



State and Local Fiscal Recovery Affordable Rental Housing Program Guide



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Affordable Rental Housing Program Guide

Table of Contents

Introduction.....	4
Funding	4
Timing of Applications.....	4
Location.....	5
Targeting	5
Asset Management	6
Eligible Developers	6
Developer Fees	6
Financial Feasibility.....	7
Submission and Contact Information	9
Exhibit A Federal Provisions	10

Affordable Rental Housing Program Guide

Introduction

Cumberland County is pleased to announce the Rural Affordable Rental Housing Program (the “Affordable Rental Housing Program” or the “Program”). Funding for this Program is, through The American Rescue Plan Act of 2021, through the Coronavirus State and Local Fiscal Recovery Fund. This funding has provided just over \$57 million to Cumberland County to “help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery.” The County is using a community-driven, data-informed process to ensure the effective, efficient, and equitable distribution of this federal funding. In an effort to offer solutions to both the current affordable housing crisis, which disproportionately impacts low and moderate income Maine households, and the lack of federal resources directed at rental housing in Cumberland County, the County is making funds available to facilitate the development of affordable rental housing in areas and at a size where traditional Low Income Housing Tax Credit projects are not feasible.

The Rural Affordable Rental Housing Program is intended to assist developers in creating affordable, workforce, rental housing consisting of five to 12 units where 100% of the units are leased to households making no more than 80% of Area Median Income and are leased at not more than the Current Fair Market Rent, exclusion for higher rental rates are permissible as long as the tenant and or unit rental assistance program allows. All residents must inhabit the units as their primary, permanent residence. The Program may finance:

- The acquisition and adaptive re-use of an existing building or buildings,
- The acquisition and substantial rehabilitation of existing, non-rent restricted housing,
- The creation of a newly constructed building or buildings.

For purposes of this program, substantial rehabilitation is defined as the acquisition and rehabilitation of existing, non-rent restricted housing in which the cost of the rehabilitation (as deemed necessary by Cumberland County) averages at least \$50,000 per unit.

One goal of the Affordable Rental Housing Program is to bring economic equity to Cumberland County with a preeminence on our rural areas of Cumberland County, which are often left out of the Low Income Housing Tax Credit program as the size, scale and lack of investor interest makes them all but unworkable. The Program will provide subsidy in the form of zero interest forgivable loans as well as paying debt for the acquisition and substantial rehabilitation or construction of any units developed under the Program. The affordability will be required for a minimum of 45 years as described herein.

Cumberland County reserves the right to suspend or terminate the Program at any time and to cease processing any project application prior to issuing an agreement. Cumberland County is under no obligation to finance a project until an agreement has been issued by Cumberland County and accepted by the applicant in accordance with its terms.

Funding

The maximum forgivable grant amount is \$50,000 per unit for acquisition rehab projects and \$75,000 per unit for adaptive re-use or new construction units. The maximum forgivable loan amount is \$600,000 per acquisition rehab project and \$900,000 per new construction or adaptive reuse project. Applicants must accept a 5% interest only forgivable loan for a period of 30 years. Payment of debt from Cumberland County will occur if the project cash flow supports paying debt.

Developers participating in the County’s Affordable Rental Housing Program must comply with MaineHousing Rule, Chapter 29, Multi-family Mortgage Loans and any reporting or other requirements of the source of funds.

Timing of Applications

Applications are accepted on an on-going basis as long as resources are available and must be in the form prescribed by Cumberland County. The County will review applications on a first-come, first-served basis. Cumberland County reserves the exclusive right to determine whether an application meets the requirements of the Program.

Affordable Rental Housing Program Guide

Location

The Focus for this program is to reach areas just outside of the “Greater Portland Area” of Cumberland County, which covers all areas of the County. The County will accept applications from all municipalities, however priority and additional bounce points will be given to areas outside of the Maine DOT defined urban compact areas for greater Portland, Please see link below for corresponding map: <https://www.maine.gov/mdot/mapviewer/index.html>.

Cumberland County encourages developers to work with communities in designing and siting projects. It is our understanding that a number of communities in Cumberland County are eager for additional workforce housing. Communities can assist developers through pledging local American Recovery Plan Act (“ARPA”) funds, providing for density bonuses or other land use and zoning assistance, donating land or agreeing to favorable Payment In Lieu Of Taxes agreements to benefit to the project.

