



## STATE OF NEW HAMPSHIRE



GOVERNOR'S OFFICE

for

EMERGENCY RELIEF AND RECOVERY

April 7, 2022

His Excellency, Governor Christopher T. Sununu  
 And the Honorable Council  
 State House  
 Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Governor's Office for Emergency Relief and Recovery (GOFERR) to enter into the attached **Memorandum of Understanding** with the New Hampshire Judicial Branch (NHJB) Vendor Code #177872, Concord, NH in an amount not to exceed \$2,059,499 Judicial Branch to improve the processing of Involuntary Emergency Admissions (IEA) cases by the Circuit Court upon approval from Governor and Executive Council through June 30, 2023. This is an allowable use of ARPA SFRF funds under Section 602 (c)(1)(A) to respond to the public health emergency or its negative economic impacts. **100% Federal Funds.**

Funding is available in the account as follows:

01-02-002-020210 – Governor's Office for Emergency Relief and Recovery,  
 24690000 – ARP Grants and Disbursements

085 – 588510 Inter-agency Transfer of Fed Funds

FY2022  
 2,059,499

EXPLANATION

GOFERR will enter into the attached Memorandum of Understanding (MOU) with the NHJB. GOFERR will then transfer ARP State Fiscal Recovery Funds to the New Hampshire Judicial Branch pursuant to terms and conditions set forth in the MOU. Under the terms of the MOU, NHJB will use the funds to replace the current system of processing and hearing IEA cases to a more centralized process to significantly improve efficiencies at multiple locations throughout the state. The funds will be used for initial costs needed to establish this centralized sustainable solution, a one time investments in technology and with a portion for salary and benefits of the courts staff and judges that are dedicated to this single, statewide mental health docket. The MOU requires that funds be sufficiently obligated by June 30, 2023 and anything not used by that date will lapse and return to the GOFERR SFRF fund. This will allow for any unobligated funds to be reallocated before the ARP deadline of 12/31/2024.

There is a need for dedicated staff to ensure the State meets the three-day time frame required in RSA 135-C:32 for all IEA Petitions Court hearings. The Courts have implemented a new process that conducts hearings while the patient is still in the local hospital and before they reach New Hampshire Hospital (NHH) or a Designated Receiving Facility (DRF). The patient is entitled to notice of the hearing and appointment of counsel. This system worked when petitions were filed after the patient had arrived at NHH or a DRF. However, it was apparent that the patients in local hospitals may not have been receiving

notice and that appointed counsel did not always have a means to contact their patient-clients who remained at local hospitals. As a result, petitions may have been subject to dismissal for failure to conduct a hearing within the 3 day deadline. This issue was most acute for IEA Petitions where the certifying clinician designated NHH as the receiving facility.

The Circuit Court will transform the way in which it handles IEA cases with the creation of a single, statewide mental health docket. The Court believes that significant efficiencies can be achieved by replacing the current system of processing and hearing IEA cases at multiple locations throughout the state with a centralized process. Judges and staff would be dedicated to and specialize in adjudication of IEA and other mental health-related cases. Additionally, the Court would assume the responsibility for appointment of counsel and to expand the counsel pool to ensure patients are timely receiving the counsel to which they are entitled.

The success of centralization will depend largely on the hard work of the staff assigned to the project. Because the Court will be assuming functions previously performed by DHHS, this new process will increase the amount of Court resources required for processing IEA cases, including issuance of hearing notices with information about remote hearings and attorney-client consultations to multiple parties. Centralization will also require coordination between multiple parties to facilitate hearings under tight deadlines, work that was previously done by DRF staff.

Efficient and timely processing of IEAs will require new Court staff who will be trained and dedicated to IEA processing and hearing coordination. The Court believes that four new case managers focused on processing of IEAs and other mental health related cases, such as non-emergency involuntary admissions, will be required. The case managers will be responsible for ensuring timely docketing of IEA cases, delivery of accurate hearing notices and other documents to parties, entry of court actions into the Court's case processing system, and issuance of notices of decision. These specialized case managers will also prepare files for judicial review and ensure that judicial decisions are timely and accurately reflected in Court records. They will also serve as courtroom clerks during IEA and other mental health related hearings. They must be experienced court staffers able to accurately process cases under tight deadlines.

Additionally, the case managers will be responsible for coordinating between all parties to ensure that timely hearings are conducted and that all parties are able to participate. Case managers will assist parties with connecting to remote hearings, answer questions from litigants about court processes, and address scheduling conflicts as they arise. Case managers will need to be skilled at interpersonal relations and assisting individuals in crisis, as their role will require communicating with individual and families experiencing extreme distress.

