus property provided that no conflict of interest exists and provided further that the surplus item is otherwise available to the public, and the County employee does not gain a financial benefit based on non-public information the employee possesses because of his or her job.

10.6 Donations of Personal Property to Other Governmental Units

Pursuant to N.C.G.S. § 160A-280, personal property that the Board of Commissioners deems to be surplus, obsolete, or unused, including supplies, materials, and equipment, may be donated to another governmental unit within the United States, a sister county, or a nonprofit organization incorporated by the United States, one of the United States or the District of Columbia. For purposes of this section, a "sister county" is defined as one in a nation other than the United States that has entered into a formal, written agreement or memorandum of understanding with the County for the purposes of

establishing a long-term relationship to promote communication, understanding, and goodwill and to develop mutually beneficial activities, programs, and ideas. Any agreement or memorandum of understanding must be signed by the Chairman of the Board of Commissioners for both the donor and recipient. Additionally, the Board of Commissioners must adopt a resolution approving the donation, and the resolution must be posted publicly at least five (5) days prior to its adoption. No donation of any surplus, obsolete, or unused personal property may occur prior to the adoption of such resolution.

Notwithstanding the foregoing, federal guidelines for the disposition of surplus property acquired, in whole or in part, with federal grant funds may differ from County procedure. To ensure compliance with federal guidelines, refer to the federal award document for guidance.

10.7 Sale or Donations of Property to Entities Carrying Out a Public Purpose

Pursuant to N.C.G.S. § 160A-279, property that the Board of Commissioners deems to be surplus, obsolete, or unused, including supplies, materials, and equipment, may be donated to any public or non-profit private entity which carries out a public purpose provided that said property was not acquired by condemnation. The Board of Commissioners must adopt a resolution identifying the property and authorizing the action. With the exception of automobiles, the Board shall attach to any conveyance the conditions which assure the property will be put to a public use. A notice summarizing the resolution shall be published once after its adoption, and action cannot take place until ten (10) days after the publication.

11. VIOLATION OF POLICY

Any employee who knowingly violates the provisions of this policy shall be subject to disciplinary action in accordance with the Brunswick County Personnel Policy and may be held personally responsible for obligations incurred as set forth in N.C.G.S. § 159-28.

Adopted, as amended, this 2nd day of May, 2022.

BRUNSWICK COUNTY BOARD OF COMMISSIONERS

**APPENDIX A
COMPETITIVE BIDDING REFERENCE CHART**

	Budgetary Appropriation Required	Competition Approval Level	Type of Competition	Director of Fiscal Operations Pre-Audit	County Attorney Approval of Bid Process	County Issued PO \$5,000 or Greater	Documentation of Bids or Informal Quotes
Purchases or lease of apparatus, supplies, materials or equipment Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Purchases or lease of apparatus, supplies, materials or equipment Up to \$30,000 – Non-Federal	Yes	Department Head	3 Price Comparisons	At Payment	No	Yes	Finance/ Department >\$5,000
Purchases or lease of apparatus, supplies, materials or equipment \$30,000 to \$90,000 – Non-Federal \$10,000 to \$90,000 – Federal ("Small Purchase" Procedure)	Yes	County Attorney	3 Informal Quotes/Bids <u>or</u> an "adequate number" as may be determined by the federal grantor agency	Yes	Yes	Yes	Finance
Purchases or lease of apparatus, supplies, materials or equipment \$90,000 or more – All	Yes	County Commissioners	Formal Bids	Yes	Yes	Yes	Finance
Professional Service Contracts Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Professional Service Contracts \$10,000 to \$250,000 – Federal ("Small Purchase" Procedure)	Yes	County Attorney	3 Informal Quotes/Bids <u>or</u> an "adequate number" as may be determined by the federal grantor agency	Yes	Yes	Yes	Finance
Professional Service Contracts \$250,000 or more – Federal	Yes	County Commissioners	Formal Bids	Yes	Yes	Yes	Finance

**APPENDIX A
COMPETITIVE BIDDING REFERENCE CHART**

	Budgetary Appropriation Required	Competition Approval Level	Type of Competition	Director of Fiscal Operations Pre-Audit	County Attorney Approval of Bid Process	County Issued PO \$5,000 or Greater	Documentation of Bids or Informal Quotes
Construction or Repair Up to \$10,000 – Federal ("Micro-Purchase" Procedure)	Yes	None	None	At Payment	No	Yes	None
Construction or Repair Up to \$30,000 – Non-Federal	Yes	Department Head	3 Price Comparisons	At Payment	No	Yes	Finance/ Department <\$5,000
Construction or Repair \$30,000 to \$500,000 – Non-Federal \$10,000 to \$250,000 – Federal ("Small Purchase" Procedure)	Yes	County Commissioners ¹	3 Informal Quotes/Bids	Yes	Yes	Yes	Finance
Construction or Repair \$500,000 or more – Non-Federal \$250,000 or more – Federal	Yes	County Commissioners ¹	Formal Bids	Yes	Yes	Yes	Finance
Architectural/Engineering/Survey Services (Mini-Brooks Act/Qualification Based Selection) \$50,000 or more	Yes	County Commissioners	Qualification Based Selection	Yes	Yes	Yes	Finance
Architectural/Engineering/Survey Services (Mini-Brooks Act/Qualification Based Selection) < \$50,000 (exemption may be requested)	Yes	County Commissioners	Qualification Based Selection	Yes	Yes	Yes	Finance

¹The Board of Commissioners delegates approval authority to the County Manager for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the project(s) were included in the annual budget presentation that supports the budget ordinance.

**APPENDIX B
CONTRACT APPROVAL REQUIREMENTS**

Contract Type	Contract Amount	Approval Required	Signature Required¹
<i>Board of Commissioners Approval</i>			
Purchase or lease of goods, apparatus, supplies, materials and/or equipment <i>not</i> requiring formal bids by law	\$30,000 up to \$90,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Purchase or lease of goods, apparatus, supplies, materials and/or equipment requiring formal bids by law	\$90,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Non-Federally funded professional services	\$30,000 up to \$50,000 ³	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Non-Federally funded professional services	\$50,000 or more ⁴	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Federally funded professional services <i>not</i> requiring formal bids by law	\$30,000 up to \$250,000	County Attorney County Manager Board of Commissioners	Board of Commissioners ²
Federally funded professional services requiring formal bids by law	\$250,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Architectural/Engineering/Surveying services (Mini-Brooks Act/Qualification-Based Selection)	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Non-Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	\$30,000 up to \$500,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Non-Federally funded construction, renovation or repair work requiring formal bids by law	\$500,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	\$30,000 up to \$250,000	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
Federally funded construction, renovation or repair work requiring formal bids by law	\$250,000 or more	County Attorney County Manager Board of Commissioners ²	Board of Commissioners ²
ARP/CSLFRF-funded procurements, in whole or in part ⁵	All	County Attorney Director of Fiscal Operations County Manager Board of Commissioners	Board of Commissioners
Real property leases	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Real estate transactions involving the purchase or sale of real property	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Easements or other limited property rights	\$30,000 or more	County Attorney County Manager Board of Commissioners	Board of Commissioners
Grants	All	County Attorney County Manager Board of Commissioners	Board of Commissioners

¹The County Manager may periodically delegate his/her signing authority.

²The Board of Commissioners delegates approval and signing authority to the County Manager for the purchase or lease of goods, apparatus, supplies, materials and/or equipment or services in an amount up to \$90,000 and/or for construction or repair projects in an amount up to \$500,000 *provided that* there is a budget appropriation available and the item(s) and/or project(s) were included in the annual budget presentation that supports the budget ordinance.

³Service contracts for amounts that are within the available budget appropriation and capital project ordinance for an amount between \$30,000 and \$50,000 may be placed on the consent agenda of a regularly scheduled Board of Commissioners meeting.

⁴Service contracts for amounts greater than \$50,000 shall be placed on an agenda for consideration of the Board of Commissioners.

