

**MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE OF ALABAMA DEPARTMENT OF FINANCE
AND
THE ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS
FOR THE DISTRIBUTION AND ADMINISTRATION OF
CORONAVIRUS STATE FISCAL RECOVERY FUNDS**

This memorandum of understanding is made by and between the State of Alabama Department of Finance, at 600 Dexter Avenue, Montgomery, Alabama 36130 (“DOF”) and the Alabama Department of Economic and Community Affairs at 401 Adams Avenue, Montgomery, Alabama 36104 (“ADECA”). DOF and ADECA may be referred to herein individually as a “party” and collectively as the “parties.” This agreement becomes effective upon approval of the parties and the Governor of the State of Alabama.

I. Purpose and Scope

The federal American Rescue Plan Act of 2021, Public Law No. 117-2, 135 Stat. 4. (“ARPA”) was signed into law on March 11, 2021. The Act amended the federal Social Security Act to add Section 602 to the Social Security Act, and by doing so, created the Coronavirus State and Local Fiscal Recovery Fund (hereinafter referred to as “FRF”). The Act appropriated funds from the FRF to the State of Alabama and other states to support their response to the impact of COVID-19 on their communities, residents, and businesses, and to aid in efforts to contain COVID-19. Under Section 602 of the Social Security Act, FRF funds may be used to cover costs incurred by the State on or before December 31, 2024, for one of four broad purposes:

- A. To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits; or for aid to impacted industries;
- B. To respond to workers performing essential work during the COVID-19 public health emergency, by providing premium pay to eligible workers who are performing essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
- C. For the provision of government services to the extent of the reduction in revenue of the State due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- D. To make necessary investments in water, sewer, or broadband infrastructure.

The Secretary of the Treasury promulgated regulations for purposes of implementing the FRF, published in the May 17, 2021, Federal Register, at 86 Fed. Reg. 26786 (the “Interim Final Rule”). The Interim Final Rule remains in effect through March 31, 2022. On April 1, 2022, the Final Rule published in the January 27, 2022, Federal Register, at 87 Fed. Reg. 4338 (the “Final Rule”) becomes effective.

The State of Alabama was allocated \$2,120,279,417 in FRF funding and will receive the funds in two tranches. The first tranche was received by the State on June 4, 2021, in the amount of \$1,060,139,708.50. The second tranche for the remaining balance is expected to be received by the State in May 2022. Section 1(1) and Section 2 of Alabama Act 2022-1 (the “Act”) appropriates up to \$51,000,000 and up to \$34,000,000, respectively (the “funds”), in FRF funds to DOF “to be used to support the improvement and expansion of broadband network access to the citizens of Alabama.” The Act authorizes DOF to delegate these funds through memoranda of agreement to ADECA’s Digital Expansion Division. ADECA intends to utilize the funds to support the state’s efforts to expand necessary broadband infrastructure in Alabama in accordance with the Statewide Connectivity Plan, as adopted by the Alabama Digital Expansion Authority (the “Broadband Initiative”). The Broadband Initiative will comply with all rules and requirements set forth in ARPA and related guidance from the U.S. Treasury Department. These initiatives will focus on the deployment and expansion of affordable and reliable broadband internet service. It will target areas with an identified need for additional broadband investment, including areas with unserved and underserved households and businesses.

II. Parties’ Responsibilities

A. ADECA agrees to the following:

1. To develop and implement Broadband Initiative in accordance with Alabama Act 2022-1, Act 2021-465, other applicable authority, and as described herein;
2. To use the funds provided by DOF under this agreement in accordance with Section 602 of the Social Security Act, the Interim Final Rule (until March 31, 2022), the Final Rule (beginning on April 1, 2022), other applicable federal and state law, and for the purposes set forth in this agreement and for no other purpose;
3. To keep a separate accounting of the administrative costs of implementing the program using generally accepted accounting principles;
4. To comply with all federal requirements applicable to Subrecipients, including the Single Audit Act and Code of Federal Regulations, Title 2, Part 200, subpart F regarding audit requirements;
5. To provide to the State Finance Director’s Office, by April 10, 2022, and every quarter thereafter on the tenth of the month following the end of a quarter and continuing until all funds granted by this Agreement are expended or returned, a Project and Expenditure report using the template attached hereto as Appendix A, or as otherwise directed by DOF;
6. To provide to the State Finance Director’s Office, by July 10, 2022, and by July 10 in subsequent years until all funds granted by this Agreement are expended or returned, a Recovery Plan Performance Report for the Broadband Initiative using the template attached hereto as Appendix B, or as otherwise directed by DOF;
7. To provide to DOF all information requested in a complete and timely manner;
8. To not obligate the funds for any purpose after December 31, 2024, and to not expend any obligated funds after December 31, 2026;

9. To return any funds that remain unobligated on January 1, 2025 by January 31, 2025; and
10. To return any funds that remain unspent on January 1, 2027 by January 31, 2027.

B. DOF agrees to the following:

1. Within 14 days of the effective date of this Agreement, to provide \$85,000,000 to ADECA from the State's FRF funds as described herein to fund the Broadband Initiative and for no other purpose; and
2. The parties acknowledge and agree that a reasonable portion of the funds may be used to cover direct administrative expenses relating to the Broadband Initiative.

