

# Nassau County Multiyear Groundwater Conservation Program – Water Quality Improvements – Coronavirus Local Fiscal Recovery Funds (CLFRF)

## Key Considerations Related to Application Development, Procurement and Compliance for Prospective Grantees

As a Recipient of Coronavirus Local Fiscal Recovery Funds (CLFRF) made available pursuant to the American Rescue Plan Act (ARPA), Nassau County is responsible for designing programs that will ensure these funds are spent for eligible activities and in a manner compliant with all applicable regulations. As part of the County's effort to support public and private water suppliers ("Water Districts") as they incur costs to treat and remove emerging contaminants including, but not limited to, 1,4 Dioxane and PFO/PFOAs in order to meet updated drinking water standards, the County has designated a portion of its CLFRF allocation to provide grants of up to \$50,000 to the Water Districts. Water Districts serving Nassau County are eligible to apply for these grants for eligible expenses under the CLFRF program regulations and, upon award of funding, will be responsible for ensuring compliance with applicable regulations governing use of federal funds. Grant funds can be used for:

- Study, planning/design of emerging contamination occurring within the water district
- Purchase of equipment, materials and supplies to advance to removal of emerging contamination from the water supply of the district
- Installation of equipment to advance removal of emerging contamination from the water supply
- Purchase of support equipment such as Information Technology (IT) related to systems integral to treatment process within the district's distribution system
- Development of operations manuals/guidelines/materials for use by water supplier personnel specifically pointed to the removal of emerging contamination
- Maintenance activities of systems already online and removing emerging contamination. Such activities may include the removal of spent materials used in the treatment of contamination, or the purchase of new materials to be used in the treatment process, such as Activated Carbon.
- Defray the cost of laboratory testing for emerging contaminants

Recognizing that many Water Districts have limited experience with the administration of federal grants, this document has been developed to highlight key considerations related to application development, procurement and compliance that are applicable to grant funding awarded through this project.

## Application Development

Water Districts will submit applications for grant funding through the Boost Nassau Portal by accessing the “Special Districts” page at <https://www.nassaucountyny.gov/5215/Boost-Nassau-Recovery-Resources?>

Before submitting an application, the following should be considered:

1. **Eligible Activities.** Applications must indicate that funding will be used for eligible activities as provided by the CLFRF regulations. One of the statutory eligible uses for CLFRF funding is for making necessary investments in water and sewer infrastructure. The U.S. Treasury’s Interim Final Rule provides further clarification in the form of a framework that “aligns eligible uses with projects that are eligible under the Environmental Protection Agency’s Drinking Water and Clean Water State Revolving Funds.”<sup>1</sup> The activities included in the application for grant funding must be eligible under Expenditure Category 5.10 Drinking Water: Treatment as listed in the CLFRF regulations. A water treatment project that would be allowable under the Drinking Water State Revolving Fund (DWSRF) regulations would be considered to be an allowable activity (FAQ 6.1).<sup>2</sup> Pre-project development costs, including engineering, and project startup costs, including training and equipment warranty, are specifically included as allowable costs (FAQ 6.12).<sup>3</sup>
2. **Timeframe.** Applications must indicate that funding will be for costs incurred during the allowable timeframes as set forth in the CLFRF regulations. For infrastructure projects, the costs covered by the grant must have been incurred after March 3, 2021, but may be associated with a project that was planned or started prior to this date.<sup>4</sup>
3. **Reporting.** The County, as CLFRF Recipient, will be required to make periodic reports about its expenditure of funds. These reports will include certain required program data on each project. Grant recipients will be required to submit periodic reports to the County to facilitate this reporting. Grant applicants should ensure that they will be able to meet reporting obligations for the project proposed for funding.