⁵ Refer to the separate ARP/CSLFRF Policies and Procedures Manual for more detailed guidance and requirements.

**APPENDIX B
CONTRACT APPROVAL REQUIREMENTS**

Contract Type	Contract Amount	Approval Required	Signature Required¹
Interlocal	All	County Attorney County Manager Board of Commissioners	Board of Commissioners
Sole Source	Any amount subject to competitive bidding	County Attorney County Manager Board of Commissioners	Board of Commissioners
<i>County Manager Approval</i>			
Purchase or lease of goods, apparatus, supplies, materials and/or equipment <i>not</i> requiring formal bids by law	Up to \$30,000	County Manager	County Manager
Non-Federally funded professional services	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Federally funded professional services <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Non-Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Federally funded construction, renovation or repair work <i>not</i> requiring formal bids by law	Up to \$30,000	County Attorney (>\$10,000) County Manager	County Manager
Easements or other limited property rights	Up to \$30,000	County Attorney County Manager	County Manager
Roadway Encroachment Agreements	All	County Attorney County Manager	County Manager

APPENDIX C RESOURCES

- North Carolina General Statutes governing Public Contracts can be found here:
https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_143/Article_8.html
- Code of Federal Regulations (CFR) can be found here:
<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>
- Uniform Guidance can be found here:
<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=468eb6b7cfa5f58ae694694ec6ab1098&mc=true&n=pt2.1.200&r=PART&ty=HTML>
- Uniform Guidance for Administrative Requirements can be found here:
Pre-award: <https://www.ecfr.gov/cgi-bin/text-idx?SID=4b780e94e8d664276dd8303a8c4672b6&mc=true&node=sp2.1.200.c&r=div6>
Post-award: <https://www.ecfr.gov/cgi-bin/text-idx?SID=4b780e94e8d664276dd8303a8c4672b6&mc=true&node=sp2.1.200.d&r=div6>
- Uniform Guidance for Contract Provisions for Contracts Under Federal Awards can be found here:
<https://www.ecfr.gov/current/title-2/part-200/appendix-Appendix%20II%20to%20Part%20200>
- A comparison chart of federal and state procurement requirements can be found here:
https://www.sog.unc.edu/sites/www.sog.unc.edu/files/general_media/Federal%20and%20State%20Procurement%20Comparison%20Chart%20-%20FEMA_3.pdf
- Further information on dollar thresholds can be found here:
<https://www.sog.unc.edu/sites/www.sog.unc.edu/files/Dollar%20Thresholds%20Chart%202013.pdf>
- The State of North Carolina Interactive Purchasing System can be found here:
<https://www.ips.state.nc.us/ips/Default.aspx>
- The North Carolina E-Procurement System can be found here:
<http://eprocurement.nc.gov/>
- The North Carolina Department of Administration, Office of Historically Underutilized Businesses Bid Posting Website can be found here:
<https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub/submit-contractor-bid-opportunity-hub>
- Exceptions to State Competitive Bidding Requirements can be found here:
<https://www.sog.unc.edu/resources/legal-summaries/exceptions-state-competitive-bidding-requirements-table>
- The Federal System for Award Management (SAM) can be found here:
<https://www.sam.gov/SAM/>
- The NC Debarred Vendor List can be found here:
<https://ncadmin.nc.gov/government-agencies/procurement/contracts/debarred-vendors>



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Program Income Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS Brunswick County shall comply with the terms of ARP/CSLFRF, and the US Treasury's federal regulations governing the spending of ARP/CSLFRF funds, including the [Final Rule](#), and US Treasury's regulations governing expenditures of ARP/CSLFRF funds, including the [Award Terms and Conditions](#), [Compliance and Reporting Guidance](#) (together the "Federal regulations"), and any additional guidance US Treasury has issued or may issue governing the spending of ARP/CSLFRF funds; and

WHEREAS Brunswick County shall comply with the [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part § 200](#) (the "Uniform Guidance"); and

WHEREAS Brunswick County shall account for program income per the requirements set forth in the Uniform Guidance, including, but not limited to, [2 C.F.R. § 200.307](#), and as stipulated in [Compliance and Reporting Guidance for the State and Local Recovery Funds](#), which provides: "Recipients of CSLFRF funds should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records."¹

BE IT RESOLVED that the Board of Commissioners of Brunswick County hereby adopts and enacts the following policies and procedures for the use of program income earned from the expenditure of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award.

I. Purpose and Scope

Brunswick County enacts the following procedures for its use of program income earned from the expenditure of ARP/CSLFRF funds to ensure compliance with the Uniform Guidance, including, but not limited to, 2 C.F.R. § 200.307, the ARP/CSLFRF award, and all applicable Federal regulations governing the use of program income. Brunswick County hereafter agrees to administer program income according to the requirements set forth in this policy and as required by the Federal regulations and State law.

¹ Compliance and Reporting Guidance, p. 9.

The responsibility for following this policy lies with the County’s ARPA Committee, including the ARPA Funding Manager, the County Attorney, and the Director of Fiscal Operations, who are charged with the administration and financial oversight of the ARP/CSLFRF award. Questions on the use and/or reporting of program income should be directed to the ARPA Committee.

II. Definitions²

- a. *ARP/CSLFRF award* means the Federal program governing the use of Coronavirus State and Local Fiscal Recovery Funds as provided in the [Assistance Listing](#) and as administered by the US Treasury pursuant to the American Rescue Plan Act of 2021 (“ARPA”), Pub. L. No. 117-2 (Mar. 11, 2021).
- b. *CSLFRF funds* means the portion of Federal financial assistance from the Coronavirus State Fiscal Recovery Funds and Coronavirus Local Fiscal Recovery Funds (collectively “CSLFRF”) awarded to Brunswick County pursuant ARPA.
- c. *Federal award* means the Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101. The Federal award is the instrument setting forth the terms and conditions of the grant agreement, cooperative agreement, or other agreement for assistance.
- d. *Federal awarding agency* means the Federal agency that provides a Federal award directly to a non-Federal entity.
- e. *Federal financial assistance* means the assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions, direct appropriations, food commodities, or other financial assistance, including loans.
- f. *Federal program* means all Federal awards which are assigned a single Assistance Listings Number.
- g. *Non-Federal entity* means a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
- h. *Period of performance* means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. ***The period of performance for the ARP/CSLFRF award ends December 31, 2026.***
- i. *Program income* means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in [§ 200.307\(f\)](#).

III. Program Income Overview

For purposes of this policy, program income is the gross income earned by Brunswick County that is directly generated by a supported activity or earned as a result of the ARP/CSLFRF award during the period of performance, which closes December 31, 2026. (2 C.F.R. § 200.1.)

² Excluding the first two, the definitions in this section are found in 2 C.F.R. § 200.1.

Program income includes, but is not limited to, the following sources of income:

- The collection of fees for services performed.
- Payments for the use or rental of real or personal property.
- The sale of commodities or items fabricated under the Federal award.
- The payment of principal and interest on loans made under the Federal award.

Program income does not include fees or revenue from the following:

- The use of rebates, credits, discounts, and interest earned on any of them.
- Governmental revenues, such as taxes, special assessments, levies, or fines.
- Proceeds from the sale of real property, equipment, or supplies.³

IV. Use of Program Income

Program income earned pursuant to expenditures of ARP/CSLFRF is the property of US Treasury and shall be accounted for in one of three ways pursuant to [2 C.F.R. § 200.307\(e\)](#).

Deduction Method: Program income must be deducted from total allowable costs to determine net allowable costs. Program income shall be used to reduce US Treasury's obligation under the ARP/CSLFRF award rather than to increase the funds committed a project. Program income shall be used for current costs. Brunswick County shall track and account for program income during the period of performance and shall reimburse US Treasury, as required. 2 C.F.R. § 200.307(e)(1).