Because local courts typically dedicate only 15 to 60 minutes to IEAs per day, no one court can simply take over all IEA hearings. Instead, the Court proposes the addition of two central judges dedicated to hearing IEAs and other mental health related cases, such as involuntary commitments and guardianship cases for patient's subject to involuntary commitment. When not hearing mental health related cases, the central judges would be assigned to other, easily centralized cases, such as the review of warrants and the processing of electronically filed estate cases. Assigning two judges to centrally process IEA and other mental health-related cases will ensure smooth functioning of the system in the event of illness or vacation and allow the Court to conduct simultaneous IEA hearings on days when a high number of Petitions are received.

The addition of two full-time central judges who will take on tasks that would otherwise be handled by local judges will also provide flexibility to local courts to address IEA and other mental health related emergencies. For example, if the central judges process warrants in addition to IEAs, local courts would gain a day or more of judge time each month that they currently do not have because the local judge is

His Excellency, Governor Christopher T. Sununu  
And the Honorable Council  
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required to process warrants. Spreading that time out over the month would build flexibility into the local courts' schedules, permitting the court to reserve time each day for the judge to address mental health related emergencies, such as allowing a judge to travel to a local hospital to conduct an IEA hearing in-person when the patient is unable to participate remotely.

This is a presumptively eligible use of SFRF funds under FR 35.6 (b) (3) Enumerated uses; responses presumed reasonably proportional; subsection (i)(C) Behavioral Health and/or Public Sector Capacity Administrative Needs, FR 35.6 (b)(ii)(E) .

In the event that Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Taylor Caswell', written over a faint, stylized outline of the state of New Hampshire.

Taylor Caswell,  
Executive Director, GOFERR

**State of New Hampshire**  
**Intergovernmental Branch Memorandum of Understanding**

The Governor's Office for Emergency Relief and Recovery (GOFERR), a duly constituted instrumentality of the Executive Branch of the State of New Hampshire, and the New Hampshire Judicial Branch, by and through the Administrative Office of the Courts ("AOC"), a duly constituted Branch of the State of New Hampshire, hereby agree as follows:

GOFERR will transfer Coronavirus State and Local Fiscal Recovery Funds (SFRF) established by the American Rescue Plan Act of 2021 (ARPA), H.R. 1319, Section 9901 on March 11, 2021, provided by the United States Department of Treasury, CFDA number 21.027 to the State of New Hampshire, Federal Award Identification Number (FAIN) number SLFRP0145 in the amount of **\$2,059,499** to the AOC as authorized by the Fiscal Committee and Governor and Council to Activity 00FRF602PH0220A for all direct program costs and all administrative and indirect costs will be accounted for using activity 00FRF602PH0220Z. Contingent upon approval of the Involuntary Emergency Admission (IEA) Centralized Processing Item by the Fiscal Committee and Governor and Council.

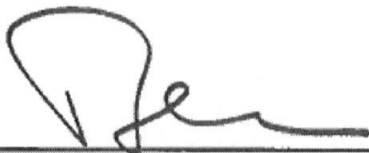
The AOC agrees that any part of the \$2,059,499 that is not obligated by June 30, 2023 will lapse and return to the GOFERR SFRF fund.

The AOC is responsible for adhering to all conditions as set forth in the ARPA SFRF grant agreed to by the State in accepting the SFRF funds (Exhibit A) and all applicable rules and regulations.

This MOU is not a contract or a sub-recipient agreement; rather, it is a mechanism to implement the allocation between component parts of State government from GOFERR to the AOC.

The AOC agrees and acknowledges that it will provide any required information that GOFERR needs to complete reporting required to the United States Department of Treasury and as required in any audits regarding the use of these federal funds, including completion of a transaction process memo in the format attached as Exhibit B, documenting the AOC's process for use of the funds and compliance with 2 CFR 200, as well as the reporting tool embedded in the Transaction Memo template, which must be updated at least quarterly.

Disputes under this MOU which cannot be resolved between GOFERR and the AOC shall be referred to the Department of Justice, Civil Bureau, for review and resolution.