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<sup>1</sup> US. Department of the Treasury (June 24, 2021). Compliance and Reporting Guidance – State and Local Fiscal Recovery Funds, Version 1.1, p.4

<sup>2</sup> US Department of the Treasury. (July 19, 2021). Coronavirus State and Local Fiscal Recovery Funds – Frequently Asked Questions, p. 27.

<sup>3</sup> SLFRF FAQ, p. 34.

<sup>4</sup> SLFRF Compliance and Reporting Guidance, p.5.

## Procurement

All contracts used to expend federal award funds must follow federal, state and local procurement requirements in accordance with the standards found in the federal Uniform Guidance (2 CFR Part 200.317-327).<sup>5</sup>

1. General. The most important element of the federal procurement regulations is that the grantee must have “an infrastructure for competitive bidding and contractor oversight”.<sup>6</sup> This “infrastructure” is a set of policies and controls normally found in a purchasing policy, conflict of interest policy, and internal policy for verifying eligibility of bidders to participate in the procurement process.
2. Procurement Policy. Each Water District must have, either as part of their purchasing policy or as a stand-alone policy that is used for procurement purposes, language and associated controls covering:
  - a. Competitive bidding, and the circumstances under which non-competitive procurements are allowable;
  - b. Standards of conduct for contractors, including a conflict of interest policy;
  - c. Prohibitions on dealing with suspended or debarred parties;
  - d. Procedures to avoid acquisition of unnecessary items;
  - e. Records retention;
  - f. Allowable use of time and materials contracts;
  - g. Dispute resolution;
  - h. Contracting with small and minority businesses, women’s business enterprises and labor surplus area firms (federal requirements found in 2 CFR 200.321) as well as NY State regulations for contracting with MWBE and SDVOB;
  - i. Bonding requirements.
3. Contract Provisions. Each Water District must ensure that each contract includes provisions as set forth in Appendix II to 2 CFR Part 200, including:
  - a. Remedies and sanctions;
  - b. Termination for cause and convenience;
  - c. Equal Employment Opportunity;
  - d. Contract Work Hours and Safety Standards;
  - e. Right to Inventions;
  - f. Clean Air Act;
  - g. Debarment and Suspension;
  - h. Byrd Anti-Lobbying Amendment;
  - i. Procurement of recovered materials;
  - j. Prohibition on certain services or equipment;
  - k. Domestic preference.

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<sup>5</sup> SLFRF Compliance and Reporting Guidance, p.8.

<sup>6</sup> SLFRF Compliance and Reporting Guidance, p.8.

4. These requirements, including detailed language that has been vetted by the Nassau County Attorney's Office, are contained in the standard Grant Agreement that is intended for use by and between the County and the Water Districts. This agreement can serve as a guide for the Water Districts. **In addition, should a Water District not have a procurement policy that is compliant with federal, state and local regulations, that Water District may choose to take action to adopt the Nassau County policies for the purpose of procurement related to the administration of this grant.**

## Compliance

Along with procurement and contracting requirements, grants made with CLFRF funds are subject to other compliance requirements found in the federal Uniform Guidance as well as certain requirements that are specific to the CLFRF program. These compliance requirements include:

1. Allowable activities and eligibility. The Water District must review the eligible activities as detailed in the Interim Final Rule and other CLFRF guidance and must have controls in place to ensure that grant funds are only used for eligible activities.<sup>7</sup>
2. Allowable costs/cost principles, including administrative costs and salary expenses. The Water District must ensure that all expenditures are compliant with the cost principles found in 2 CFR Part 200, Subpart E. Special attention must be paid to allowable administrative costs, as indirect administrative costs may not exceed the *de minimis* rate of 10 percent.<sup>8</sup>
3. Equipment and real property. Equipment and real property must be purchased, tracked, maintained and disposed of in accordance with applicable regulations.<sup>9</sup>
4. Period of performance. All CLFRF funds must be obligated by December 31, 2024 and expended by December 31, 2026 unless a shorter timeframe is specified in the grant agreement between the Water District and the County.<sup>10</sup>
5. Program income. Any income generated must be treated in accordance with applicable regulations.<sup>11</sup>
6. Monitoring. The County has an obligation to monitor all subrecipients of CLFRF funding. Monitoring detail and frequency will be set based on a risk assessment of each grantee.<sup>12</sup>

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<sup>7</sup> SLFRF Compliance and Reporting Guidance, p.6.

<sup>8</sup> SLFRF Compliance and Reporting Guidance, p.7.

<sup>9</sup> SLFRF Compliance and Reporting Guidance, p.8.

<sup>10</sup> SLFRF Compliance and Reporting Guidance, p.8.

<sup>11</sup> SLFRF Compliance and Reporting Guidance, p.8.

<sup>12</sup> SLFRF Compliance and Reporting Guidance, p.9.

7. Civil rights compliance. Grantees must comply with all applicable civil rights laws and regulations and must provide necessary information to the County for reporting purposes.<sup>13</sup>
8. Executive compensation reporting. Organizations receiving funding that are subject to the requirements for reporting executive compensation as set forth in 2 CFR Part 170 are required to be in full compliance.
9. SAM.gov registration. All entities other than natural persons receiving funding must be registered in the federal System for Awards Management at SAM.gov.<sup>14</sup>
10. Audit requirements. Entities expending more than \$750,000 in federal funds during a fiscal year are subject to federal Single Audit requirements.<sup>15</sup>

## Information to Submit an Application

Applications can be submitted in the [Boost Nassau Nonprofit & Special-Purpose District Grant Application Portal](#):

- Applicants who have responded and want to resubmit an application can go ahead and do so. The applicant will need to submit a new application. An email will be sent directly to each applicant who has applied with a copy of their existing application for reference.
- The Boost Nassau Funding Application portal does not have the ability to save your application prior to submittal. You will not be able to save your application and continue it later. If you exit the portal prior to submitting the application, you will be required to start from the beginning.
- Upload all required documents. If the document is not applicable to your organization, then submit a letter of explanation in place of the document.
  - IRS Determination Letter for 501(c)
  - 2019 990 (Tax Return) and NY CHAR500 if applicable
  - NY State Tax Exemption Letter
- Award Limit is \$50,000.00
- Administration Overhead cannot exceed 10%
- Service Start and Service End (Period of Performance):
  - Project can have a start date prior to March 3, 2021 but only eligible cost incurred (obligated or expended) during March 3, 2021 through December 31, 2024 can be paid with the SLFRF fund.
- All costs incurred by December 31, 2024 must be expended by December 31, 2026.

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<sup>13</sup> SLFRF Compliance and Reporting Guidance, p.11.

<sup>14</sup> SLFRF Compliance and Reporting Guidance, p.10.

<sup>15</sup> SLFRF Compliance and Reporting Guidance, p.10.

- Specific Goal(s) of Program must be detailed. Ex: Provide information on the project or activity is being funded or explain how the funds will be used.
- Processed on a first-come, first-served basis.

## Notes and References

The preceding sections contain key provisions of regulations applicable to the use of CLFRF funds by a grantee. This document is not intended to be exhaustive, and grantees are encouraged to review all relevant guidance, including CLFRF-specific guidance published by the US Department of the Treasury and the federal Uniform Guidance found in 2 CFR Part 200.

*Coronavirus State and Local Fiscal Recovery Funds: Interim Final Rule.* 86 Fed. Reg. 26786 (May 17, 2021) (to be codified at 31 CFR Part 35)

U.S. Department of the Treasury. (June 24, 2021). *Compliance and Reporting Guidance: State and Local Fiscal Recovery Funds, Version 1.1.* Retrieved on October 19, 2021 from <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>

U.S. Department of the Treasury. (July 29, 2021). *Coronavirus State and Local Fiscal Recovery Funds: Frequently Asked Questions.* Retrieved on October 19, 2021 from <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>