Addition Method: With prior approval, program income may be added to the total amount of the ARP/CSLFRF award, thereby increasing the total amount of the award. Program income must be expended on an eligible project or program. 2 C.F.R. § 200.307(e)(2). Pursuant to the terms of the ARP/CSLFRF award, the repayment of principal and interest on loans made with ARP/CSLFRF funds that will mature or be forgiven on or before December 31, 2026, may be accounted for using the addition method (see Section VI).

Matching or Cost Sharing Method: With prior approval, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award shall not change.⁴ 2 C.F.R. § 200.307(e)(3).

Unless the ARP/CSLFRF award otherwise stipulates, or Brunswick County has received prior approval, Brunswick County **shall apply the deduction method** to account for the use of program income.

³ 2 C.F.R. § 200.1 and 2 C.F.R. § 200.307 each define and limit the sources of program income.

⁴ The Final Rule provides that a non-Federal entity may expend up to the amount of its reduction in revenue due to the pandemic to meet the non-federal cost-share or matching requirements of other federal programs. However, the Final Rule does not mention whether *program income* may be used to meet cost-sharing or matching requirements. A non-Federal entity should not allocate program income to cost share or matching requirements unless it receives prior approval from US Treasury.

V. Allocation of Program Income

Brunswick County shall only expend program income on costs that are reasonable, allocable, and allowable under the terms of the ARP/CSLFRF award.⁵ To adhere to these requirements, Brunswick County shall comply with the cost principles included in 2 C.F.R. § 200, as outlined in Brunswick County's Allowable Costs and Costs Principles Policy. ***Please refer to said policy for additional information.*** Brunswick County shall allocate program income to the ARP/CSLFRF award in proportion to the pro rata share of the total funding (e.g., if ARP/CSLFRF funds cover half of a project's cost, with general revenue covering the other half, the unit shall allocate 50% of any program income earned to the ARP/CSLFRF award and account for its use pursuant to § 200.307).

VI. Repayment of Principal and Interest on Loans Made with ARP/CSLFRF Funds

US Treasury expects that a significant share of loans made with ARP/CSLFRF funds will be repaid. Accordingly, it has issued guidance on how to appropriately account for the repayment of principal and interest. Brunswick County agrees to appropriately account for the return of loan funds according to the ARP/CSLFRF award terms, as follows:

- **For Loans that mature or are forgiven on or before December 31, 2026:** Brunswick County may add the repayment of principal and interest (program income) to the ARP/CSLFRF award. When the loan is made, Brunswick County shall report the principal of the loan as an expense. Brunswick County shall expend the repayment of principal only on eligible uses and is subject to restrictions on the timing of the use of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award. Interest payments received prior to the end of the period of performance will be considered **an addition** to the total award and may be used for any purpose that is an eligible use. *Brunswick County is not subject to restrictions under 2 C.F.R. 200.307(e)(1) (the deduction method) in accounting for the use of program income.*⁶
- **For Loans with maturities longer than December 31, 2026:** Brunswick County is not required to separately account for the repayment of principal and interest on loans that will mature after the ARP/CSLFRF award's period of performance. Brunswick County may use ARP/CSLFRF funds for only the projected cost of the loan. Brunswick County may estimate the subsidy cost of the loan, which equals the expected cash flows associated with the loan discounted at Brunswick County's cost of funding. The cost of funding can be determined based on the interest rates of securities with a similar maturity to the cash flow being discounted that were either (i) recently issued by Brunswick County or (ii) recently issued by a unit of state, local, or Tribal government similar to Brunswick County. If Brunswick County has adopted the Current Expected Credit Loss (CECL) standard, it may also treat the cost of the loan as equal to the CECL-based expected credit losses over the life of the loan. Brunswick County may measure projected losses either once, at the time the loan is extended, or annually over the covered period. *Under either approach,*

⁵ 2 C.F.R. §§ 200.404, 408.

⁶ [Final Rule](#), p. 4436

Brunswick County is not subject to restrictions under 2 C.F.R. 200.307(e)(1) (the deduction method) and need not separately track repayment of principal or interest. ⁷

- **Revolving Loan Funds:** Brunswick County shall treat the contribution of ARP/CSLFRF funds to a revolving loan fund according to approach described above for loans with maturities longer than December 31, 2026.⁸ Brunswick County may contribute ARP/CSLFRF funds to a revolving loan only if the loan is determined to be for eligible use and the ARP/CSLFRF funds contributed represent the projected cost of loans made over the life of the revolving loan fund.

VI. Additional Program Income Requirements

- (a) **Identifying, Documenting, Reporting, and Tracking.** To ensure compliance with the requirements of program income as outlined by the Federal regulations, the terms and conditions of the ASP/CSLFRF award, and the requirements set forth herein, each department shall identify potential sources of program income and properly report the program income for the period in which it was earned and dispersed.

Program income shall be accounted for separately. Brunswick County shall not commingle program income earned from programs supported by ARP/CSLFRF funds with the general award of ARP/CSLFRF funds Brunswick County received from US Treasury. Any costs associated with generating program income revenue shall be charged as expenditures to the ARP/CSLFRF award.

- (b) **Program Income Earned After the Period of Performance.** Brunswick County shall have no obligation to report program income earned after the period of performance (December 31, 2026). However, Brunswick County shall report program income expended after the period of performance if that program income was earned on or before December 31, 2026.
- (c) **Subawards.** Brunswick County agrees to ensure that any subrecipient of ARP/CSLFRF funds abides by the award of the terms and conditions of this policy and is aware that the subrecipient is responsible for accounting for and reporting program income to the Brunswick County on a quarterly basis or at such other frequency as mutually agreed to between County and subrecipient.
- (d) **Compliance with State law.** Program income shall not be expended for purposes prohibited under State law.
- (e) **Subject to Audit.** Brunswick County recognizes that its use of program income may be audited and reviewed for compliance with Federal laws and regulations, State law, and the terms of the ARP/CSLFRF award.

⁷(See question 4.11 in [Treasury's Interim Final Rule FAQ document](#).)

⁸See question 4.11 in [Treasury's Interim Final Rule FAQ document](#).)

VIII. Implementation of Policy

The ARPA Committee will adopt procedures to identify potential program income during the project eligibility and allowable cost review, document actual program income, and follow the requirements in this policy related to the treatment of program income.



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Property Management Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury has issued [Compliance and Reporting Guidance](#), which provides, in relevant part:

Equipment and Real Property Management. Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 C.F.R. Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 C.F.R. § 200.311 and 2 C.F.R. § 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; and

WHEREAS Subpart D of the UG dictates title, use, management, and disposal of real property, equipment, and supplies acquired in whole or in part with ARP/CSLFRF funds.

BE IT RESOLVED that the Board of Commissioners of Brunswick County hereby adopts and enacts the following UG Property Management Policy for the expenditure of ARP/CSLFRF funds.

I. Policy Overview

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart D, details post award requirements related to property management of property acquired or updated, in whole or in part, with funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF).

2 C.F.R. § 200.311 through 2 C.F.R. § 200.316 detail property standards related to the expenditure of ARP/CSLFRF funds. Brunswick County shall adhere to all applicable property standards, as detailed below.

II. Definitions

The following definitions from 2 C.F.R. § 200.1 apply in this policy.

Computing devices: machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing,

transmitting and receiving, or storing electronic information. See also the definitions of supplies and information technology systems in this section.

Equipment: tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by Brunswick County for financial statement purposes, or \$5,000.00. See also the definitions of *capital assets*, *computing devices*, *general purpose equipment*, *information technology systems*, *special purpose equipment*, and *supplies* in this section.

Information technology systems: computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also the definitions of computing devices and equipment in this section.

Intangible property: property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

Personal property: property other than real property. It may be tangible, having physical existence, or intangible.

Property: real property or personal property.

Real property: land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

Supplies: all tangible personal property other than those described in the definition of equipment in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the local government for financial statement purposes or \$5,000.00, regardless of the length of its useful life. See also the definitions of computing devices and equipment in this section.

III. Real Property

Title to Real Property: Title to real property acquired or improved with ARP/CSLFRF funds vests with Brunswick County. 2 C.F.R. § 200.311(a).