Taylor Caswell, Executive Director  
Governor's Office for Emergency Relief and Recovery

7 APR 22  
Date

**New Hampshire Judicial Branch**

*Dianne Martin*

Dianne Martin, Director  
Administrative Office of the Courts

April 6, 2022

Date

**Approved by the Attorney General (Form, Substance and Execution)**

*Takhmina Rakhmatova*

4/7/2022

Date

**Approved by Governor and Executive Council**

Date

*RM*

# **Exhibit A**

OMB Approved No.:1505-0271

Expiration Date: 11/30/2021

U.S. DEPARTMENT OF THE TREASURY  
CORONAVIRUS STATE FISCAL RECOVERY FUND

Recipient name and address: State of New Hampshire Treasury 25 Capitol Street, Room 121 Concord, New Hampshire, 03301-6312	DUNS Number: 079617412 Taxpayer Identification Number: 026000618 Assistance Listing Number: 21.019
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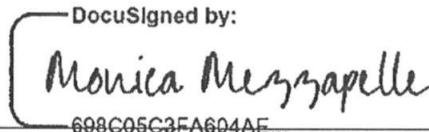
Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund.

As a condition to receiving such payment from Treasury, the authorized representative below hereby (i) certifies that the recipient named above requires the payment to be made pursuant to section 602(b) of the Act in order to carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto.

Section 603(b)(2) of the Act authorizes Treasury to make payments to States for the State to distribute to nonentitlement units of local government within the State in accordance with section 603(b)(2). The authorized representative below hereby agrees to use such payment from Treasury to make payments to such nonentitlement units of local government in accordance with Section 603(b) of the Act and Treasury's implementing regulations and guidance.

Section 603(b)(3)(B)(ii) of the Act authorizes Treasury to make payments to States, in the case of an amount to be paid to a county that is not a unit of general local government, for the State to distribute to units of general local government within such county in accordance with Section 603(b)(3)(B)(ii) of the Act. To the extent applicable, the authorized representative below hereby agrees to use any such payment from Treasury to make payments to such units of general local government in accordance with Section 603(b) of the Act and Treasury's implementing regulations and guidance.

Recipient: DocuSigned by:



698C05C3FA604AE...

Authorized Representative: Monica Mezzapelle

Title: State Treasurer

Date signed: 5/11/2021

U.S. Department of the Treasury:

Authorized Representative:

Title:

Date:

## PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY  
CORONAVIRUS STATE FISCAL RECOVERY FUND  
AWARD TERMS AND CONDITIONS

1. Use of Funds.
  - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
  - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records
  - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
  - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
  - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.



9. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
  - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
  - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
  - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
  - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
  - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
  - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
  - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
  - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
  - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
  - 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 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.
10. Remedial Actions. In the event of Recipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
  - b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may 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.
- b. The list of persons and entities referenced in the paragraph above includes the following:
  - 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 employee responsible for contract or grant oversight or management;
  - v. An authorized official of the Department of Justice or other law enforcement agency;
  - vi. A court or grand jury; or
  - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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Expiration Date: November 30, 2021

## **ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS**

### **ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

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4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

*The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.*

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and 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, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

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agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

State of New Hampshire Treasury

5/11/2021

Recipient

Date

DocuSigned by:

Monica Mezgapelle

698C05C3FA004AE

Signature of Authorized Official

#### PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

## **Exhibit B**



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## Instructions

The Transaction Memo is designed to be a dynamic document recording transactions, allocations, and projects funded by federal American Rescue Plan Act (ARPA) funds received through State Fiscal Recovery Funds (SFRF). This includes each project's policies and procedures, from formal establishment to payment, as well as planned monitoring/internal auditing and reporting. **This document must be regularly updated and is vital for tracking and reporting on the use of federal funds.**

Please note the following:

- Transaction Memos should be completed at the **PROJECT** level, meaning you may have to submit multiple Transaction Memos for a single SFRF allocation. A project is defined as a grouping of closely related activities that together are intended to achieve a specific goal or directed toward a common purpose. These activities can include new or existing services, funded in whole or in part by the SFRF award. If an allocation spans multiple EC categories or was assigned multiple unique NH First activity codes, each EC category or activity code must have a separate Transaction Memo because each will be reported separately as a project to Treasury.
- **Before completing a Transaction Memo**, please confer with GOFERR to discuss project planning and eligibility expenditure categories.
- **All state agencies and branches are a single recipient of the SFRF funds for Treasury reporting and compliance. Before completing a Transaction Memo**, ensure that you are following the SFRF Awards Terms and Conditions as outlined in the table below:

Requirements	Explanation
SAM.gov Requirements	All recipients, subrecipients, and contractors are required to have an active registration with the System for Award Management (SAM) ( <a href="https://www.sam.gov">https://www.sam.gov</a> ).
Recordkeeping Requirements	Generally, your agency must maintain records and financial documents for five years after all funds have been expended or returned to Treasury, whichever comes later. This will require retention until at least 12/31/2031.
Single Audit Requirements	Your agency's use of SFRF will be a part of the State federal single audit. You will be required to provide any documentation required. Your agency's subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at <u>2 CFR Part 200, Subpart F</u> .
Civil Rights Compliance	Recipients, subrecipients and contractors of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds.

- All fields in this form must be complete for your Transaction Memo to be reviewed for approval.
- You should submit separate Transaction Memos for each SFRF project that your agency or department is intending to fund with SFRF dollars.
- Your completed Transaction Memo should be submitted to GOFERR via the State FTP site.
- If at any time you have a substantial change to your project (e.g., new or additional spending authority or extension; change in project eligibility criteria), you must immediately update and resubmit this Transaction Memo. You will also be required to provide minimum of quarterly project updates.

#### Revisions Log

**Instructions:** Provide the date of most recent revision and initials of person completing. Add more lines as needed.

Version	Revision Date	Point of Contact	Revised Section(s)
v1			New
v2			

#### I. Project Overview

##### 1) Project Title

**Instructions:** Maintain consistency in AU, activity code, and funding source references

Required Information	Response
State Agency/Department	
Project Title	
Project Point of Contact (POC)	
Activity Code	

##### 2) Project Description

**Instructions:** This should be a narrative description of the purpose, eligibility requirements, and scope of the project, and should include the justification for why the project is an eligible use for ARPA funds.

**NOTE: GOFERR review and approval is necessary for all project expenditure category selections.** If you have not discussed your projects and expenditure categories with GOFERR, please do so before completing the remainder of the Transaction Memo. For more information on expenditure categories, please review the "Step 2: Expenditure Categories" document included in the Transaction Memo packet

Required Information	Response
Project Overview Narrative	[Insert narrative]
Approved Expenditure Category	
Supporting Files (as appropriate)	[INSERT FILES FOR SUPPORT AS APPROPRIATE, HERE]

### 3) Project Spending Authority

**Instructions:** Complete the sentence in the table below. This should include any Fiscal Committee and Governor & Council approvals; and the hierarchy of funding that led to this project, moving from the largest buckets to the smallest (e.g., ARPA SFRF → agency accept and expend for specific projects → a list of approved and funded projects).

Spending Authority Attestation
The spending authority for the <u> [Project Title] </u> program was authorized by <u> [Joint Legislative Fiscal Committee] </u> and the <u> [Governor and Executive Council Placeholder] </u> pursuant to RSA 14:30-a [add an Executive Order <u> [Placeholder] </u> if applicable] on Month, Day, Year: <u> [Date] </u> .

[INSERT COPIES OF AUTHORIZATION DOCUMENTS HERE]

[Insert Fiscal Committee's Requested Action]

[Include Executive Branch authorization as warranted]

## II. Detailed Project Information

**Instructions:** Complete all relevant parts of this Section (II.1 through II.4) for your project.

<b>Project Name</b>	[Insert Project Name]
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### 1) Project Transaction Process

**Instructions:** This section will explain how the State agency will obligate and administer the project through processing and payment. This includes the obligation process, (note that "application" is used broadly and might include a formal application process, or a grant being given for a very specific purpose, contracts, or use for a state agency expense).

This should include screen shots and examples of each step of the application process; followed by the same for the determination of eligibility and award amount. Screen shots are needed rather than links to web content as links break and/or website content is changed and removed. It should then follow the award through the payment process.

Required Information	Response
<b>Project Procedures</b> <i>Describe how the state agency will administer applications, contracting or agency expenses. Insert copies of program policies, program guidance,</i>	

descriptions, FAQs or terms, if applicable	
<b>Application Processing Procedures</b> <i>If applicable, describe how applications or bids will be processed. Insert example or copies of RFP, applications, contracts, award determination notices, grant agreements or terms and conditions</i>	
<b>Payment Processing Procedures – The below should include transaction processing information for NH FIRST:</b>	
<b>Accounting Unit</b> (and description)	[Insert per NH's Accounting Unit structure]
<b>Account</b> (and description)	[Insert per NH's Account information per accounting system]
<b>Activity</b> (and description)	[Insert per NH's Activity structure]
<b>Account Category</b> (and description).	[Insert per NH's Account Category]
<b>POC Entering and Approving Transactions in NH FIRST</b> <i>Please include any procedures for expenditure review or reconciliation</i>	<b>Point of Contact:</b> [Insert expenditure review and reconciliation procedures]
<b>Records</b> <i>Specify what records are kept for each payment</i>	[Insert example of records for payments]

## 2) Treasury and Uniform Guidance Requirements

Agencies will be responsible for supporting GOFERR in submitting quarterly reports summarizing use of SFRF funds. Please fill out the embedded SLFRF Reporting Tool Excel for each project. This tool summarizes Treasury compliance and reporting requirements associated with each expenditure category.

Reference the SLFRF Tool Tutorial link prior to filling out this tool. Note that **you will be expected to provide GOFERR with the updated relevant reporting information quarterly through the life of your project.** If you are unable to fill out any field in this tool, please indicate the steps you are taking to obtain that data. Once you have filled out this spreadsheet, please save and rename the form "[AGENCY NAME]-SLFRF Reporting Data".



NH Transaction  
Memo - SLFRF Repo

#### Instructions

**IMPORTANT:** If you are expending SFRF funds on anything other than state employee payroll and benefits and fringe costs, you must classify the relationship of the entity that is receiving the funds. Please review the instructions below to ensure you're completing the SFRF Reporting Tool correctly. Information about these relationships will be captured on the **"Operational Relationship Details" tab in the Project Reporting Tool.**

#### **a. Relationship Classification**

**Instructions:** There exist three main types of relationships between entities: contractors, subrecipients and beneficiaries.

- If the following is true, this relationship can be considered a contractor relationship:
  - *If the recipient directs specific activities to be completed by the entity, by providing goods or services, the risk falls on the entity to deliver, per the agreement terms. In this case, the entity would not be required to adhere to the federal grant project requirements, just the terms and conditions in the agreement (contract) with the recipient.*
  - Please reference the Uniform Guidance Desk Reference for the requirements associated with a contractor relationship.
- If the following is true, this relationship can be considered a subrecipient relationship:
  - *If the funding is given to the entity with a purpose of completing the goal of the grant, the recipient will be required to ensure the entity adheres to federal grant project guidance. The recipient will also be required to monitor the activities of the entity per Uniform Guidance.*
  - Please reference the Uniform Guidance Desk Reference for the requirements associated with a subrecipient relationship.
- If neither of the above holds true, then the relationship can be considered a beneficiary relationship

If you need additional assistance in distinguishing between each type, please use the embedded Federal Award Classification Checklist below.



Federal Award  
Classification Check Li

**If you have a subrecipient relationship...**

The document below – the Subrecipient Risk Assessment - has been created to aid you in identifying a reasonable monitoring plan for the subrecipient.



Subrecipient Risk  
Assessment Tool\_Nc

For more information on how to use the Subrecipient Risk Assessment Tool, please [refer to this webinar](#) which walks through the document.

**b. Additional Documentation for Reporting**

**Instructions:** If the Project Reporting Tool indicated that you need to embed certification documentation in the Transaction Memo document, please do so below.

**...If you have a capital expenditure greater than or equal to \$1 million:**

If you have a capital expenditure project that costs (including pre-development costs) greater than or equal to \$1 million, you must provide GOFERR with a Written Justification Memo.

If your project requires a Written Justification, your response should include, at a minimum, the following:

- Description of the harm or need to be addressed;
- Explanation of why the capital expenditure is appropriate; and
- Comparison of the proposed capital expenditure to at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior.

*[INSERT COPY OF WRITTEN JUSTIFICATION MEMO HERE]*

**...If you have an infrastructure project greater than \$10 million OR a project that has capital expenditures in excess of \$10 million:**

- Certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis Bacon Acts").

*[INSERT COPIES OF CERTIFICATION DOCUMENTS HERE]*

- Certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).

*[INSERT COPIES OF CERTIFICATION DOCUMENTS HERE]*

- A copy of the described Community Benefit Agreement, if applicable.

*[INSERT COPIES OF COMMUNITY BENEFIT DOCUMENT HERE]*

### 3) Performance Metrics

The state strongly encourages recipients to create a list of additional outcome metrics that they intend to achieve for each project. Information about these relationships will be captured **on the “Projects” tab in the Project Reporting Tool**. Please refer to the following webinar (linked [here](#)) for more information on outcome metrics to consider.

## III. Other Project Information

### Administrative Costs

Summary of allowable facilities and administrative costs (indirect cost recoveries). Please consult with GOFERR for allowed rates.

*[Insert costs per GOFERR consultation on allowed rates]*