

Coronavirus State and Local Fiscal Recovery Funds

Questions from ISP Webinar on 12.8.2022

This document contains answers to questions from the webinar hosted by the South Carolina Office of Regulatory Staff (ORS) on December 8th, 2022, concerning responsibilities of Internet Service Providers (ISPs) who will be contracting with ORS for American Rescue Plan Act State and Local Fiscal Recovery Funds (SLFRF) through ORS' ARPA Broadband Grant Program.

1. Will ISPs have to do an individual audit report by legal entity that receives funding?
 - ORS is subject to audit on federally awarded ARPA funds. The single audit requirement does not apply to ISPs; however, they are reminded the following language exists within each grant agreement, "the Grantee shall permit ORS, the State or any of its authorized representatives to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data, and other information relating to all matters covered by this Agreement."
2. Based on our reading of the Treasury and State materials, the State of South Carolina would be the subrecipient and any grant awarded Broadband providers would be beneficiaries - can you confirm this is correct?
 - The relationship between ORS and the ISPs is that of a recipient and contractors. The [Final Rule](#) identifies four primary groups: recipients, beneficiaries, subrecipients, and contractors. In general, the State, or in the case of South Carolina, each Agency, is the recipient of federal funds. The State Agency is the entity for reporting to the US Treasury.
Therefore, each State Agency may have beneficiaries, subrecipients, or contractors. A beneficiary is a household, small business, or nonprofit that receives direct assistance, typically in the form of cash assistance. Per P. 53 of [Final Rule FAQ](#), when recipients of SLFRF funds provide award funds to individuals or entities as a result of experiencing a public health or negative economic impact of the pandemic, those receiving such funding are beneficiaries of the funds.
A subrecipient is an entity that receives federal grant funding in the form of a grant from a recipient (recipient being a State Agency in this case), whereas a contractor is an entity that receives a contract to carry out the eligible uses of SLFRF. If the Agency is defining the scope of work, as is the case with ORS, then the awardee is a contractor. Please refer to 2 CFR 200.331 for additional information on subrecipient and contractor determinations.
3. How will completion percentage be calculated? Will it be based miles of fiber, service ready location, or total expenses?
 - Please refer to Exhibit J which provides information on reporting requirements. ORS will use data submitted by ISPs via Exhibit J to determine project completion percentage.
 - ORS will make a determination on completion percentage based on a combination of factors, including but not limited to number of locations served/passed and physical inspections. Additional factors influencing status of project completion will be subject to the discretion of ORS based on applicability to the given project. The ISP needs to

develop a methodology for calculating the overall completion percentage and be consistent across all projects.

4. Can you give specific information on labor and wage tracking? If we use a contractor to complete portions of the build, do we need to require our contractor to provide their labor and wages?
 - Labor and wage tracking is required for contracts >\$10M.
 - Regarding the second portion of the question, yes – if an ISP uses a contractor to complete portions of the build, the ISP must require the contractor to provide their labor and wages and then must report those to ORS.
 - The ISP is required to maintain all weekly submittals by contractor(s) for those certifying Davis Bacon. For those that decide to submit Labor Reporting, this reporting will be reported to ORS quarterly as part of the quarterly progress report and contractors must be able to supply ORS with a weekly submittal upon request.
5. Will Davis Bacon be required for total project cost or just the amount ORS awards to ISPs?
 - Davis-Bacon reporting is not required for projects solely funded with SLFRF funds. However, if a project contains >\$10M in SLFRF funds, for that portion of the funding a contractor must choose to EITHER certify Davis-Bacon OR provide a project employment and local impact report (labor reporting). See below for information on both options:
 - i. Davis-Bacon reporting:
 1. WH-347 Form
 2. Statement of Compliance
 3. Submitted Weekly
 - ii. Labor reporting
 1. The number of employees of contractors and sub-contractors working on the project
 2. The number of employees on the project hired directly and hired through a third party
 3. Whether those wages are at rates less than those prevailing
 4. The wages and benefits of workers on the project by classification
6. Are [Labor Reporting Requirements] by contract or will all the contracts by awardee be totaled to calculate the amount and then the requirements
 - The labor reporting requirements are by contract.
7. Do you have to have a competitive bidding process for materials and supplies?
 - No, you do not need to have a competitive bidding process for materials and supplies. As a contractor, you can follow all processes you normally would follow on a project.
8. Is the >\$10M limit per contract or per ISP? If the same ISP has two \$6m contract, would the wage reporting requirements kick in?
 - The labor reporting requirements are by contract.
9. Is the Bond for the full project amount?

- No, the bond is for the amount of the grant (vs. total project cost). Bonds are not required if the eligible ISP (holding company) has over \$100M of telecommunications plant in production in the State of South Carolina. A bond is required when the eligible ISP has less than \$100M of telecommunications plant in production in South Carolina.
10. Can cost of bond be paid with SLFRF funds?
- Yes, for awarded projects, the cost of bond is considered an eligible expense under the grant agreement.