Use of Real Property: Real property acquired or improved with ARP/CSLFRF funds must be used for the originally authorized purpose as long as needed for that purpose, during which time Brunswick County must not dispose of or encumber its title or other interests. 2 C.F.R. § 200.311(b).

Insurance of Real Property: Brunswick County must provide the equivalent insurance coverage for real property acquired or improved with ARP/CSLFRF funds as provided by property owned by Brunswick County. 2 C.F.R. § 200.310.

Disposition of Real Property: When Brunswick County no longer needs real property purchased with ARP/CSLFRF funds for ARP/CSLFRF purposes, Brunswick County must obtain disposition

instructions from US Treasury. The instructions must provide for one of the following alternatives:

1. Brunswick County retains title after compensating US Treasury. The amount paid to US Treasury will be computed by applying US Treasury's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where Brunswick County is disposing of real property acquired or improved with ARP/CSLFRF funds and acquiring replacement real property under the ARP/CSLFRF, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
2. Brunswick County sells the property and compensates US Treasury. The amount due to US Treasury will be calculated by applying US Treasury's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the ARP/CSLFRF award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When Brunswick County is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
3. Brunswick County transfers title to US Treasury or to a third party designated/approved by US Treasury. Brunswick County is entitled to be paid an amount calculated by applying Brunswick County's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property. 2 C.F.R. § 200.311(c).

IV. Equipment

Title to Equipment: Title to equipment acquired or improved with ARP/CSLFRF funds vests with Brunswick County. 2 C.F.R. § 200.313(a).

Use of Equipment: Brunswick County must use equipment acquired with ARP/CSLFRF funds for the project for which it was acquired as long as needed, whether or not the project continues to be supported by the ARP/CSLFRF award, and Brunswick County must not encumber the property without prior approval of US Treasury. 2 C.F.R. § 200.313(a)(1)-(2).

When no longer needed for the original project, the equipment may be used in other activities supported by a Federal awarding agency, in the following order of priority:

1. Activities under a Federal award from the Federal awarding agency which funded the original project, then
2. Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems. 2 C.F.R. § 200.313(c)(1).

During the time that equipment is used on the project for which it was acquired, Brunswick County must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the project for which it was originally acquired. First preference for other use must be given to other programs or projects supported by US Treasury and second preference must

be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate. 2 C.F.R. § 200.313(c)(2).

Noncompetition: Brunswick County must not use equipment acquired with the ARP/CSLFRF funds to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment. 2 C.F.R. § 200.313(c)(3).

Replacement Equipment: When acquiring replacement equipment, Brunswick County may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. 2 C.F.R. § 200.313(c)(4).

Management of Equipment: Brunswick County will manage equipment (including replacement equipment) acquired in whole or in part with ARP/CSLFRF funds according to the following requirements.

1. Brunswick County will maintain sufficient records that include:
 - a) a description of the property;
 - b) a serial number or other identification number;
 - c) the source of funding for the property (including the Federal Award Identification Number (FAIN));
 - d) who holds title;
 - e) the acquisition date;
 - f) cost of the property;
 - g) percentage of Federal participation in the project costs for the Federal award under which the property was acquired;
 - h) the location, use and condition of the property; and
 - i) any ultimate disposition data including the date of disposal and sale price of the property.
2. Brunswick County will conduct a physical inventory of the property and reconcile results with its property records at least once every two (2) years.
3. Brunswick County will develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft will be investigated by Brunswick County.
4. Brunswick County will develop and implement adequate maintenance procedures to keep the property in good condition.
5. If Brunswick County is authorized or required to sell the property, it will establish proper sales procedures to ensure the highest possible return, in accordance with state and federal law.

Insurance of Equipment: Brunswick County must provide the equivalent insurance coverage for equipment acquired or improved with ARP/CSLFRF funds as provided to property owned by Brunswick County. 2 C.F.R. § 200.310.

Disposition of Equipment: When the equipment is no longer needed for its original ARP/CSLFRF purpose, Brunswick County may either make the equipment available for use in other activities

funded by a Federal agency, with priority given to activities funded by US Treasury, dispose of the equipment according to instructions from US Treasury, or follow the procedures below. 2 C.F.R. § 200.313(e).

1. Equipment with a per-item fair market value of less than \$5,000 .00 may be retained, sold or transferred by Brunswick County, in accordance with state law, with no additional responsibility to US Treasury.
2. If no disposal instructions are received from US Treasury, equipment with a per-item fair market value of greater than \$5,000.00 may be retained or sold by Brunswick County. Brunswick County must establish proper sales procedures, in accordance with state law, to ensure the highest possible return. Brunswick County must reimburse US Treasury for its federal share. Specifically, US Treasury is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the ARP/CSLFRF funding percentage of participation in the cost of the original purchase. If the equipment is sold, US Treasury may permit Brunswick County to deduct and retain from the Federal share \$500.00 or ten percent (10%) of the proceeds, whichever is less, for its selling and handling expenses.
3. Equipment may be transferred to US Treasury or to a third-party designated by US Treasury in return for compensation to Brunswick County for its attributable compensation for its attributable percentage of the current fair market value of the property.

V. Supplies

Title to Supplies: Title to supplies acquired with ARP/CSLFRF funds vests with Brunswick County upon acquisition. 2 C.F.R. § 200.314(a).

Use and Disposition of Supplies: If there is a residual inventory of unused supplies exceeding \$5,000.00 in total aggregate value upon termination or completion of the ARP/CSLFRF project and the supplies are not needed for any other Federal award, Brunswick County must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment. 2 C.F.R. § 200.314(a).

Noncompetition: As long as the Federal Government retains an interest in the supplies, Brunswick County must not use supplies acquired under the ARP/CSLFRF award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute. 2 C.F.R. § 200.314(b).

VI. Property Trust Relationship

Real property, equipment, and intangible property, that are acquired or improved with ARP/CSLFRF funds must be held in trust by Brunswick County as trustee for the beneficiaries of the project or program under which the property was acquired or improved. US Treasury may require Brunswick County to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. 2 C.F.R. § 200.316.

VII. Implementation of Policy

The Director of Fiscal Operations shall adopt procedures to track all real property, equipment, and supplies (collectively, property) acquired or improved in whole or in part with ARP/CSLFRF funds. At a minimum, those procedures must address the following:

- Ensure proper insurance of property
- Document proper use of property
- Record and maintain required data records for equipment
- Conduct periodic inventories of equipment, at least every two years
- Create processes for replacement and disposition of property
- Establish other internal controls to safeguard and properly maintain property



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Record Retention Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

WHEREAS US Treasury has issued [Compliance and Reporting Guidance](#) dictating implementation of the ARP/CSLFRF award terms and compliance requirements, including recordkeeping requirements; and

BE IT RESOLVED that Board of Commissioners of Brunswick County hereby adopts and enacts the following Record Retention Policy for documents created or maintained pursuant to the ARP/CSLFRF Award.

Retention of Records: The Coronavirus Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF) Award [Terms and Conditions](#) and the [Compliance and Reporting Guidance](#) set forth US Treasury's record retention requirements for the ARP/CSLFRF award.

It is the policy of Brunswick County to follow US Treasury's record retention requirements as it expends ARP/CSLFRF funds pursuant to the APR/CSLFRF award. Accordingly, Brunswick County agrees to the following:

- Retain all financial and programmatic records related to the use and expenditure of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award for a period of five (5) years after all ARP/CLFRF funds have been expended or returned to US Treasury, whichever is later.
- Retain records for real property and equipment acquired with ARP/CSLFRF funds for five (5) years after final disposition.
- Ensure that the financial and programmatic records retained sufficiently evidence compliance with Section 603(c) of the Social Security Act "ARPA," US Treasury's regulations implementing that section, and guidance issued by US Treasury regarding the foregoing.
- Allow the US Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right of right of timely and unrestricted access to any records for the purpose of audits or other investigations.