III. Termination of Agreement

Except as set forth in this section, this agreement may be terminated by either party for any reason with sixty days' written notice to the other party. If ADECA determines that it will not pursue this project for whatever reason, it may terminate this agreement upon written notice to the State Finance Director and upon return of any unspent funds. DOF may terminate this agreement immediately upon written notice to ADECA.

IV. Miscellaneous Provisions

- A. The terms and commitments contained herein shall not constitute a debt of the State of Alabama, which is prohibited by Section 213 of the Official Recompilation of the Constitution of Alabama, 1901, as amended by Amendment No. 26.
- B. By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.
- C. In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all other disputes arising under the terms of this contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.
- D. DOF and ADECA understand the unprecedented and novel challenge that COVID-19 presents to the State. Therefore, ADECA cannot guarantee the success of its efforts under this Agreement. In addition to the reporting requirements in Section II.A.5, ADECA will immediately notify DOF of material changes that make ADECA's performance hereunder impracticable.

- E. In order to comply with federal requirements relating to the administration of grants and other federal assistance funds, DOF provides the following information to ADECA: this award is provided to ADECA through a grant to the State of Alabama in the amount of \$2,120,279,417 from the U.S. Treasury via Section 602 of the Social Security Act (42 U.S.C. 301 et seq.), known as the American Rescue Plan Act, as created by Section 9901 of the ARPA, Pub. L. No. 117-2 (March 11, 2021) under Federal Award Identification Number SLFRP2635 Coronavirus State and Local Fiscal Recovery Fund for the period March 3, 2021 to December 31, 2024, CFDA number 21.027. This award is provided in accordance with the requirements set forth in the ARPA and other applicable federal and state law and policy, and ADECA affirms that all information it has provided to DOF relating to this subaward is true and accurate. This award does not include research and development. The parties acknowledge and understand that each subrecipient of FRF funds will be evaluated in accordance with Code of Federal Regulations 200-331(b) for risk of noncompliance with federal statutes, regulations, and the terms and conditions of the award. Further, each recipient and subrecipient's activities will be monitored as necessary to ensure that the award is used for authorized purposes, in compliance with law, and that performance goals are achieved. Other monitoring tools may be implemented depending on the level of risk posed by the subrecipient.
- F. Notwithstanding any other provision of this Agreement, the Parties acknowledge and agree that they are responsible for complying with all federal requirements applicable to this award, including the Single Audit Act and Code of Federal Regulations, Title 2, Part 200, subpart F regarding audit requirements.
- G. The parties acknowledge and agree that any subrecipient, 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 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 Agreement.
- H. 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 SLFRP2635 awarded to the State of Alabama by the U.S. Department of the Treasury."

V. Amendment

This agreement may be amended only by a writing signed by each party or representatives of each party.

[SIGNATURES APPEAR ON THE NEXT PAGE]

In witness whereof, the parties hereto have caused this agreement to be executed by those officers, officials, and persons thereunto duly authorized.

State of Alabama
Department of Finance

Bill Poole *3/21/22*
Bill Poole
Finance Director

State of Alabama
Alabama Department of Economic and
Community Affairs

Kenneth D. Boswell
Kenneth Boswell
Director

APPROVED:

Kay Ivey *3/22/22*
Kay Ivey
Governor of Alabama

SLFRF Quarterly Project and Expenditure Report

The “SLFRF Report” and the “SLFRF extra information” items discussed below are Microsoft Excel files that will be provided to the recipient by the State Comptroller’s Office along with contact information.

SLFRF Report

“SLFRF Report” is an excel file. All information and questions on the first sheet “Enter Recipient Info” should be completed. The yes/no questions have a dropdown list.

The second sheet “Enter List of Projects” should be completed for all your organization’s SLFRF projects. Make sure that project identification numbers are not duplicated because each project must align to one expenditure category. Some of the questions have a dropdown list. If you need to prepare a word document for the project description, then that will be okay. Include the expenditure category and the project ID in the word document.

An obligation is an order placed – such as a contract – and similar transactions that require payment.

An expenditure is when the service has been rendered or the good has been delivered to the entity, and payment is due.

Subrecipients should ensure that expenditures are less than or equal to obligations for each project; otherwise, this is an error, and the report will be sent back to your organization to be corrected.

If the project earns income or has expended that income, enter the total dollar value of program income earned and program income expended in the fields of the same name, respectively. Interest received on loans made with SLFRF funds should be tracked as program income. Interest earned on advances of federal funds are not considered program income and are not subject to these reporting requirements. For the purposes of the SLFRF report, expenditures for a loan should be identified as the value of the cash disbursement of the loan at the time of the disbursement.

Entries are not allowed in the last two sheets of the “SLFRF Report”. The sheet “Don’t change- Category Lookup” is the list from the U.S. Department of Treasury so it will only be changed if the Treasury makes changes. The sheet “Summary calculated from List” includes totals calculated from the sheet “Enter List of Projects”. If the totals are incorrect for your organization then the amounts for the appropriate projects should be corrected on the sheet “Enter List of Projects”.