A project that involves the new construction of, or acquisition of newly constructed, residential rental property, or the conversion of existing buildings to residential rental property, must comply with the State’s Growth Management Law, 30-A M.R.S.A. §4349-A, as amended. Projects must meet the following criteria to be eligible for funding:

- (1) If the municipality in which the project is located has adopted a comprehensive plan or growth management plan that is consistent with applicable State law, then the project must be in a designated growth area as identified in such plan; or
- (2) If the municipality does not have a consistent comprehensive plan or growth management plan, the project must be located in an area:
 - a. Served by a public sewer system with existing capacity for the project,
 - b. Identified as a census-designated place in the latest Federal Decennial Census, or
 - c. In an urban municipality and defined under 23 M.R.S.A. §754 as compact.

The law exempts projects that exclusively serve certain populations, such as persons with disabilities, who are homeless, or are wards of the State.

Targeting

Projects developed under this Program must comply with the rent and income limits described under (1) and the affordability declaration described in (2): Units developed under this Program must be rented to households with incomes equal to or less than 80% of Area Median Income for Rural areas. Rents are limited to current FMR exclusion for higher rental rates are permissible as long as the tenant and or unit rental assistance program allows. Portland HMFA) Area Median Income rents as published here: <https://www.mainehousing.org/charts/rent-income-charts>

Displacing tenants in existing rental housing is prohibited. Existing tenants must be allowed to remain in their units; to facilitate this, Cumberland County will allow existing tenants to remain in their units even if their income is greater than allowed by this program and Cumberland County will limit rent increases to existing tenants to no more than 5% annually for three (3) years from the date the project’s rehabilitation is complete as determined by Cumberland County. Upon unit turn-over, tenant incomes and rents will be limited as described herein.

- (1) Each deferred forgivable mortgage will be accompanied by a Declaration of Covenants and Restrictions, which will require, among other things, that the project maintain the affordability requirements of the property for a minimum of 45 years from the initial date of the mortgage.

Affordable Rental Housing Program Guide

Asset Management

Cumberland County will require income certification of all households at initial lease-up. Proof of income may be from the applicant's most recent tax return or, if on a fixed income, a letter from the United States Social Security Administration or six (6) weeks of pay stubs. Once a household is deemed eligible, no on-going income certifications will be necessary. Occupancy reports, in a form prescribed by Cumberland County, will be submitted annually.

Cumberland County reserves the right to request Audited Financial Reports at any time.

Replacement Reserves must be funded at 1% of cost of structures at loan closing. Annual funding of Replacement Reserves will be in the amount of \$600 per unit. A taxes and insurance reserve will also be required. All reserves will be held by Cumberland County.

Cumberland County will inspect properties at least every three (3) years to ensure properties meet the United States Department of Housing and Urban Development's Uniform Physical Condition Standards. Any deficiencies will need to be addressed. Cumberland County will work with owners to address capital needs from the Replacement Reserves.

Eligible Developers

Eligible developers are:

- Public Housing Authorities,
- Community Action Agencies,
- Non-Profit Housing Developers, and
- For-Profit Housing Developers

Developers and the members of the development team (contractors, engineers, architects) must be in good standing and either have successful prior experience with a MaineHousing development program or be able to demonstrate, to Cumberland County's satisfaction, sufficient experience in developing a multi-family housing development.

Developer Fees

The maximum developer fee, including all overhead and profit, is \$15,000 per unit.

To be eligible applicants must meet the following requirements:

- Be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents;
- Possess the legal and financial capacity to carry out the obligations required for the loan or grant;
- Be able to maintain, manage, and operate the housing for its intended purpose and in accordance with all Agency requirements;
- With the exception of applicants who are a nonprofit organization, housing cooperative or public body, be able to provide the borrower contribution from their own resources (this contribution must be in the form of cash, or land, or a combination thereof);
- Have or be able to obtain a minimum of 2 percent of the total development costs for use as initial operating capital (for nonprofit organizations, cooperatives, or public bodies, this amount may be financed through Agency funds); and
- Not be suspended, debarred, or excluded based on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs." The list is available to Federal agencies from the U.S. Government Printing Office. Non-federal parties should contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

- Not delinquent on Federal debt or a Federal judgment debtor, with the exception of those debtors described in § 3560.55 (b).
- The applicant must be in compliance with any existing loan or grant agreements and with all legal and regulatory requirements or must have an Agency-approved workout agreement and be in compliance with the provisions of the workout agreement
- The applicant must be in compliance with the Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and all other applicable civil rights laws.