- If any litigation, claim, or audit is started before the expiration of the five (5) year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

Covered Records: For purposes of this policy, records are information, regardless of physical form or characteristics, that are created, received, or retained that evidence Brunswick County's expenditure of ARP/CSLFRF funds on eligible projects, programs, or activities pursuant to the ARP/CSLFRF award.

Records that shall be retained pursuant to this policy include, but are not limited to, the following:

- Financial statements and accounting records evidencing expenditures of ARP/CSLFRF funds for eligible projects, programs, or activities;
- Documentation of rationale to support a particular expenditure of ARP/CSLFRF funds (e.g., expenditure constitutes a general government service);
- Documentation of administrative costs charged to the ARP/CSLFRF award;
- Procurement documents evidencing the significant history of a procurement, including, at a minimum, the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for contract cost or price;
- Subaward agreements and documentation of subrecipient monitoring;
- Documentation evidencing compliance with the Uniform Guidance property management standards set forth in 2 C.F.R. §§ 200.310-316 and 200.329;
- Personnel and payroll records for full-time and part-time employees compensated with ARP/CSLFRF funds, including time and effort reports; and
- Indirect cost rate proposals.

Storage: Brunswick County's records must be stored in a safe, secure, and accessible manner. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

Departmental Responsibilities: Any department of Brunswick County, and its employees, who are responsible for creating or maintaining the covered documents in this policy shall comply with the terms of this policy. Failure to do so may subject Brunswick County to civil and/or criminal liability. Any employee who fails to comply with the record retention requirements set forth herein may be subject to disciplinary sanctions, including suspension or termination.

The County's ARPA Committee, including the ARPA Funding Manager, County Attorney, and Director of Fiscal Operations, is responsible for identifying the documents that Brunswick County must or should retain and arrange for the proper storage and retrieval of records. The ARPA Committee shall also ensure that all personnel subject to the terms of this policy are aware of the record retention requirements set forth herein.

Reporting Policy Violations: Brunswick County is committed to enforcing this policy as it applies to all forms of records. Any employee that suspects the terms of this policy have been violated shall report the incident immediately to that employee's supervisor and/or department head. If an employee is not comfortable bringing the matter up with the supervisor or department head,

the employee may bring the matter to the attention of the County Attorney. Brunswick County prohibits any form of discipline, reprisal, intimidation, or retaliation for reporting incidents of inappropriate conduct of any kind, pursuing any record destruction claim, or cooperating in related investigations.

Questions About the Policy: Any questions about this policy should be referred to the County Attorney's office who is in charge of administering, enforcing, and updating this policy.



Brunswick County
American Rescue Plan Act of 2021
Coronavirus State and Local Fiscal Recovery Funds

Subaward and Monitoring Policy

WHEREAS Brunswick County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS US Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 C.F.R. Sect. 200 (UG), as provided in the [Assistance Listing](#); and

WHEREAS US Treasury has issued [Compliance and Reporting Guidance](#) which provides, in relevant part:

Subrecipient Monitoring. SLFRF recipients that are pass-through entities as described under 2 C.F.R. § 200.1 are required to manage and monitor their subrecipients to ensure compliance with requirements of the SLFRF award pursuant to 2 C.F.R. § 200.332 regarding requirements for pass-through entities.

First, your organization must clearly identify to the subrecipient: (1) that the award is a subaward of SLFRF funds; (2) any and all compliance requirements for use of SLFRF funds; and (3) any and all reporting requirements for expenditures of SLFRF funds.

Next, your organization will need to evaluate each subrecipient's risk of noncompliance based on a set of common factors. These risk assessments may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Ongoing monitoring of any given subrecipient should reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

Accordingly, your organization should develop written policies and procedures for subrecipient monitoring and risk assessment and maintain records of all award agreements identifying or otherwise documenting subrecipients' compliance obligations.

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.

Separately or in addition, many recipients may choose to provide a subaward (e.g., via contract or grant) to other entities to provide services to other end-users. For example, a recipient may provide a grant to a nonprofit to provide homeless services to individuals experiencing homelessness. In this case, the subaward to a nonprofit is based on the services that the Recipient intends to provide, assistance to households experiencing homelessness, and the nonprofit is serving as the subrecipient, providing services on behalf of the recipient. Subrecipients are subject to audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, subpart F regarding audit requirements.

WHEREAS Subpart D of the UG dictates subrecipient and award requirements for expenditure of ARP/CSLFRF funds; and

WHEREAS 2 C.F.R. § 200.332 states that:

All pass-through entities must:

- (a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the [required] information at the time of the subaward . . . When some of [the required information] is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward.
- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.
- (c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described by 2 C.F.R. § 200.208.
- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.
- (e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient, [specific] monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements an achievement of performance goals.
- (f) Verify that every subrecipient is audited as required by [2 C.F.R. § 200, Subpart F] when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. § 200.501.
- (g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
- (h) Consider taking enforcement action against noncompliant subrecipients as described in 2 C.F.R. § 200.339 and in program regulations.

BE IT RESOLVED that the Board of Commissioners of Brunswick County hereby adopts and enacts the following Subaward and Monitoring Policy for the expenditure of ARP/CSLFRF funds.

I. Policy Overview

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart D, defines requirements of pass-through entities initiating subaward agreements with ARP/CSLFRF funds. Brunswick County shall adhere to all applicable subaward and monitoring requirements governing the use of ARP/CSLFRF funds. This policy establishes procedures for classifying, making an award to, and monitoring a subrecipient consistent with ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with the Brunswick County ARPA Committee, which is charged with the administration and financial oversight of the ARP/CSLFRF funds.

II. Definitions

The definitions in 2 C.F.R. § 200.1 apply to this policy, including the following.

Contract: for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award. For additional information on subrecipient and contractor determinations, see [§ 200.331](#). See also the definition of *subaward* in this section.

Contractor: an entity that receives a contract as defined in this section.

Pass-through Entity: a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program. Brunswick County is the pass-through entity if it awards a subaward to a subrecipient.

Recipient: an entity, usually but not limited to non-Federal entities that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

Subaward: an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient: an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

III. Subrecipient Classification

Brunswick County must make case-by-case determination whether an agreement with another government entity or private entity, that is not a beneficiary, casts the party receiving the funds in the role of a subrecipient or contractor. 2 C.F.R. § 200.331.

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

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

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

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

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

Brunswick County will use the above criteria to determine if an agreement involving the expenditure of ARP/CSLFRF funds is a contract or subaward. The determination will be documented on the Subrecipient or Contractor Classification Checklist in Appendix 1. ([Appendix 1: Subrecipient or Contractor Classification Checklist.](#))

If the agreement involves a contractor relationship (including a contract for services), Brunswick County must follow its UG Contract and Purchasing Policy.

If the agreement involves a subrecipient relationship, Brunswick County must proceed as directed below.

IV. Assessment of Risk

Before engaging in a subaward, Brunswick County must evaluate a subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.

The ARPA Committee will conduct the risk assessment, which will include consideration of the following factors:

- (1) The subrecipient's prior experience with the same or similar subawards;
- (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with 2 C.F.R. § 200 Subpart F and the extent to which the same or similar subaward has been audited as a major program;
- (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
- (4) The extent and results of Federal awarding agency monitoring (*e.g.*, if the subrecipient also receives Federal awards directly from a Federal awarding agency). 2 C.F.R. § 200.332(b).

The results of the risk assessment must be documented in the Subrecipient Assessment of Risk form in Appendix 2 and will be used to dictate the types and degree of subrecipient monitoring. ([Appendix 2: Subrecipient Assessment of Risk](#)). Brunswick County will assign an overall risk level to the subrecipient indicating the following:

Low Risk	Moderate Risk	High Risk
There is a low risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements.	There is moderate risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements.	There is high risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements.