SLFRF extra information

Some expenditure categories require extra information. If your organization has any expenditures in the following categories or range of categories, then the excel file “SLFRF extra information” is required:

1.9

2.1 through 2.5

2.14

3.1 through 3.5

4.1 through 4.2

5.1 through 5.15

5.16 through 5.17

The first sheet “Don’t change- Category Lookup” is the list from the U.S. Department of the Treasury so it will only be changed if the Treasury makes changes. Then there is a sheet for each category or range of categories that require extra information. The expenditure category and project ID are required for each sheet. The yes/no questions have a dropdown list. If you need to prepare a word document for some of the answers then that will be okay. Include the expenditure category and the project ID in the word document.

[Entity's Name]
202x State Fiscal Recovery Award Plan
Annual Report

GENERAL OVERVIEW

Executive Summary

In this section, provide a high-level overview of the entity's intended and actual uses of funding including, but not limited to: the entity's plan for use of funds to promote a response to the pandemic and economic recovery, key outcome goals, progress to date on those outcomes, and any noteworthy challenges or opportunities identified during the reporting period.

Uses of Funds

Describe in further detail your entity's intended and actual uses of the funds, such as how your entity's approach would help support a strong and equitable recovery from the COVID-19 pandemic and economic downturn. Describe any strategies employed to maximize programmatic impact and effective, efficient, and equitable outcomes.

Promoting equitable outcomes

In this section, describe efforts to date and intended outcomes to promote equity. Each annual report to follow must provide an update, using qualitative and quantitative data, on how the approach achieved or promoted equitable outcomes or progressed against equity goals during the performance period.

Describe efforts to promote equitable outcomes, including how programs were designed with equity in mind. Include how your entity will consider and measure equity at the various stages of the program, including:

- a. Goals: Are there particular historically underserved, marginalized, or adversely affected groups that you intend to serve?*
- b. Awareness: How equal and practical is the ability for residents or businesses to become aware of the services funded by the SLFRF?*
- c. Access and Distribution: Are there differences in levels of access to benefits and services across groups? Are there administrative requirements that result in disparities in ability to complete applications or meet eligibility criteria?*
- d. Outcomes: Are intended outcomes focused on closing gaps, reaching universal levels of service, or disaggregating progress by race, ethnicity, and other equity dimensions where relevant for the policy objective?*

Describe how your entity’s planned or current use of funds prioritizes economic and racial equity as a goal, names specific targets intended to produce meaningful equity results at scale, and articulates the strategies to achieve those targets.

Describe your jurisdiction’s efforts to date and intended outcomes to promote equity using qualitative and quantitative data on how the jurisdiction’s approach achieved or promoted equitable outcomes or progressed against equity goals. Describe any constraints or challenges that impacted project success in terms of increasing equity.

Table of Expenses by Expenditure Category

In this section, list the amount of funds used in each Expenditure Category. The table should include cumulative expenses to date within each category, and the additional amount spent within each category since the last annual Recovery Plan.

Entities may modify the table as needed by deleting unused rows where they have not expended any funds or by adding columns to more clearly characterize their program expenditures over time.

	Category	Cumulative expenditures to date (\$)	Amount spent since last Recovery Plan
5	Expenditure Category: Infrastructure		
5.1	Clean Water: Centralized wastewater treatment		
5.2	Clean Water: Centralized wastewater collection and conveyance		
5.3	Clean Water: Decentralized wastewater		
5.4	Clean Water: Combined sewer overflows		
5.5	Clean Water: Other sewer infrastructure		
5.6	Clean Water: Stormwater		
5.7	Clean Water: Energy conservation		
5.8	Clean Water: Water conservation		
5.9	Clean Water: Nonpoint source		
5.10	Drinking water: Treatment		
5.11	Drinking water: Transmission & distribution		
5.12	Drinking water: Transmission & distribution: lead remediation		
5.13	Drinking water: Source		
5.14	Drinking water: Storage		
5.15	Drinking water: Other water infrastructure		
5.16	Broadband: “Last Mile” projects		
5.17	Broadband: Other projects		

Project Inventory

In this section, entities should provide a description of each project undertaken. Below is an example of how to present the information noted in the Reporting Guidance, which incorporates project details as well as evidence and performance measure information outlined in the relevant sections above. This information should be replicated for all of the entity's projects.

Example Project

Project [Identification Number]: [Project Name]

Funding amount: [Funding amount]

Project Expenditure Category: [Category number, Category Name]

Project overview

- *A description of the project that includes an overview of the main activities of the project, the approximate timeline, primary delivery mechanisms and partners, if applicable, and intended outcomes.*
- *Link to the website of the project if available*
- *How project contributes to addressing climate change (for infrastructure projects under EC 5)*

Use of Evidence

- *Briefly describe the goals of the project, and whether SLFRF funds are being used for evidence-based interventions, the evidence base for the interventions, and/or if projects are being evaluated through rigorous program evaluations that are designed to build evidence. If a recipient is conducting a program evaluation in lieu of reporting the amount of spending on evidence-based interventions, they must describe the evaluation design*