

ARPA Project Name: Aid to small businesses

ARPA Funds: combined \$10,000,000.00

2.11	Aid to Tourism, Travel, or Hospitality	\$10,000,000.00
2.12	Aid to Other Impacted Industries	

Department of Commerce

Timeline to implementation: 3 months to 1 year

Overview

To provide assistance for Small Businesses, providing loans or grants, lines of credit for covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. Programs of this type are specifically authorized by the US Department of Treasury’s Interim Final Rule (IFR), which identifies a non-exclusive list of eligible uses. 31 CFR 35.

Providing small businesses with access to credit and capital will directly address the above identified negative impacts. The cash infusion is necessary to resume normal operations, especially as commercial flights will resume in the near future.

It is important to note that the criteria for assistance have some limitations. The IFR identifies a non-exhaustive list of eligible uses which includes:

- “(providing) assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency, including:
- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
 - Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and
 - Technical assistance, counseling, or other services to assist with business planning needs.” 31 CFR 35 (P. 34-35 accessed via PDF).

Tourism, travel & hospitality sectors and other impacted industries will be prioritized in accordance with the intent of the American Rescue Plan Act. However, these broad categories allow flexibility in determining who qualifies for assistance. Yet, each business applying for assistance should demonstrate specifically how they have been negatively impacted by the Public Health Emergency and to what extent. By quantifying the economic impact in their applications, it will ensure that the use is eligible and ensure compliance with ARPA’s requirements.

Project Background

The COVID-19 Public Health Emergency declaration has had a great impact on American Samoa's local economic and commercial activity. The projects identified in this document are to be funded using American Rescue Plan Act (ARPA) funds from the federal Government in accordance with the requirements of the Act.

American Samoa remains the only part of the United States of America and its Territories that has been blessed with zero cases of locally transmitted COVID-19 virus. While we are grateful for this blessing, it was not accidental that American Samoa has remained COVID-19 free. It required tremendous sacrifice by the people to keep their loved ones safe and protected. We are fortunate to have the support and federal assistance of the various COVID-19 relief and recovery funds to help meet the challenges as a result of the COVID-19 pandemic and the public health emergency declaration.

Our leaders drew upon the lessons of our history, specifically the 1918 Spanish pandemic that decimated our neighbors 80 miles to the West, who lost an estimated 20% of their population as their borders remained open during the critical early stages of the spread. As a result of the first Public Emergency Declaration in March 2020, American Samoa closed its borders as part of its strategy to mitigate the transmission of the Coronavirus that had grown to become a global pandemic. Our borders remain closed to regular commercial travel and all authorized travel by air or sea follow careful protocols to minimize the risk of exposure or transmission of the COVID-19 virus.

The public health emergency declaration, which has kept the COVID-19 virus from local community infection, has had a huge impact on imports into American Samoa. The global supply chain issues far from our shores have only been exacerbated in American Samoa as a result of the COVID-19 pandemic and the public health emergency declaration. Goods, transportation costs, and fuel costs have seen a dramatic increase which in turn increased costs for imported basic necessities, building materials, medicines and medical supplies, vehicles and equipment. American Samoa already had a higher cost for fuel than the national average in 2019, where the local average was \$2.91/gallon and the national average was \$2.61/gallon. Businesses have seen a significant increase in their operational costs as sourcing vendors for many basic goods have become more costly.

Providing urgently needed capital for local businesses to keep up with the skyrocketing costs is essential for the local businesses to survive and provide these critically needed goods.

American Samoa has experienced shortages in most categories from groceries, building materials, general merchandise, vehicles and equipment needed in the territory. It is estimated that over 95% of all goods used or sold in American Samoa are imported into the territory. The most recent American Samoa Statistical Yearbook identified a

trade deficit of over \$358.4 million in 2019, with increasing imports and decreasing exports from previous years, which highlight the increasing reliance on imported goods. Disruption or extended delays can have catastrophic consequences for the lives of the residents of American Samoa.

Businesses are struggling to handle the global supply chain issues and the increased transportation costs. In addition, the disruption in travel due to the suspension of commercial flights has severely impacted the tourism industry.

(a) COMMUNITY ENGAGEMENT

Community engagement is an essential aspect of ARPA funded projects. The intent of the US Treasury in fostering public participation is to maintain transparency and provide opportunities for feedback to ensure that funds are used in the most beneficial manner.

In keeping with the intent of the US Treasury, the American Samoa ARPA Oversight Office has adopted the following notice and comment timeline for proposed projects:

- A Notice of Proposed Project will be published online, in local newspapers, and via television or radio broadcasts. The Notice will specify that there will be twenty (20) days for the public to provide comment either in writing or by attendance at scheduled public hearings.
- Concurrent to the publication of the Notice, a draft proposal and scope of work will be published on the ARPA website for the public to review.
- General meetings with the public will be scheduled and publicized within the twenty (20) day Notice period. Email comments will also be accepted.
- Presentations to the Legislature will be conducted during the Notice period, as needed.
- At the close of the public comment period, the agency will have 20 days to revise the project as appropriate and submit the Final Draft to the ARPA Oversight Office.
- The Final Draft of the Project will be posted for public review once completed and certified by the ARPA Oversight Office.

It is the responsibility of the agencies in charge to publicize notices and adhere to the stated timelines. For the Small Business Loan Project, the anticipated date for the Notice of Proposed Project will be Oct 28, 2021.

(b) TIMELINE ON PROJECT LAUNCH

ARPA Funds are required by federal statute to be encumbered by December 31, 2024 or spent by December 31, 2026. 31 CFR 35.5. This mandate makes the need for a definite timeline for completion of projects of critical importance.

The ARPA business loan program project must identify the proposed start date, the completion dates of each phase of the project, inclusion of any notice/bid periods for procurement purposes, and an estimated date of completion, along with any other dates relevant to the project progress.

(c) SCOPE of Project (Business Loan Program)

Project Leads (Department) must provide the following:

1. Project Description and/or Business Plan
2. Completed Eligibility Analysis
3. Scope of Work
4. Implementation Plan & Timeline
5. Proposed itemized budget
6. Project Lead

Each proposed project must be submitted to the ARPA Office with a cover letter addressed to the Executive Director. Submittals must include the proposed plan as detailed above.

ARPA will review of eligibility and compliance to the American Samoa ARPA Spending Plan.

Once approved, an award certified letter will be provided verifying the project description and project lead.

Define scope of project based on response to Covid-19 pandemic and the public health emergency declaration, the business loan program must include:

- Define business loan program response to the COVID-19 pandemic or public health emergency declaration
- Specify statutory categories including travel, hospitality and tourism and impacted industries
- Identify and define business loan application process
- Identify and define review and selection process
- Identify and define business application requirements

- Identify and define all parties involved in the application and selection process
- Define resolution conflict in the event that an applicant challenges the award amount or rejected application
- Define the terms and conditions of the programs offered under the Business loan program
- Define the amounts allocated to each business loan program
- Adhere to special reporting requirements as outlined in the ARPA compliance and reporting document

(d) Adherence to ASG Procurement Process

ARPA funds are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements of Federal Awards (2 CFR Part 200). Specifically, these regulations require ASG to follow local procurement laws in using these funds. 2 CFR 200.317. The lead agency for each project (in the case of the Small Business Loan Project this will be the Department of Commerce) will work in concert within its established Procurement procedures to ensure that all procedures and requirements are followed and documented. All agencies are reminded that ARPA funds will be subject to federal audits.

CLAUSE	REQUIRED BY AMERICAN SAMOA ADMINISTRATIVE CODE	APPLIES TO
EQUAL OPPORTUNITY	10.0250(d)(3), 10.0260(c)	All Contracts in excess of \$10,000
DAVIS BACON ACT	10.0250(d)(5)	Construction contracts that exceed \$2,000 and when required by federal grant program legislation
CONTRACT WORK HOURS AND SAFETY STANDARDS ACT	10.0250(D)(6); 10.0260(D)	Construction contracts in excess of \$2,000 or contracts in excess of \$2,500 which involve employment of mechanics or laborers
CLEAN AIR AND WATER	10.0250(d)(7); 10.0260(f)	All contracts over \$100,000 (unless requirement has been waived by EPA)
TERMINATION FOR CONVENIENCE	10.0260(a)	Contracts in excess of \$10,000

TERMINATION FOR DEFAULT	10.0260(b)	Contracts in excess of \$10,000
PROHIBITION AGAINST GRATUITIES AND KICKBACKS	10.0260(f)	All contracts
PROHIBITION AGAINST CONTINGENT FEES	10.0260(g)	All contracts
PROHIBITION AGAINST COLLUSION	10.0260(i)	All contracts

In addition to the above required clauses, ASG Procurement Rules give preference to local bidders in construction projects. For contracts valued at \$50,000 or less, only local bidders are allowed to participate. For those greater than \$50,000, local bidders are given specified add-on percentages. This local preference leads to a greater number of local employees and overall income that is much needed in the Territory. This policy has a direct effect on local stimulation of the economy.

(e) Reconsideration Process

In accordance with Executive Order 03-2021, the ARPA Oversight Office reserves the right to determine which projects will receive funding based on a number of factors including but not limited to ensuring compliance with all federal requirements. The Office, however, recognizes that some of these determinations may adversely affect interested parties. For the purposes of this section, an interested party will be limited to applicants for direct funding opportunities for projects.

A process for reconsideration of denied projects is hereby implemented. For clarity, this process is separate and apart from any procurement disputes subject to the jurisdiction of the Office of the Administrative Law Judge. ASCA 4.0604(f).

Covered Disputes:

The dispute resolution process will be limited to ARPA Oversight Office denials of project awards. As an office of limited purview, the covered disputes identified above shall not be considered final agency decisions for the purpose ASCA 4.0604.

Reconsideration Requests:

Interested parties will have 5 business days from the announcement of awards by the ARPA Oversight Office to file a "Reconsideration Request" with the Director. The announcement of awards will mean each project is "provisionally awarded" the requested ARPA funds.

The request will detail the basis for reconsideration including the project award denial being challenged, how the decision adversely affects the party, how the requested change would benefit the objectives of the American Rescue Plan Act.

A hearing shall be held within 5 days of filing the Reconsideration Request with the Director. The Director shall issue a notice of hearing to the filing party.

The hearing will be conducted by a three-member panel headed by the Director. Panel members will be selected by the ARPA Oversight Office. The panel will have an advisory role, but the ultimate decision-making authority shall be the Director's.

Parties to the dispute may present evidence, materials, and witnesses in support of their claims. The Director will have discretion to limit presentation of evidence, materials, or witnesses.

Upon completion of the hearing, which shall not exceed two hours, the panel will consider arguments and evidence presented in the Reconsideration Request and at the hearing. The Director shall be responsible for rendering a decision on the issues presented within three (3) business days of the conclusion of the hearing. "

(f) Local Certification/Licensing/Permitting (as applicable)

Each project will require adherence to applicable local licensing, certification, and permitting laws. For the Small Business Loan Project, the lead agency will be responsible for obtaining each necessary approval prior to the start date. A list of these documents as well as copies should be submitted to the ARPA Oversight Office.

(g) ARPA Reporting Requirements

ARPA requires both quarterly and annual reports on projects and expenditures. The American Samoa ARPA Oversight Office will, therefore, be requesting information from relevant agencies in order to meet the strict deadlines set forth in the US Treasury's Reporting and Compliance Guide. Each agency must provide the requested information or an explanation as to why information is not available by the time specified by ARPA Oversight Office staff. Failure to do so could jeopardize future funding opportunities. Adherence to ARPA Compliance and Reporting requirements for ARPA funding distributed to households or businesses directly, including names and amounts distributed.