V. Subrecipient Monitoring

Brunswick County will develop and implement a subrecipient monitoring plan based on the findings of the Subrecipient Assessment of Risk. According to 2 C.F.R. § 200.332(d), the monitoring plan involves:

- (1) Reviewing financial and performance reports required by the pass-through entity;
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward;
- (3) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by [§ 200.521](#); and
- (4) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving crosscutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (*e.g.*, has been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section [§ 200.513\(a\)\(3\)\(vii\)](#). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.

Brunswick County's monitoring plan will vary based on the subrecipient risk assessment.

Subrecipient Deemed Low Risk	Subrecipient Deemed Medium Risk	Subrecipient Deemed High Risk
<ul style="list-style-type: none"> • Payment validations (monthly) • Report reviews (quarterly) • Desk reviews (at least once per year and more frequently if requested by Brunswick County or subrecipient) • Onsite reviews (upon request of Brunswick County or subrecipient) • Audit review (yearly) 	<ul style="list-style-type: none"> • More detailed financial reporting • Payment validations (monthly) • Report reviews (bi-monthly) • Desk reviews (within 6 months of project start and every six months thereafter) • Onsite reviews (within 12 months of project start and annually thereafter, or more frequently as requested by Brunswick County or subrecipient) • Audit review (yearly) • Procedures engagement (if subrecipient not subject to Single Audit Act; yearly) 	<ul style="list-style-type: none"> • More detailed financial reporting • Compliance training (one-time) • Prior approvals for certain expenditures • Payment validations (monthly) • Report reviews (monthly) • Desk reviews (within 3 months of project start and at least quarterly thereafter) • Onsite reviews (within 6 months of project start and bi-annually thereafter, or more frequently as requested by Brunswick County) • Audit review (yearly) • Procedures engagement (if subrecipient not subject to Single Audit Act; yearly)

Payment validations: All subrecipient documentation for project expenditures must be reviewed by Brunswick County for compliance with subaward requirements. Any non-compliant expenditures will be denied and the subrecipient will be provided a reasonable description of the reason for denial and an opportunity to cure the deficiency. For a subrecipient on a reimbursement-based payment structure, the validation will occur before a reimbursement payment is approved. For a subrecipient that received an up-front payment, any funds found to have been expended in violation of the subaward requirements must be repaid to the Brunswick County.

Report reviews: A subrecipient must submit quarterly financial and performance reports, based on the schedule set forth in the subaward. The nature and scope of the reports will depend on the project and be spelled out in the subaward. The reports will be reviewed by the ARPA Committee. Any deficiencies or other performance concerns will be addressed with the subrecipient in a timely manner and could trigger additional monitoring requirements or other interventions, as specified in the subaward.

Desk reviews: Brunswick County will conduct a virtual meeting to review the subrecipient's award administration capacity and financial management. Topics covered will depend on project scope

and subrecipient risk assessment and may include governance, budgeting, accounting, internal controls, conflict of interest, personnel, procurement, inventory, and record keeping. Brunswick County will produce a report which summarizes the results and any corrective actions if deemed necessary. The report will be shared in a timely manner with the subrecipient.

Onsite reviews: Brunswick County will conduct an in-person meeting to review the subrecipient's project performance and compliance. Topics covered will depend on project scope and subrecipient risk assessment and may include project procurement, data systems, activity and performance tracking, project reporting, inventory, and software systems. The Brunswick County will produce a report which summarizes the results and any corrective actions deemed necessary. The report will be shared in a timely manner with the subrecipient.

Audit review: Brunswick County must verify that every subrecipient is audited as required by [2 C.F.R. § 200 Subpart F](#) (Single Audit) when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in [§ 200.501](#). Brunswick County must obtain a copy of the subrecipient's Single Audit from the Federal Audit Clearinghouse (FAC). Within six (6) months of the acceptance of the audit report by the FAC, Brunswick County will issue a management decision for any audit findings related to the subaward. The decision will clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. (The decision will include reference numbers the auditor assigned to each finding.) The decision will provide a timetable for responsive actions by the subrecipient. Prior to issuing the management decision, Brunswick County may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision will describe any appeal process available to the subrecipient.

Procedures engagement: Applicable only to subrecipients who are not subject to the Single Audit Act. An auditor will perform specific procedures and report on findings. The scope must be limited to the following compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting. The review will be arranged and paid for by Brunswick County.

The specific monitoring plan for each subrecipient, including the type and frequency of reviews, will be detailed in the subaward agreement. For all requirements beyond those listed under the Low Risk category below, Brunswick County will notify the subrecipient of the following in the subaward:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the actions if applicable; and
- (5) The method for requesting reconsideration of the additional requirements imposed.

To implement the monitoring plan, the ARPA Committee must perform periodic reviews and document findings in the Subrecipient Monitoring Form ([Appendix 3: Subrecipient Monitoring Form](#)).

VI. Subrecipient Interventions

Brunswick County may adjust specific subaward conditions as needed, in accordance with 2 C.F.R. § 200.208 and 2 C.F.R. § 200.339. If Brunswick County determines that the subrecipient is not in compliance

with the subaward, Brunswick County may institute an intervention. The degree of the subrecipient's performance or compliance deficiency will determine the degree of intervention. All possible interventions must be indicated in the subaward agreement.

Brunswick County must provide written notice to the subrecipient of any intervention within thirty (30) days of the completion of a report review, desk review, onsite review, audit review, or procedures engagement review or as soon as possible after Brunswick County otherwise learns of a subaward compliance or performance deficiency.

The written notice must notify the subrecipient of the following related to the intervention:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the actions if applicable; and
- (5) The method for requesting reconsideration of the additional requirements imposed.

The following interventions may be imposed on a subrecipient, based on the level of the compliance or performance deficiency:

Level 1 Interventions. These interventions may be required for minor compliance or performance issues.

- (1) Subrecipient addresses specific internal control, documentation, financial management, compliance, or performance issues within a specified time period;
- (2) More frequent or more thorough reporting by the subrecipient;
- (3) More frequent monitoring by Brunswick County;
- (4) Required subrecipient technical assistance or training.

Level 2 Interventions. These interventions may be required for more serious compliance or performance issues.

- (1) Restrictions on funding payment requests by subrecipient;
- (2) Disallowing payments to subrecipient;
- (3) Requiring repayment for disallowed cost items;
- (4) Imposing probationary status on subrecipient.

Level 3 Interventions. These interventions may be required for significant and/or persistent compliance or performance issues.

- (1) Temporary or indefinite funding suspension to subrecipient;
- (2) Nonrenewal of funding to subrecipient in subsequent year;
- (3) Terminate funding to subrecipient in the current year;
- (4) Initiate legal action against subrecipient.

VII. Subaward Agreement and Execution

The subaward agreement will be drafted by the County Attorney's Office with input from the ARPA Committee, as needed. Contract terms and conditions may vary based on several factors, including subrecipient risk assessment findings, as documented in the Subrecipient Assessment of Risk. After review by the ARPA Committee and subject to approval by the Board of Commissioners, the Chairman of the Board of Commissioners may fully execute the subaward agreement, subject to any required budget amendments by the Board of Commissioners, preaudit requirements, and approval by the County Attorney's office.

APPENDIX 1: Subrecipient or Contractor Classification Checklist

If Brunswick County wishes to contract with another government entity or a private entity and use ARP/CSLFRF funds to pay for that contract, Brunswick County must determine if the relationship with the outside entity is a contractor or subrecipient. To make this determination Brunswick County must review the project proposal, budget classification, and other related proposal documents, as well as engage in discussions with key personnel about the nature of the proposed agreement. The determination of whether a proposed agreement involves a contractor or subrecipient relationship must be recorded on this form and maintained in the project file for the duration of the records retention period for ARP/CSLFRF records. ***Please refer to Brunswick County's ARP/CSLFRF Record Retention Policy for additional guidance and requirements.***

Instructions: Complete Sections one and two. The section with the greatest number of marked characteristics indicates the likely type of relationship. The substance of the relationship should be given greater consideration than the form of agreement between Brunswick County and outside entity. In borderline cases, Brunswick County may either provide a written justification for its determination in Section three or, if appropriate, restructure the agreement to more clearly define it as either a contractor or subrecipient relationship.