Additional requirements for nonprofit organizations. In addition to the eligibility requirements noted above, nonprofit organizations must meet the following criteria:

- The applicant must have received a tax-exempt ruling from the IRS designating the applicant as a 501(c)(3) or 501(c)(4) organization.
- The applicant must have in its charter the provision of affordable housing.
- No part of the applicant's earnings may benefit any of its members, founders, or contributors.
- The applicant must be legally organized under state and local law.

Additional requirements for limited partnerships. In addition to the applicant eligibility requirements noted above, limited partnership loan applicants must meet the following criteria:

- The general partners must be able to meet the borrower contribution requirements if the partnership is not able to do so at the time of grant request.
- The general partners must maintain a minimum 5 percent financial interest in the residuals or refinancing proceeds in accordance with the partnership organizational documents.
- The partnership must agree that new general partners can be brought into the organization only with the prior written consent of the Agency.

Additional requirements for Limited Liability Companies (LLCs). In addition to the applicant, eligibility requirements of noted above, LLC grant applicants must meet the following criteria:

- One member who holds at least a 5 percent financial interest in the LLC must be designated the authorized agent to act on the LLC's behalf to bind the LLC and carry out the management functions of the LLC.
- No new members may be brought into the organization without prior consent of the Agency.
- The members must commit to meet the equity contribution requirements if the LLC is not able to do so at the time of loan request.

FINANCIAL FEASIBILITY

Financial Feasibility Analysis describes the applicant's present situation, analyzes alternatives and outlines the proposed project. The level of effort required to prepare the report and the depth of analysis within the report are proportional to the size and complexity of the proposed project. The preparer is expected to fully disclose and analyze all significant factors that may have a favorable or adverse effect on the financial success of the proposed facility. The report must be prepared by a qualified firm or individual.

Construction Standards

The site development and construction shall comply with:

- (1) Federal, State, and Local Laws including accessibility requirements,
- (2) Maine Uniform Building and Energy Code (MUBEC) 2015, or the newest MUBEC in effect at the time of permitting,
- (3) Uniform Physical Condition Standards, and
- (4) All applicable local and state codes, ordinances, and standards as evidenced by inspection reports and/or written approval from local code enforcement officials (this applies to all municipalities within the State of Maine regardless of population size)

All projects developed under the Program must:

- (1) Include an internet connection in every unit and each unit must have access to internet service.

In addition, all new construction projects must utilize all electric equipment and systems such as heat pump(s), resistance heat, variable refrigerant flow, variable frequency drives, or other non-fossil fuel systems for heating, domestic hot water, cooking, and any cooling needs.

Developers will need to provide proof of plans review for code compliance and accessibility laws and will show inspection reports for code and accessibility compliance at project completion prior to closing. Cumberland County reserves the right to access and inspect all phases of the site work and construction to determine compliance with its standards.

Security

Projects will be required to comply with affordability and other requirements for the 45-year term. In order to obtain a forgivable loan for projects, the developer will execute a 45-year deferred, forgivable promissory note without interest, a mortgage and security agreement in favor of Cumberland County, a declaration of affordability covenants to be recorded at the applicable registry of deeds, and other documents and due diligence items as may be required by Cumberland County to secure the developer's obligations under the note and the Program.

Generally, Cumberland County financing must be secured by a first lien mortgage and security interest in the land and improvements, a general assignment of leases, rents and contracts, a Uniform Commercial Code security interest in all fixtures and personal property of the development, a security interest in all accounts, reserves and escrows, established in connection with the development, indemnifications and other collateral required by Cumberland County in its sole discretion.

Application Requirements

For Cumberland County to accept and process an application under the Program the following will be required:

- (1) See section under asset management
- (2) Read and agree to the Terms of SLFRF Federal Provisions – Via Neighborly Portal
- (3) Complete Application – Via Neighborly Portal
- (4) IRS 501(c)(3) tax-exemption determination letter (if applicable)
- (5) Corporate resolution demonstrating authority to undertake the project and incur the liability of financing
- (6) Completed MaineHousing pro forma available at:
(<https://www.mainehousing.org/ruralhousing>)
- (7) Evidence of site control (such as a deed, purchase and sale agreement, or an option);
- (8) Evidence that the project fits within existing zoning rules or final planning board approval if any variances were granted;

- (9) A narrative that addresses each of the following items concerning the *applicant*:
- a. Legal name;
 - b. Contact person, mailing address, phone and email address;
 - c. Current legal status;
 - d. Brief history, staffing levels, primary activities, geographic area of operations, prior experience with MaineHousing and the constituency or clientele to be served;
 - e. Qualifications and experience of developer’s proposed project team including any consultants, architects, site planners and/or engineer and contractors.
 - f. Financial statements for the most recent fiscal year;
 - g. Taxpayer Identification Number (“TIN”); and
 - h. A description of any real estate assets that are in default or foreclosure with a lending institution of that are otherwise at risk of substantive financial problems.
- (10) A narrative that addresses each of the following items concerning the *project*:
- a. Legal address;
 - b. Detailed description of any existing structures, including size, design, construction materials, foundation, condition, estimated age, utilities, historic use(s), accessibility, parking, and observable environmental concerns;
 - c. The planned number of total units;
 - d. Any non-residential space;
 - e. Scope of expected rehabilitation or construction;
 - f. Development timeline;
 - g. Total funding requested from Cumberland County in the form of a forgivable loan (subsidy);
 - h. Total funding from other sources (describe and include copies of commitment letters for all other sources required for the project)
- (11) A certification that if the applicant receives funding, the applicant will comply with all reporting requirements as determined by Cumberland County.

Submission and Contact Information

Applications and thereby the requirements outlined above must be submitted to Cumberland County via our Neighborly Portal.

Any questions about the Affordable Rental Housing Program must be directed to Sandy Warren at warren@cumberlandcounty.org

Respectfully,

Sandy Warren
Compliance and Audit Manager

Exhibit A Federal Provisions



***FEDERALLY REQUIRED PROVISIONS PURSUANT TO THE
AMERICAN RESCUE PLAN ACT***

If you have any questions while completing this paperwork

Please contact:

Cumberland County Compliance and Audit Manager
142 Federal Street Room 100
Portland ME, 04101
207-209-4940

warren@cumberlandcounty.org

CUMBERLAND COUNTY
Maine

COMPLIANCE AND AUDITING MANAGER

FEDERAL REQUIREMENTS FOR SLFRF

1. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

(P.L. 88-352), as amended, (42 USC 2000d) and the requirements imposed by the Regulations of the Department of Commerce (15 CFR Part 8) issued pursuant to that Title. In accordance therewith no person in the United States shall, on the grounds of race, handicap, color, sex, national origin or familial status be excluded from participation in, be denied the benefits or be otherwise subjected to discrimination under any program or activity which is paid for with federal funds. The Owner further adds that there shall not be any form of discrimination by any party in any ARPA contract on the basis of familial status, sexual orientation or sex.

2. REHABILITATION ACT OF 1973

29 USC 794, Executive Order 11914, Section 504. No otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

3. SECTION 202 OF EXECUTIVE ORDER 11246 Applicable to Federally assisted construction contracts and related subcontracts. During the performance of this contract, the contractor agrees as follows:

- A. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of Compensation; and selection for training, including apprenticeship.
- B. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. Contractors shall incorporate foregoing requirements in all subcontracts.
- D. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- E. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representative of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- F. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- G. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the

CUMBERLAND COUNTY
Maine
COMPLIANCE AND AUDITING MANAGER

Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- H. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - I. The contractor will include the provisions of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provision, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department the contractor may request the United States to enter into such litigation to protect the interest of the United States.
 - J. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on -the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:
 - (b)The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor; state that all qualified applicants WM receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - (c) The contractor will send to each labor union or representative of workers. With which he has a collective bargaining agreement or other contract.
4. **Disbarment & Suspension.** Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
5. **CERTIFICATION OF NONSEGREGATED FACILITIES AS REQUIRED BY THE MAY 19, 1967, ORDER (32 F.R. 74390 ON ELIMINATION OF SEGREGATED FACILITIES, BY THE SECRETARY OF LABOR.** Prior to the award of any construction contract or subcontract, the Contractor shall submit signed Certification of Nonsegregated Facilities Forms for him/herself and all subcontractors.