Definitions from Uniform Guidance (2 C.F.R. §, Part 200):

§200.86 Recipient	Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.
§200.69 Non-Federal entity	Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
§200.92 Subaward	Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
§200.93 Subrecipient	Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
§200.22 Contract	Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award.
§200.23 Contractor	Contractor means an entity that receives a contract as defined in §200.22

Name of Outside Entity: _____

Brief Description of Nature of Proposed Agreement:

Section 1 – Subrecipient. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship between the recipient and the subrecipient. Subrecipients may have one or more of the following characteristics:

- ☐ May determine who may be eligible to receive Federal assistance under the program guidelines. *For example: A subrecipient that identifies mentors and mentees under a mentoring program.*
- ☐ Has its performance measured in relation to whether objectives of a Federal program were met. *The recipient will rely upon the subrecipient's data to submit its own performance data to Treasury.*
- ☐ Has responsibility for programmatic decision making. *For example: If the recipient funds a subrecipient to develop (or improve) a particular program and the subrecipient will use its own judgment, discretion, and expertise to develop all or part of the program.*
- ☐ In accordance with its subaward agreement (which may be in the legal form of a contract), the subrecipient uses the Federal funds to carry out a program for a public purpose specified in authorizing statutes, as opposed to providing goods or services for the benefit of the recipient. *For example: To provide crime- or criminal-justice-related services (and, in the case of crime victims, compensation) to individual members of the public, such as victims of crime, or at-risk youth.*
- ☐ The subrecipient will not earn a profit under the agreement.
- ☐ The subrecipient is required to contribute cash or in-kind match in support of the subaward.

Section 2- Contractor. A contract is for the purpose of obtaining goods and services for the recipient's own use and creates a procurement relationship between the recipient and the contractor. *Entities that include these characteristics are not subject to compliance requirements of the Federal program because of the agreement, though similar requirements may apply for other reasons.* A contractor relationship may have one or more of the following characteristics:

- ☐ Provides goods and services within normal business operations.
- ☐ Provides similar goods or services to many different purchasers.
- ☐ Normally operates in a competitive environment.
- ☐ Provides goods or services that are ancillary to the operation of the Federal program. *Examples include but are not limited to: Office equipment, supplies, software licenses, reference books, chemical reagents, cell phones, body-worn cameras, body armor, internet services, cell phone service, website hosting, copying/printing, lodging.*
- ☐ The entity may earn a profit under the contract.

FINAL DETERMINATION:

- ☐ Subrecipient
☐ Contractor

Section 3 – Justification. In determining whether an agreement between a recipient and another non-Federal entity reflects a subrecipient or a contractor relationship, the substance of the relationship is more important than the form of the agreement. Considering the characteristics checked above, provide a written justification for the final determination of either a subrecipient or contractor relationship.

Explanation of Justification Determination:

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Signature: _____ **Date:** _____

Print Name and Title: _____

APPENDIX 2: Subrecipient Risk Assessment

Subrecipient Information:

Subrecipient Name:	
Subrecipient Unique Entity Identifier:	
Brief Description of Subaward Project and Role of Subrecipient:	

YES or NO	Is the entity prohibited from receiving Federal funds due to suspension or debarment per the Excluded Parties List located in the System for Award Management (SAM)? (https://sam.gov/content/home)
YES or NO	Is the entity in good standing with Brunswick County? Discuss with appropriate staff.
YES or NO	Has Data Collection Form on Federal Audit Clearinghouse (FAC) been reviewed? (https://facweb.census.gov/uploadpdf.aspx)
If YES,	List Findings:

Risk Category	Rating Label	Comments
General Assessments		
1. Is the proposed subrecipient entity's (hereinafter "entity") facility, equipment, supplies, and staffing adequate for the needs of the award?	YES or NO	
2. Has the entity adopted and implemented all required Uniform Guidance policies and procedures?	YES or NO	
3. Has the entity adopted and implemented records retention, conflict of interest, and nondiscrimination policies, consistent with the ARP/CSLFRF award terms?	YES or NO	
4. Is the entity properly licensed or certified by a recognized source (i.e., the Internal Revenue Service non-profit determination letter, bonded and	YES or NO	

insured if performing construction-related activities, etc.)?		
5. Does the entity have a Code of Ethics policy which is provided to all associated employees?	YES or NO	
6. Has the entity's management demonstrated a commitment to compliance with the subaward terms and all applicable laws and regulations?	YES or NO	
Financial Management, Systems, & Personnel		
7. Does the entity have a financial management system in place to track and record program receipts and expenditure by award?	YES or NO	
8. What is the current staffing level of the entity?		
9. Has there been any change in the entity's key staffing positions in the last two years?	YES or NO	
10. What is the entity's staff's experience in performing stated activities in the proposed subaward?		
11. Does the entity have sufficient internal controls related to the subaward funds?	YES or NO	
12. Does the entity have sufficient cash flow to carry out the subaward terms?	YES or NO	
Experience with Other Federal Grants		
13. Is the entity experienced in managing federal funds of the scope of this proposed subaward?	YES or NO	
14. If yes to 13., what is the entity's past performance on meeting federal program outcomes and managing federal funds in compliance with federal regulations?		
15. Identify any monitoring interventions the entity is currently subject to related to other federal grant awards.		
Audits		
16. Has the entity completed a Single Audit in the past five years?	YES or NO	
17. If yes, to 16., did the entity submit a timely Single Audit report?	YES or NO	
18. If yes, to 16., what was the Single Audit opinion on major program compliance?	YES or NO	
19. If yes to 16., where there any material weaknesses in internal controls?	YES or NO	

20. If yes to 16., where there findings for non-compliance for federal awards?	YES or NO	
21. If no to 16., has the entity been audited in at least one of the most recent periods?	YES or NO	
22. If yes to 21., where there any material weaknesses identified in the audit?	YES or NO	
Overall Risk Assessment		
23. Based on the overall assessment, does the reviewer anticipate any implementation problems with the proposed subaward?	YES or NO	
24. What percentage of the entity's overall annual budget will this subaward comprise?	0-25% (LOW) 25-50% (MEDIUM) Over 50% (HIGH)	
25. Considering all factors above, assess overall level of risk	LOW (Yes, and provided to all employees) MODERATE (Yes, but not provided to all employees) HIGH (No)	

Document any additional findings, mitigating factors, and recommendations here.

Assessment Completed By: _____ Date of Assessment: _____

APPENDIX 3: Subrecipient Monitoring Form

This report reflects Brunswick County's substantive assessment of the subrecipient's project implementation and subaward compliance. Upon completion, and following review by the ARPA Committee, the original will be filed in the subaward file. Any required subrecipient corrective actions will be detailed in writing and provided to the subrecipient within thirty days of the completion of this report.

STAFF INFORMATION

Reviewed conducted by:		Date:
Type (programmatic, financial, or both)		Date:
Review confirmed by:		Date:

SUBRECIPIENT INFORMATION

Subrecipient Name:	
Subrecipient Program Personnel (who participated in the review):	
Subrecipient Contact Phone Number:	
Subrecipient Fiscal/Audit Personnel (who participated in the review):	
Subrecipient Fiscal Contact Phone Number:	

GRANT REVIEW INFORMATION

Grant	Project #	Award \$	POP Begin	POP End	Review Period	
					Beginning Date	Ending Date

PRE-MEETING NOTES

List any issues, concerns, or other specialty items for follow-up during review.

- 1.
- 2.

SUMMARY OF PROGRESS

Subrecipient must submit a written summary of the major workplan milestones during the review period at least one (1) week prior to the review. The summary must address 1) number of clients served as compared with projections; 2) staffing; 3) activities undertaken; and 4) significant accomplishments. A copy of that summary will be appended to this written review report.

MONITORING OVERVIEW

PROGRAM IMPLEMENTATION

Indicate milestones met this quarter and identify milestones as scheduled to occur in the following quarter.

ACTIVITIES/PRODUCTS

Identify any reports or products that were submitted during the quarter, and identify those due the following quarter.

CORRECTIVE ACTIONS FROM PRIOR REVIEWS

Indicate actions taken in response to prior review issues.

ASSESSMENT OF QUALITY OF IMPLEMENTATION

Is the project being implemented on schedule? Are the activities impacting the goals and objectives as outlined in approved application?

ISSUES/PROBLEMS

Discuss significant new issues/problems with respect to projected milestones, audits, staffing, client flow, departures from approved goals, late reports, etc.

MONITORING SPECIFICS (Complete all fields that are applicable to the subaward)

Employee Reimbursement	<input type="checkbox"/> N/A	Yes	No	N/A
Request a copy of the employee reimbursement policy, and/or have the subrecipient describe the procedure for approving and documenting expenses that are reimbursed.				
1. Are detailed receipts (i.e., receipts that do not merely show a total, but the detail of what was purchased) provided for reimbursement?				
2. Are reimbursements reviewed and approved by a supervisor or project manager prior to being submitted to the Fiscal Officer/Accounting Staff for payment?				
3. Does the sub-recipient have a Reimbursement Policy?				
Examine two or more reimbursements that were paid out of the grant being monitored.				
4. Were the detailed receipts provided to support the amounts requested?				
5. Were the expenses in compliance with grant requirements/guidelines and UG?				
6. If reimbursed for training or conference expenses, was a certificate of attendance or completion, or agenda and brochure provided to support request for reimbursement?				
General Comments				

Equipment	<input type="checkbox"/> N/A	Yes	No	N/A
What is the purchasing procedure for equipment purchased with grant funds? Attach copies of relevant policies and of any purchasing documentation during the review period.				
How is equipment inventoried, insured, and managed? Attach copies of relevant policies and current inventory information.				
What is the procedure for transferring equipment purchased with grant funds to another entity? Attach copies of relevant policies and documentation for any transfers during review period.				
Request an inventory list, physical locate selected items, and examine items to ensure compliance.				
1. Were all transactions conducted in a manner providing full and open competition, and quotations obtained from an adequate number of sources?				
2. Has all equipment indicated as purchased actually been purchased?				
3. Was equipment purchased in accordance with required procurement rules/policies?				
4. Were additions and deletions to the equipment budget made and approved prior to the purchase/procurement dates?				
5. Does a detailed expenditure list indicate any equipment purchased that is not accounted for in the subaward budget?				
6. Is equipment purchased with subaward funds in prior years still in inventory and still being used for subaward purposes?				
7. Has the inventory been updated, and did it account for all items transferred to other entities?				

8. For equipment that was transferred, aside from normal office equipment, was the transferee properly trained on the equipment, and is there a record of that training?			
9. For equipment transferred to other entities; have they added it to their inventory records and is it maintained/used for intended purposes?			
General Comments			

Financial Management	<input type="checkbox"/> N/A	Yes	No	N/A
What is the Accounting System for each grant program?				
1. Is there a separate accounting for all financial transactions for the subaward?				
2. Is a process in place to prevent co-mingling of funds?				
3. Does the accounting system prevent obligation or expenditure of funds outside the subaward's period of availability?				
4. Were any illegal transfers or unusual activities noted during a review of the subrecipient's fund activity reports?				
5. Is proper Fiscal record retention being followed (through Dec. 31, 2031)				
What is the process for approval and payment of expenditures and posting to the General Ledger?				
6. Are subaward costs identified as eligible prior to encumbering funds and placing an order?				
7. Were the applicable State/Federal suspension and debarment listings consulted prior to doing business with a vendor and/or contractor?				
8. Are all invoices reviewed by the project director for eligibility and marked 'okay to pay' prior to being submitted to the fiscal office or accounting staff for payment?				
9. Are disbursements fully support by invoices, requisitions, purchase orders, or similar documents?				
10. Are cancelled checks or warrants available for review?				
11. Were all subaward funds that were received disabused within the allowable timeframe?				
What is the reconciliation process, and how are errors or adjustments handled?				
12. Does the subrecipient perform routine reconciliations of its records against the General Ledger? By whom and how often?				
13. Does the subrecipient have sufficient internal controls related to reconciliations?				
14. Were actions taken to promptly correct any errors and/or resolve issues?				
General Comments				
Other Direct Costs	<input type="checkbox"/> N/A	Yes	No	N/A
How are rent, utilities, and other items allocated for the program?				
1. Are rent payments documented by a copy of the lease agreement, and canceled checks or receipts?				
2. Are receipts, bills, and invoices properly maintained?				

3. Is the actual rate and method being charged to the grant consistent with the rate and method approved in the budget?			
4. Are costs shared with other programs or funding sources? If yes, how are costs allocated?			
General Comments			

Personnel/Direct Labor	<input type="checkbox"/> N/A	Yes	No	N/A
Describe the payroll process and who is paid by the subaward.				
1. Are personnel files maintained for each employee that include current job descriptions, performance and evaluations, and changes in pay rates?				
2. Are time sheets, activity reports, or payroll files available for review? These documents should clearly show the effort toward the subaward charged.				
3. Are individual employee time sheets and attendance records:				
• Prepared and signed by each employee for each pay period?				
• Reviewed and signed by each employee's supervisor?				
• Reconciled to the payroll master ledger?				
4. Are all authorized staff positions filled for the approved budget?				
5. Are staff salaries consistent with the approved budget?				
6. Are fringe benefits the same as what is listed in the approved budget?				
General Comments				

Reporting Requirements	<input type="checkbox"/> N/A	Yes	No	N/A
Subrecipients are required to report on progress toward implementing plans described in their application/proposal.				
1. Progress reports must be submitted based on approved work plan. Have all of the reports been submitted for this reporting period?				
2. Are there any outstanding data elements that must be tracked and reported by the subrecipient? If so, detail the plan for the subrecipient to comply with this requirement.				
Comments				
Supplies & Materials				
<input type="checkbox"/> N/A	Yes	No	N/A	
Explain the process of allocating supply costs to the subaward.				
1. Are purchases of supplies approved and well documented by quotes, invoices, or receipts?				
2. Are expenditures for supplies consistent with the approved budget?				
3. Is there a substantial supply inventory remaining at the project termination date?				
4. Were all transactions conducted in a manner providing full and open competition, and quotations obtained from an adequate number of sources?				

General Comments

Travel/Vehicle Mileage	<input type="checkbox"/> N/A	Yes	No	N/A
Request a copy of the subrecipient's travel policy or have them describe the procedure for approving and documenting travel expenses.				
1. Is employee travel approved in advance by a supervisor or project manager?				
2. Are travel expenditures documented with expenses reports and/or detailed receipts (i.e., receipts do not merely show total but detail of what was purchased)?				
3. Are travel expenditures appropriately supported within subaward guidelines and in the approved budget?				
4. Are mileage reimbursements supported by a mileage log or similar documentation?				
General Comments				

Single Audit Review	<input type="checkbox"/> N/A	Yes	No	N/A
Obtain a copy of the subrecipient's most recent audit from FAC. Attach it to this review form.				
1. Was the Major Programs' Compliance Opinion in the Summary of Auditor's Results in the Schedule of Findings qualified?				
2. Were there any findings and/or questioned costs for federal awards in the Schedule of Findings? Were any other operational issues such as the handling of assets, lack of policies and procedures, contract non-compliance, etc., which would impact Federal dollars received?				
3. Were past audit findings and/or questioned costs for federal awards satisfactorily resolved?				
4. Was any control issue identified which would impact the processing of Federal grant dollars (i.e., control weaknesses)?				
General Comments <i>(If yes response to questions 1, 2, and/or 4, then comment on the issues noted from the audit and how this was addressed during the onsite review).</i>				

RECOMMENDED CHANGES AND/OR NEW MONITORING INTERVENTIONS

Please document any recommendations for financial, programmatic, or other changes. Indicate if further monitoring interventions are warranted.