CUMBERLAND COUNTY
Maine
COMPLIANCE AND AUDITING MANAGER

6. THE AGE DISCRIMINATION ACT OF 1975

No person in the United States shall, on the basis of age, be excluded from participation or be denied the benefits of, or be subjected to discrimination under, any program or activity undertaken with federal funds.

7. LABOR STANDARDS

Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- A. Specific to ARAP and when it is the sole source of federal funds, Davis Bacon is application **only to Projects over 10 Million dollars For projects over \$10 million:**
- B. recipient may provide a 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”). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
 - (a) The number of employees of contractors and sub-contractors working on the project;
 - (b) The number of employees on the project hired directly and hired through a third party;
 - (c) The wages and benefits of workers on the project by classification; and
 - (d) Whether those wages are at rates less than those prevailing.
 - (e) The County must maintain sufficient records to substantiate this information upon request.
 - (f) A recipient may provide a 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)).

8. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).** All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to these acts and with other applicable

CUMBERLAND COUNTY Maine

COMPLIANCE AND AUDITING MANAGER

Federal laws and regulations pertaining to labor standards. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

9. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
10. **Copeland Anti-Kickback Act** requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency

11. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION TITLE IV OF THE LEAD BASED PAINT POISONING PREVENTION ACT

A. Lead-Based Paint Hazards (Applicable to contracts for construction or rehabilitation of residential structures) The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

B. Use of Explosives When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and federal laws in purchasing and handling explosives. The Contractor shall take all necessary precautions to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats. The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done, close to such property. Any supervision or direction of use of explosives by the Engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

C. Danger Signals and Safely Devices The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. They shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

CUMBERLAND COUNTY
Maine

COMPLIANCE AND AUDITING MANAGER

12. **THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970.** (P.L. 91-646 as amended), 15 CFR Part 916 including amendments thereto and regulations there under, as provided by 1. M.R.S.A 901 et seq. The Contractor and Grantee will ensure that all work performed under this Agreement will be done in accordance with this act.
13. **ARCHITECTURAL BARRIERS ACT (P.L 90-480), 42 USC 4151, AS AMENDED,** and the regulations issued or to be issued there under, prescribing standards for the design and construction of any building or facility intended to be accessible to the public or which may result in the employment of handicapped persons therein.
14. **THE CLEAN AIR ACT AS AMENDED, 42 USC 1857 ED SEQ.9 THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.** Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility, which has given rise to a conviction under section 113(c) (1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act.
15. **MINORITY BUSINESS ENTERPRISES** Referenced in Executive Order #11625, OMEB Circular A-102 Attachment 0 Procurement Standards. Grantees are to give priority to Minority Business Enterprises in purchase of supplies, equipment, construction, and services.
16. **SECTION 319 OF PUBLIC LAW 101-121**The grantee shall comply with the requirements of Section 319 of Public Law 101-121 regarding government wide restrictions on lobbying.
17. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See: § 200.323. See § 200.216. See § 200.322. [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]
18. **Remedial Actions.** In the event of Recipient's noncompliance with section 603 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 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
19. **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.
20. **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,

CUMBERLAND COUNTY
Maine
COMPLIANCE AND AUDITING MANAGER

imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

21. **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.”
22. **Debts Owed the Federal Government.** 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 section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
23. **Disclaimer.** 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. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.
24. **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.

25. **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.

26. **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.

CUMBERLAND COUNTY
Maine

COMPLIANCE AND AUDITING MANAGER

The Bidder hereby agrees, to and will comply with the terms and use of the federal program and its provisions hereto as a condition of the Bid and thereby award. The bidder acknowledges that they have read and understand said provisions hereto.

Insert Name Here:

Authorized Representative:

Title:

Date signed: