

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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Other Subdivision or Department, If Applicable n/a

Previous Agency Name, If Applicable n/a

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Name of Rule Proposed Permanent Rule 006.09.4 METHOD OF DISTRIBUTION OF AMERICAN RESCUE PLAN ACT FUNDS FOR COVID-19 TESTING

Newspaper Name Arkansas Democrat-Gazette

Date of Publishing February 3, 4, and 5, 2022

Final Date for Public Comment March 14, 2022 at 4:30 p.m.

Location and Time of Public Meeting 1515 West 7th St., 5th Flr Boardroom, Little Rock, AR 72201; 3-11-22 at 2 pm.

Proposed Permanent Rule 006.09.4. METHOD OF DISTRIBUTION OF AMERICAN RESCUE PLAN ACT FUNDS FOR COVID-19 TESTING.

Pursuant to the authority vested in the Secretary of the Department of Finance and Administration, by Ark. Code Ann. §§ 25-8-102(a) and 11-5-118(g) (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly), the Secretary of the Department of Finance and Administration, with the approval of the Governor, does hereby promulgate the following Rule.

1. Definitions.

(A) "American Rescue Plan Act" means the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

(B) "Certify" means to attest affirmatively, based on information and belief formed after reasonable inquiry, to the truth, accuracy, and completeness, under penalty of perjury.

(C) "Claimant" means an employer or employee that makes a claim for reimbursement of the cost of COVID-19 testing not covered by an employee's health benefit plan.

(D) "COVID-19" means the respiratory illness that is caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and its variants.

(E) "Disbursing Officer" means the Secretary of the Department of Finance and Administration or the Secretary's designee.

(F) "Employee" means a person who is subject to an employer-required or employer-mandated COVID-19 vaccination or immunization, whose health benefit plan does not cover the cost of COVID-19 testing, and who wishes to continue employment by claiming an exemption under one of the options of the specific exemption process provided for by Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

(G) "Employer" means an entity that requires or is mandated to require vaccination or immunization for COVID-19 for the entity's employees and is required to provide the exemption process under Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

(H) "State Fiscal Recovery Funds" means federal funding authorized within the American Rescue Plan Act of 2021, Pub. L. No. 117-2, Section 602(b) of the Social Security Act as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021). The Department of Finance and Administration (the "Department") received these funds for distribution to eligible projects on behalf of the State.

2. COVID-19 TESTING PROGRAM

(A) The Department created the COVID-19 Testing Program (the "Program") in order to comply with Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly). If made available, SFRF funds will be provided to employers and employees to cover the cost of COVID-19 testing.

(B) Under the Program, an employer or employee may submit a claim for reimbursement of the cost of COVID-19 testing and an employer may submit a request for funding to disburse to employees for reimbursement of the cost of COVID-19 testing.

(C) If SFRF funds are made available, the Program covers the cost of COVID-19 testing not covered by an employee's health benefit plan for an employee who wishes to continue employment by claiming an exemption under one of the options of the specific exemption process provided for by Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly). No administrative costs are eligible costs under the Program.

(D) Before an employer may receive SFRF funds, the employer must provide the Department with an executed Subrecipient Agreement and establish itself as a state vendor through the Department or its successor.

(E) An employer that receives SFRF funds is a Subrecipient and is subject to the compliance and reporting responsibilities required by the American Rescue Plan Act. The COVID-19 Testing Program Subrecipient Agreement is an addendum to this rule.

(F) Before an employee may receive SFRF funds, the employee must establish himself or herself as a state vendor through the Department or its successor.

(G) If an employer or employee has not been established as a state vendor, payment for a reimbursement claim or an employer's request for funding will be delayed.

(H) SFRF funds received under the Program are subject to repayment to the Department for the following reasons: SFRF funds are used for an ineligible purpose; the Department determines an employer has received an excess of funding based upon analysis of the monthly reports; in the event of separation of employees; or as provided by the COVID-19 Testing Program Subrecipient Agreement.

### 3. EMPLOYER THAT REQUIRES OR IS MANDATED TO REQUIRE VACCINATION OR IMMUNIZATION FOR COVID-19

(A) An employer that requires or is mandated to require vaccination or immunization for COVID-19 for the employer's employees shall notify in writing the employer's employees by providing a certified copy of the employer's mandatory vaccination or immunization requirement or policy and the exemption options available under Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

### 4. SUBMISSION OF CLAIMS FOR REIMBURSEMENT OF COSTS OF COVID-19 TESTING

(A) An employer and employee shall submit a claim for reimbursement to cover the cost of COVID-19 testing not covered by the employee's health benefit plan on the form(s) provided by the Department for that purpose. The employer or employee shall denote on the form(s) whether the employer or the employee is the Claimant to be reimbursed.

(B) In addition to the properly completed form(s), the Claimant shall provide the original, or a digitally scanned copy, of the invoice, receipt, or other document(s) evidencing that the test was conducted, the name of each employee tested, the cost of COVID-19 testing, the name of the manufacturer of each COVID-19 test, the United States Food and Drug Administration ("FDA") emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested, and with all documents submitted in legible format.

(C) By both signing the form(s), the employer and employee shall certify that the information provided on the form(s) and all documents submitted with their reimbursement claim are true, accurate, and complete.

(D) Upon receipt of the documents as described in 4(B) and the properly completed form(s), the Disbursing Officer shall issue SFRF funds, if made available, to the Claimant within thirty (30) days.

#### 5. OPTION FOR DISTRIBUTION OF FUNDS TO AN EMPLOYER

(A) An employer that chooses to receive funds for disbursement to employees to cover the cost of COVID-19 testing not covered by the employee's health benefit plan shall submit a request for funding on the form(s) provided by the Department for that purpose.

(B) In addition to providing the properly completed form(s), an employer shall provide a proposed testing roster on the form(s) provided by the Department for that purpose.

(C) The Department will determine the amount of funds to be provided to an employer, for disbursement to employees to cover the cost of testing, based upon the information provided on the form(s) and the proposed testing roster.

(D) An employer that receives funds to distribute to employees for COVID-19 testing shall report on a monthly basis to the Department on the form(s) provided by the Department for that purpose. In addition to providing the properly completed form(s), an employer shall provide the original, or a digitally scanned copy, of invoices, receipts, or other documents evidencing that each test was conducted, name of each employee tested, the cost of COVID-19 testing, the name of the manufacturer of each COVID-19 test, the FDA emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested with all documents submitted in in legible format.

(E) An employer that receives funds to distribute to employees for COVID-19 testing shall provide on a monthly basis an updated proposed testing roster, a completed testing roster, and an employee separation roster on the form(s) provided by the Department for that purpose.

(F) By signing the form(s), the employer shall certify that the information provided on the form(s) and all documents submitted with the form(s) are true, accurate, and complete.

(G) Upon receipt of the properly completed forms as described in 5(A) & 5(B), the Disbursing Officer shall issue SFRF funds, if made available, to the employer within thirty (30) days.

This Rule shall expire on July 31, 2023 unless Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly) is extended by the General Assembly.

Source: Arkansas Code Annotated § 11-5-118(g) (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

  
Larry W. Naither, Secretary  
Arkansas Department of Finance and Administration

Date: January 18, 2022



Arkansas Department of Finance and  
Administration

American Rescue Plan Act  
Coronavirus State Fiscal Recovery Fund  
COVID-19 Testing Program

SUBRECIPIENT AGREEMENT

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Arkansas Department of Finance and Administration  
AMERICAN RESCUE PLAN ACT  
CORONAVIRUS STATE FISCAL RECOVERY FUNDS  
SUBRECIPIENT AGREEMENT

Subrecipient name and address:  [Subrecipient to provide]	DUNS Number/SAM Unique identification number: [Subrecipient to provide] Taxpayer Identification Number: [Subrecipient to provide]  Assistance Listing Number: 21.027
-----------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Sections 602(b) and 603(b) of the Social Security Act (the “Act”) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the U.S. Department of the Treasury (the “Treasury”) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund (“SFRF”). The Arkansas Department of Finance and Administration, (the “Department”) is a Recipient of SFRF funds (Federal Award Date of June 7, 2021) and has the authority to transfer such Funds to the Subrecipient as a subaward under the terms and conditions outlined herein. Funding under this Agreement is to be used to cover the cost of COVID-19 testing for an employee who is subject to an employer-required or employer-mandated COVID-19 vaccination or immunization, whose health benefit plan does not cover the cost of COVID-19 testing, and who wishes to continue employment by claiming an exemption under one of the options of the specific exemption process provided for by Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

The amount of federal funds obligated to the Subrecipient by this subaward of the Department, as the pass-through entity, is \$ \_\_\_\_\_. The total amount of federal funds committed to the Subrecipient by the Department, as the pass-through entity, including the current financial obligation is \$ \_\_\_\_\_. The total amount of the federal award committed to the Subrecipient by the Department, as pass-through entity, is \$ \_\_\_\_\_.

The Subrecipient certifies that it has the legal authority to receive the Funds under this Agreement and it certifies that the undersigned person has the authority to legally execute and bind the Subrecipient to the terms of this Agreement.

Subrecipient:

\_\_\_\_\_  
Authorized Representative:

Title:

Date signed:

Arkansas Department of Finance and Administration:

\_\_\_\_\_  
Authorized Representative:

Title:

Date signed:



## Definitions

- A. “American Rescue Plan Act” shall mean the American Rescue Plan Act of 2021 (“ARPA”), Pub. L. No. 117-2 (March 11, 2021).
- B. “Authorized Agent” shall mean the individual authorized by the Authorized Representative of the Subrecipient to act on behalf of the Subrecipient and designated with such authority on **Exhibit C**.
- C. “Authorized Representative” shall mean Chief Executive Officer or equivalent officer of the Subrecipient authorized to legally bind the Subrecipient.
- D. “Certify” shall mean to attest affirmatively, based on information and belief formed after reasonable inquiry, to the truth, accuracy, and completeness, under penalty of perjury.
- E. “Claimant” shall mean an employer or employee that makes a claim for reimbursement of the cost of COVID-19 testing not covered by an employee’s health benefit plan.
- F. “Contractor” shall mean any entity, public or private, providing services as described in this Agreement.
- G. “COVID-19” shall mean the respiratory illness that is caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and its variants.
- H. “Department” shall mean the Arkansas Department of Finance and Administration.
- I. “Disbursing Officer” shall mean the Secretary of the Department of Finance and Administration or the Secretary’s designee.
- J. “Employee” shall mean a person who is subject to an employer-required or employer-mandated COVID-19 vaccination or immunization, whose health benefit plan does not cover the cost of COVID-19 testing, and who wishes to continue employment by claiming an exemption under one of the options of the specific exemption process provided for by Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).
- K. “Employer” shall mean an entity that requires or is mandated to require vaccination or immunization for COVID-19 for the entity’s employees and is required to provide the exemption process under Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).
- L. “Expenditure” shall mean the amount that has been incurred as a liability of the entity.
- M. “Events of Default” shall have the meaning set forth in Section 22 of this Agreement.
- N. “Federal Award” shall mean Federal financial assistance that a non-Federal entity receives directly from a Federal Awarding Agency or indirectly from a Pass-through entity.
- O. “Final Expenditure Report” shall mean a report which lists all expenditures made by a Subrecipient using State Fiscal Recovery Funds (“SFRF”) and which contains a statement executed by the Authorized Representative that there are no other outstanding commitments or obligations for which disbursement will be sought under this Agreement.

- P. “Funds” shall mean any American Rescue Plan Act Coronavirus SFRF funds transferred to the Subrecipient for ARPA eligible expenditures in accordance with the terms and conditions set forth in this Agreement.
- Q. “Obligated” shall mean an order placed for goods and services, contracts and subawards made, and similar transaction that require payment.
- R. “Pass-through entity” shall mean a non-Federal entity that provides a subaward to a Subrecipient or a Sub-subrecipient to carryout part of a Federal program.
- S. “Remedies” shall have the meaning set forth in Section 23 of this Agreement.
- T. “STATE” shall mean the State of Arkansas.
- U. “Subrecipient” shall mean the state agency, nonprofit, business, or other entity that receives Funds from the Department.
- V. “Subaward” shall mean an award provided by the Department to a Subrecipient.

Arkansas Department of Finance and Administration  
AMERICAN RESCUE PLAN ACT  
CORONAVIRUS STATE FISCAL RECOVERY FUNDS  
SUBRECIPIENT AGREEMENT

**1. Terms of Agreement**

- a. The Subrecipient represents it is fully qualified and eligible to receive Coronavirus State Fiscal Recovery Fund (“SFRF”) funds.
- b. The Subrecipient certifies that it has the legal authority to receive the Funds under this Agreement and it certifies that the Authorized Representative has the authority to legally execute and bind the Subrecipient to the terms of this Agreement. The Subrecipient also certifies that its Chief Executive Officer or equivalent officer is authorized to complete and execute the Coronavirus State Fiscal Recovery Fund Acceptance Certification (**Exhibit A**).
- c. The Subrecipient, by its decision to receive the Funds, bears the ultimate responsibility for ensuring compliance with all applicable State and Federal laws, regulations, rules, and policies, and bears the ultimate consequences of any adverse decisions rendered by the STATE, the Federal Awarding Agency, or any other State or Federal agencies with audit, regulatory, or enforcement authority.
- d. The Department received the SFRF funds from the Federal government, and the Department has the authority to transfer such Funds to the Subrecipient as a subaward under the terms and conditions outlined herein.
- e. The Subrecipient shall comply with all applicable Local, State, and Federal laws, regulations, rules, and policies and take any and all other actions necessary to ensure that the Funds are used in accordance with Act 1115 of the 2021 Regular Session, of the 93<sup>rd</sup> General Assembly.
- f. Subrecipient will determine prior to engaging in any project using this subaward that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
- g. This Agreement shall become effective upon its execution by both Parties and shall end on an agreed upon time-period noted in the period of performance.
- h. The Department may terminate this Agreement for cause after seven (7) days written notice sent to the Subrecipient by first-class mail or email.
  - 1) Cause may include, but is not limited to misuse of Funds, fraud or misrepresentation, lack of compliance with applicable rules, laws and regulations, failure to comply with reporting, disbursement, or audit requirements.
  - 2) Cause may include refusal by the Subrecipient to permit the Department access to any document, paper, letter, or other material subject to disclosure under applicable State or Federal laws, as amended.
  - 3) Upon such termination, the Subrecipient shall, within ten (10) days, return all unexpended Funds to the Department.

- i. The Parties may jointly agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement.
- j. In the event, this Agreement is terminated, and upon the Subrecipient's receipt of the notice of termination, the Subrecipient will not incur any new expenditures of the Funds.
- k. Both the Department and the Subrecipient must comply with the Rule promulgated by the Secretary of the Department to implement and administer the COVID-19 Testing Program (**Exhibit B**), American Rescue Plan Act, the Treasury Interim Final Rule, the Treasury SFRF Guidance, and the Treasury SFRF FAQs, as may be amended, or updated, by the Treasury from time to time.
- l. The Department's offer of SFRF funds is based on the information available at the time of the subaward issuance. If further clarification from the Treasury later determines that a Subrecipient's expenditure(s) are ineligible, the Subrecipient shall return any Funds received for such expenditure to the Department in accordance with the provisions this Agreement.
- m. The Department reserves the right to require on an ongoing basis, including after the disbursement of Funds, any additional certifications and documentation it deems necessary to continue to verify the eligibility of expenditures for which the Subrecipient received Funds from the Department.
- n. The Department shall have the right to monitor the performance of the Subrecipient under this Agreement, as well as that of the Subrecipient's contractors or subcontractors who are paid from Funds provided under this Agreement. In addition to reviews of audits, monitoring procedures may include, but not be limited to, on-site visits by Department staff, desk reviews and/or other procedures. The Subrecipient agrees to cooperate with any monitoring procedures/processes deemed appropriate by the Department.

## **2. Use of Funds**

- a. Subrecipient understands and agrees that funding under this Agreement may only be used to cover the cost of COVID-19 testing for an employee who is subject to an employer-required or employer-mandated COVID-19 vaccination or immunization, whose health benefit plan does not cover the cost of COVID-19 testing, and who wishes to continue employment by claiming an exemption under one of the options of the specific exemption process provided for by Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).
- b. Subrecipient understands and agrees that the Funds disbursed under this subaward may only be used in compliance with section 602 of the Social Security Act (the "Act"), the Treasury's regulations implementing that section, and guidance issued by Treasury and the Department regarding the foregoing.
- c. The Subrecipient shall ensure that any Funds used to provide COVID-19 test results pursuant to Act 1115 of 2021 shall meet the guidelines contained within the Policy for Coronavirus Disease-2019 Tests During the Public Health Emergency (Revised) issued by the United States Department of Health and Human Services Food and Drug Administration Center for Devices and Radiological Health.

- d. If the Department determines that Funds are being used for any purpose(s) other than the those stated in Section 2(a), then the Department will notify the Subrecipient to return the amount of Funds used for a purpose other than those stated in Section 2(a).

### **3. Period of Performance**

The period of performance for this award begins on January 14, 2022 and ends on July 31, 2023.

### **4. Request for Funds**

- a. Prior to making any request for funds, the Subrecipient agrees to submit to the Department the following items:

- 1) Internal Revenue Service Form W-9
- 2) Arkansas Vendor Master Request in order to establish the Subrecipient as a STATE vendor
- 3) DUNS number
- 4) SAM Unique Identification Number
- 5) An executed Subrecipient Agreement

- b. Submission of Claims for Reimbursement of Costs of COVID-19 Testing

- 1) An employer and employee shall submit a claim for reimbursement to cover the cost of COVID-19 testing not covered by the employee's health benefit plan on the form(s) provided by the Department for that purpose. The employer or employee shall denote on the form(s) whether the employer or the employee is the Claimant to be reimbursed.
- 2) In addition to the properly completed form(s), the Claimant shall provide the original, or a digitally scanned copy, of the invoice, receipt, or other document(s) evidencing that the test was conducted, the name of each employee tested, the cost of COVID-19 testing, the name of the manufacturer of each COVID-19 test, the United States Food and Drug Administration ("FDA") emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested, and with all documents submitted in legible format.
- 3) By both signing the form(s), the employer and employee shall certify that the information provided on the form(s) and all documents submitted with their reimbursement claim are true, accurate, and complete.
- 4) Upon receipt of the documents as described in Section 4 (b)(1) & 4 (b)(2) and the properly completed form(s), the Disbursing Officer shall issue Funds, if made available, to the Claimant within thirty (30) days.

- c. Option for Distribution of Funds to an Employer

- 1) An employer that chooses to receive funds for disbursement to employees to cover the cost of COVID-19 testing not covered by the employee's health benefit plan shall submit a request for funding on the form(s) provided by the Department for that purpose.

- 2) In addition to providing the properly completed request for funding form(s), an employer shall provide a proposed testing roster on the form(s) provided by the Department for that purpose.
- 3) The Department will determine the amount of funds to be provided to an employer, for disbursement to employees to cover the cost of testing, based upon the information provided on the form(s) and the proposed testing roster.
- 4) An employer that receives funds to distribute to employees for COVID-19 testing shall report on a monthly basis to the Department on the form(s) provided by the Department for that purpose. In addition to providing the properly completed form(s), an employer shall provide the original, or a digitally scanned copy, of invoices, receipts, or other documents evidencing that each test was conducted, name of each employee tested, the cost of COVID-19 testing, the name of the manufacturer of each COVID-19 test, the FDA emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested with all documents submitted in in legible format.
- 5) An employer that receives funds to distribute to employees for COVID-19 testing shall provide on a monthly basis an updated proposed testing roster, a completed testing roster, and an employee separation roster on the form(s) provided by the Department for that purpose.
- 6) By signing the form(s), the employer shall certify that the information provided on the form(s) and all documents submitted with the form(s) are true, accurate, and complete.
- 7) Upon receipt of the properly completed forms as described in Section 4 (c)(1) & 4 (c)(2), the Disbursing Officer shall issue Funds, if made available, to the employer within thirty (30) days.

## **5. Payment Processing**

The Disbursing Officer will review all Requests for Funds and determine the amount of Funds, if made available, to be provided based upon the information provided by the Subrecipient.

## **6. Repayment of Funds**

- a. All returns or repayments of Funds due to the STATE under this Agreement are due no later than ten (10) days from the date of written notification by the STATE that such Funds are due, and shall be made payable to the order of “Arkansas Department of Finance and Administration” and be mailed directly to the Department per the Contact Information in Section 29.
- b. If payment is not received within ten (10) days, the Subrecipient understands and agrees that the Department may withhold or offset Funds from the Subrecipient with any funds payable to the Subrecipient, or from funds in any account of the Subrecipient at the STATE until the return or repayment of all Funds to the Department under this Agreement are satisfied.
- c. If Subrecipient received Funds for a use that is subsequently determined by the Department not to be an eligible expenditure under this Agreement, the Subrecipient shall return any Funds received to the Department within ten (10) days of written notification by the Department that such funds are due.

- d. Subrecipient understands and agrees that repayment of funding for an employee whose employment has ended shall occur during the next month's reporting period.
- e. Subrecipient understands and agrees that all funding distributions not allocated to a specific employee's COVID-19 test that was conducted by July 31, 2023 must be returned within 30 days.

## **7. Reporting**

- a. A Subrecipient that receives funding for distribution to employees to cover the cost of COVID-19 testing must submit monthly the properly completed reporting form(s) on the form(s) provided by the Department for that purpose. In addition to providing the properly completed reporting form(s), an employer shall provide the original, or a digitally scanned copy, of invoices, receipts, or other documents evidencing that each test was conducted, name of each employee tested, the cost of COVID-19 testing, the name of the manufacturer of each COVID-19 test, the FDA emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested with all documents submitted in in legible format.
- b. A Subrecipient that receives Funds to distribute to employees for COVID-19 testing shall provide on a monthly basis an updated proposed testing roster, a completed testing roster, and an employee separation roster on the form(s) provided by the Department for that purpose.
- c. The Subrecipient shall certify by signing the report(s) that the information provided on the report(s) and all documents submitted with the report(s) are true, accurate, and complete.
- d. Subrecipient agrees to comply with any additional reporting obligations established by the Treasury or the Department as they relate to this subaward.
- e. The Subrecipient shall submit a final expenditure report to the Department within thirty (30) days after the period of performance ends.

## **8. Maintenance of and Access to Records, and Audits**

- a. The Federal Awarding Agency, Inspectors General, the Comptroller General of the United States, and the STATE, or any of the STATE's authorized representatives, (e.g. the Department of the Inspector General and Arkansas Legislative Audit), shall enjoy the right of access as necessary to any documents, financial statements, papers, or other records of the Subrecipient or any Contractors or subcontractors which are pertinent to this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access as necessary to the Subrecipient's primary business location, any physical locations where Funds were deployed for on-site visits and inspections, and Subrecipient's personnel for the purpose of interview and discussion related to such documents, financial statements, papers, other records and on-site visits and inspections.
- b. As required by the STATE record retention requirements as set out at Ark. Code Ann § 25-18-604, the Subrecipient shall retain sufficient records to show its compliance with the terms of this Agreement, as well as the compliance of all contractors or subcontractors paid from Funds under this Agreement, for a period of five (5) years from the date of submission of the final expenditure report.

- c. The Subrecipient shall retain financial records, supporting documents, statistical records, and all other records including electronic storage media pertinent to its use of Funds for a period of five (5) years after the last disbursement of Funds by the STATE. If any litigation or audit is initiated, or claim made, before the expiration of the five (5)-year period, the records shall be retained until the litigation and all appeals, audits, or claims have been resolved.
- d. As required by 2 C.F.R. §200.303, the Subrecipient shall take reasonable measures to safeguard protected personal identifiable information and other information the Federal Awarding Agency or the STATE designates as sensitive or the Subrecipient considers sensitive consistent with applicable Federal, State, Local, and Tribal laws regarding privacy and obligations of confidentiality.
- e. The Subrecipient shall maintain all records for the Subrecipient and for all contractors or subcontractors paid from Funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives of this Agreement.
- f. If 2 C.F.R. Part 200, Subpart F applies to the Subrecipient, then the Subrecipient shall comply with the audit requirements contained in 2 C.F.R. Part 200, Subpart F.
- g. As per this Agreement, audits conducted under 2 C.F.R. Part 200, Subpart F shall be performed in accordance with Generally Accepted Government Auditing Standards (“GAGAS”) as issued by the Comptroller General of the United States.
- h. The Subrecipient shall have all federal compliance audits completed by an independent auditor, which is defined in Ark. Code Ann. § 17-12-301. The independent auditor shall state that the audit complied with the applicable provisions noted above. The audit must be received by the STATE no later than nine (9) months from the end of the Subrecipient's fiscal year.
- i. If 2 C.F.R. Part 200, Subpart F does not apply to the Subrecipient, then the Subrecipient shall comply with all other federal audit requirements and any audit requirements imposed by the Department of Finance and Administration, State of Arkansas, Arkansas Legislative Audit, Arkansas Department of Inspector General, or their designee(s).

## **9. Pre-award Costs**

Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this subaward.

## **10. Administrative Costs**

Subrecipient may not use funds provided under this award for administrative cost.

## **11. Cost Sharing**

Cost sharing or matching funds are not required to be provided by the Subrecipient.

## **12. Conflicts of Interest**

Subrecipient understands and agrees it must maintain a conflict-of-interest policy consistent



with 2 C.F.R. § 200.318(c) and that such conflict-of-interest policy is applicable to each activity funded under this subaward. Subrecipients must disclose in writing to the Department, as appropriate, any potential conflict of interest affecting the awarded Funds in accordance with 2 C.F.R. § 200.112.

### **13. Compliance with Applicable Law and Regulations**

- a. Performance under this Agreement is subject to Section 602 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act. Fund payments are subject to the requirements in the Uniform Guidance (2 C.F.R. Part 200) including but not limited to: 2 CFR §200.303 regarding Internal Controls, 2 CFR §§200.330 through 200.332 regarding Subrecipient Monitoring and Management, and Subpart F regarding Audit Requirements.
- b. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by the Treasury pursuant to section 602(f) of the Act, and guidance issued by the Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- c. Federal regulations applicable to this award include, without limitation, the following:
  - 1) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
  - 2) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
  - 3) Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
  - 4) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
  - 5) Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
  - 6) Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - 7) New Restrictions on Lobbying, 31 C.F.R. Part 21.
  - 8) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

- 9) Generally applicable federal environmental laws and regulations.
- d. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- 1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and U.S. Department of the Treasury's implemented regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.
  - 2) The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.
  - 3) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.
  - 4) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.
  - 5) Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
  - 6) Subrecipient 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.

#### **14. False Statements**

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

#### **15. Publications**

No publications may be produced with Funds from this subaward.

#### **16. Liability and Indemnification**

- a. The Subrecipient is solely responsible to the parties it deals with in carrying out the terms of this Agreement. To the extent and within the limitations of Ark. Code Ann. § 21-9-301, as applicable, the Subrecipient shall be responsible for and agrees to indemnify and hold harmless and defend the STATE and its boards, commissions, agencies, officers and employees from and against all third party claims, demands and causes of actions, of any

nature whatsoever, directly resulting from the misconduct or negligent acts or omissions of the Subrecipient, its officers, agents, employees, or subcontractors in its performance under this Agreement.

- b. To the extent and within the limitations of Ark. Code Ann. § 21-9-301, as applicable, and applicable state Statutes, as amended, the Subrecipient shall pay all claims and losses caused by the Subrecipient's breach of this Agreement, and shall investigate and defend, or pay for the defense of, all claims, suits or actions of any kind or nature, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.
- c. The Subrecipient expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Subrecipient shall in no way limit the responsibility to indemnify, keep and save harmless and defend the STATE or its officers, employees, agents, and instrumentalities as herein provided.
- d. For purposes of this Agreement, Subrecipient agrees that it is not an agent of the STATE. Nothing herein shall be construed as consent by the STATE to be sued by third parties in any matter arising out of any contract.

## **17. Protections for Whistleblowers**

- a. In accordance with 41 U.S.C. § 4712, Subrecipient 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:
  - A member of Congress or a representative of a committee of Congress;
  - An Inspector General;
  - The Government Accountability Office;
  - A Treasury employee responsible for contract or grant oversight or management;
  - An authorized official of the Department of Justice or other law enforcement agency;
  - A court or grand jury;
  - A management official or other employee of Subrecipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
  - A member of the Arkansas Senate or Arkansas House of Representatives;
  - Arkansas Department of Inspector General;
  - Arkansas Department of Finance and Administration;
  - Arkansas Legislative Audit; or
  - A state agency employee.
- c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

## **18. Increasing Seat Belt Use in the United States**

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.

## **19. Reducing Text Messaging While Driving**

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Sub-subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

## **20. Contract Certifications**

- a. The Subrecipient must provide the following certification to be included in all contracts or subcontracts that all such contractors or subcontractors shall certify and disclose to the best of their knowledge and belief that they:
  - 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
  - 2) Have not, within a five (5)-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - 3) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local); and
  - 4) Have not, within a five (5)-year period preceding this Agreement, had one or more public transactions (Federal, State or Local) terminated for cause or default.
- b. If the Subrecipient is unable to obtain and provide such certification, then the Subrecipient shall attach an explanation to this Agreement as to why not.

## **21. Lobbying Prohibition**

- a. The Subrecipient certifies, by its Authorized Representative's signature to this Agreement, that to the best of his or her knowledge and belief:
  - 1) No Funds received by Subrecipient under this Agreement have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
  - 2) If any monies, other than Funds received by Subrecipient under this Agreement, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or

an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

- 3) The Subrecipient shall require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all such Sub-subrecipients shall certify and disclose accordingly.
- 4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **22. Events of Default**

- a. If any of the following events occur ("Events of Default"), all obligations on the part of the STATE to make further payment of Funds shall terminate and the STATE has the option to exercise any of its remedies as set forth in Section 23:
  - 1) Any warranty or representation made by the Subrecipient in this Agreement is or becomes false or misleading in any respect.
  - 2) The Subrecipient fails to keep or perform any of the obligations or terms in this Agreement or is unable or unwilling to perform and complete on time any of its obligations under this Agreement.

## **23. Remedies**

- a. If an Event of Default occurs, then the Department shall provide written notice via email or to the address of record of the Event of Default to the Subrecipient.
- b. If the Subrecipient fails to cure the Event of Default immediately and no later than seven (7) calendar days after receipt of such notice from the Department, the Department may exercise any one or more of the following remedies, either concurrently or consecutively:
  - 1) Terminate this Agreement.
  - 2) Withhold or suspend payment of all or any part of an approved proposal funding amount or a disbursement of Funds.
  - 3) Require that the Subrecipient return to the Department any Funds used for ineligible purposes.
  - 4) The Subrecipient agrees that the Department may set-off funds otherwise payable to the Subrecipient until the return or repayment of any Funds due to the STATE under this Agreement is satisfied.
  - 5) Debar the Subrecipient from consideration for award of purchases or contracts as permitted by federal and state law and regulation.

- 6) Exercise any other rights or remedies which may be permitted by law or in equity.
- c. No delay or omission to exercise any right, power, or remedy accruing to the STATE upon breach or violation by the Subrecipient under this Agreement, shall impair any such right, power or remedy of the STATE; nor shall such delay or omission be construed as a waiver of any such breach or default, or any similar breach or default.

## **24. Governing Law**

- a. This Agreement shall be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Arkansas, without regard to any conflicts of law principles, decisional law or statutory provision that would require or permit the application of another jurisdiction's substantive law.
- b. Venue or location for any legal action arising under this Agreement will be in Pulaski County, Arkansas.

## **25. Entire Agreement**

- a. This Agreement and its Exhibits constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior written and oral agreements and understandings with respect to such subject matter.
- b. Neither this Agreement nor any of the terms hereof may be amended, supplemented, waived or modified orally.
- c. All such amendments, supplements, waivers and modifications must be in writing signed by the party against which the enforcement of the amendment, supplement, waiver or modification shall be sought.

## **26. Headings**

- a. Any heading preceding the text of the several sections of this Agreement shall be solely for convenience of reference and shall not affect the meaning, construction, or effect of this Agreement.
- b. In the event of any conflict between any such heading and the text thereunder, the text shall control.
- c. In acknowledgment of the mutual consideration herein, the parties hereby certify that they have read this entire Agreement and will comply with all of its requirements.

## **27. Disclosure Pursuant to Governor's Executive Order 98-04 AND Rule 006.27**

- a. Except for contracts exempt from disclosure, Subrecipient shall require contractors and subcontractors to execute a properly completed Contract and Grant Disclosure and Certification Form.
- b. Any agreement, current or future, between a contractor and a subcontractor for which the total consideration is greater than \$25,000 shall contain the following language:

- 1) Failure to make any disclosure as required by Governor's Executive Order 98-04, or the violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party failing to disclose or in violation to all legal remedies available to the Agency under the provisions of existing law.
- c. Any contract or amendment to a contract executed by an agency which exceeds \$25,000 shall require the Contractor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto.
- 1) The Contractor shall also require the subcontractor to disclose the same information.
  - 2) The Contract and Grant Disclosure and Certification Form shall be used for this purpose.
- d. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.
- e. The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

## 28. Exhibits

- a. All Exhibits to this Agreement are incorporated as if set out fully.
- b. In the event of any inconsistencies or conflict between the language of this Agreement and the Exhibits, the language of the Exhibits shall control, but only to the extent of the conflict or inconsistency.
- c. This Agreement has the following Exhibits and Forms:
- 1) **Exhibit A** – Coronavirus State Fiscal Recovery Fund Acceptance Certification.
  - 2) **Exhibit B** – Rule 006.09.4.
  - 3) **Exhibit C** – Authorized Agent(s) form
  - 4) **Form 1** – Contract and Grant Disclosure form
  - 5) **Form 2** – Form for Submission of Reimbursement Claims
  - 6) **Form 3** – Form for Requesting Distribution of Funds to Employer for COVID-19 Testing and Monthly Reporting
  - 7) **Form 4** – Proposed Testing Roster
  - 8) **Form 5** – Completed Testing Roster

9) **Form 6** – Employee Separation Roster

**29. Notice and Contact information**

Any notice or other communication required under this Agreement shall be in writing and sent to the address below. Notices shall be given by and to Paul Louthian on behalf of the State, and by and to the Subrecipient's Authorized Representative, on behalf of the Subrecipient, or such designee as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party. The Subrecipient may designate multiple Authorized Agents, on Exhibit C, that the Subrecipient will assign to perform data entry, documentation upload, or other clerical functions. Changes to Authorized Agent(s) must be made in writing via letter or electronic mail. Exhibit C must be completed and submitted via letter or electronic mail to the Department for each change of Authorized Agent.

Arkansas Department of Finance and Administration  
Office of Accounting – Attn: ARPA Staff  
P. O. Box 3278  
Little Rock, AR 72203-3278

Phone: 501-682-1675

Fax: 501-683-0823

Email: [COVID19Testing@dfa.arkansas.gov](mailto:COVID19Testing@dfa.arkansas.gov)

**30. Non-assignment of Agreement**

Neither the Department nor the Subrecipient may assign, sublicense or otherwise transfer its rights, duties or obligations under this Agreement without the prior written consent of the other party, which consent shall not unreasonably be withheld.

**31. Limitation on Rights of Others**

The terms of this Agreement shall be binding upon, inure to the benefit of and be enforceable solely by the parties and their permitted successors and assigns, and nothing in this Agreement or by virtue of the transactions contemplated hereby, whether express or implied, shall be construed to constitute, create or confer rights, remedies or claims in or upon any person (as third-party beneficiary or otherwise) not a party hereto, or to create obligations or responsibilities of the parties to such persons, or to permit any person other than the parties and their respective successors and assigns to rely upon or enforce the covenants, conditions and agreements contained herein.

**32. Binding on Successors**

This Agreement shall bind the successors, assigns and legal representatives of the parties hereto, and of any legal entity that succeeds to the obligations of the parties hereto.

**33. Severability**



If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder will remain in full force and effect, and such term or provision shall be deemed stricken.

### **34. Research and Development**

Subrecipient shall not use Funds from this subaward for any type of research and development.

**EXHIBIT A**  
**CORONAVIRUS STATE FISCAL RECOVERY FUND**  
**ACCEPTANCE CERTIFICATION**

I, \_\_\_\_\_, certify that I am the Chief Executive Officer, or equivalent officer, (Chief Executive) of \_\_\_\_\_ located in \_\_\_\_\_, Arkansas (Subrecipient) and, on behalf of the Subrecipient, I hereby certify, represent, warrant and agree that:

1. I have the authority to bind the Subrecipient by this certification and to make each Coronavirus State Fiscal Recovery Fund ("SFRF") Request seeking direct payment and/or reimbursement whether now or hereafter requested from the COVID-19 Testing Program created by the State of Arkansas and managed by the Arkansas Department of Finance and Administration ("Department"); and
2. All SFRF Program funds (and each SFRF Request) are subject to section 602 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (ARPA Act); and
3. The State of Arkansas and the Department are authorized to rely upon this certification as a material representation made by the Subrecipient (and by me, as the Chief Executive Officer, or equivalent officer, of the Subrecipient) in connection with each SFRF Request; and
4. Each SFRF Request meets the COVID-19 Testing Program qualifications and requirements including the following:
  - a. All payment and reimbursement requests only qualify if: (i) such request is for funds to cover the cost of COVID-19 testing for an employee who is subject to an employer-required or employer-mandated COVID-19 vaccination or immunization, whose health benefit plan does not cover the cost of COVID-19 testing, and who wishes to continue employment by claiming an exemption under one of the options of the specific exemption process provided for by Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93rd General Assembly); and (ii) such cost having been incurred during the period that begins January 14, 2022 and ends on July 31, 2023; and
  - b. Each SFRF Request is submitted with appropriate documentation; and
5. Failure of any SFRF Request or any use of SFRF Funds to meet any COVID-19 Testing Program qualifications and requirements, or if there is any misrepresentation made by the Subrecipient related to this certification, shall require, upon any request of the Department, that the Subrecipient repay to the State of Arkansas the related COVID-19 Testing Program funds.

## EXHIBIT A

I certify under the penalties of perjury that I have read the above certification and my statements contained herein are true and correct to the best of my knowledge.

[Print Participant Name here]

By: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ARKANSAS     )  
                                          )  
COUNTY OF \_\_\_\_\_)

SS:

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, known to me to be the Chief Executive Officer or equivalent officer of \_\_\_\_\_, and I acknowledge the execution of the foregoing.

Witness my hand and Notarial Seal this \_\_\_day of \_\_\_\_\_, 202\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public Residing in \_\_\_\_\_  
County, Arkansas

\_\_\_\_\_  
(Printed Signature)

**BEFORE SUBRECIPIENT RECEIVES ANY SFRF FUNDS, THIS FULLY EXECUTED AND NOTARIZED CORONAVIRUS STATE FISCAL RECOVERY FUND ACCEPTANCE CERTIFICATION MUST BE E-MAILED AND SENT VIA U.S. MAIL TO THE FOLLOWING ADDRESSES:**

Email Address: [COVID19Testing@dfa.arkansas.gov](mailto:COVID19Testing@dfa.arkansas.gov)

U.S. Mail:     Arkansas Department of Finance and Administration  
P.O. Box 3278  
Little Rock, AR 72203-3278

## EXHIBIT B

### Proposed Permanent Rule 006.09.4. METHOD OF DISTRIBUTION OF AMERICAN RESCUE PLAN ACT FUNDS FOR COVID-19 TESTING.

Pursuant to the authority vested in the Secretary of the Department of Finance and Administration, by Ark. Code Ann. §§ 25-8-102(a) and 11-5-118(g) (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly), the Secretary of the Department of Finance and Administration, with the approval of the Governor, does hereby promulgate the following Rule.

#### 1. Definitions.

(A) "American Rescue Plan Act" means the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

(B) "Certify" means to attest affirmatively, based on information and belief formed after reasonable inquiry, to the truth, accuracy, and completeness, under penalty of perjury.

(C) "Claimant" means an employer or employee that makes a claim for reimbursement of the cost of COVID-19 testing not covered by an employee's health benefit plan.

(D) "COVID-19" means the respiratory illness that is caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and its variants.

(E) "Disbursing Officer" means the Secretary of the Department of Finance and Administration or the Secretary's designee.

(F) "Employee" means a person who is subject to an employer-required or employer-mandated COVID-19 vaccination or immunization, whose health benefit plan does not cover the cost of COVID-19 testing, and who wishes to continue employment by claiming an exemption under one of the options of the specific exemption process provided for by Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

(G) "Employer" means an entity that requires or is mandated to require vaccination or immunization for COVID-19 for the entity's employees and is required to provide the exemption process under Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

(H) "State Fiscal Recovery Funds" means federal funding authorized within the American Rescue Plan Act of 2021, Pub. L. No. 117-2, Section 602(b) of the Social Security Act as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021). The Department of Finance and Administration (the "Department") received these funds for distribution to eligible projects on behalf of the State.

#### 2. COVID-19 TESTING PROGRAM

(A) The Department created the COVID-19 Testing Program (the "Program") in order to comply with Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly). If made available, SFRF funds will be provided to employers and employees to cover the cost of COVID-19 testing.

(B) Under the Program, an employer or employee may submit a claim for reimbursement of the cost of COVID-19 testing and an employer may submit a request for funding to disburse to employees for reimbursement of the cost of COVID-19 testing.

## EXHIBIT B

(C) If SFRF funds are made available, the Program covers the cost of COVID-19 testing not covered by an employee's health benefit plan for an employee who wishes to continue employment by claiming an exemption under one of the options of the specific exemption process provided for by Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly). No administrative costs are eligible costs under the Program.

(D) Before an employer may receive SFRF funds, the employer must provide the Department with an executed Subrecipient Agreement and establish itself as a state vendor through the Department or its successor.

(E) An employer that receives SFRF funds is a Subrecipient and is subject to the compliance and reporting responsibilities required by the American Rescue Plan Act. The COVID-19 Testing Program Subrecipient Agreement is an addendum to this rule.

(F) Before an employee may receive SFRF funds, the employee must establish himself or herself as a state vendor through the Department or its successor.

(G) If an employer or employee has not been established as a state vendor, payment for a reimbursement claim or an employer's request for funding will be delayed.

(H) SFRF funds received under the Program are subject to repayment to the Department for the following reasons: SFRF funds are used for an ineligible purpose; the Department determines an employer has received an excess of funding based upon analysis of the monthly reports; in the event of separation of employees; or as provided by the COVID-19 Testing Program Subrecipient Agreement.

### 3. EMPLOYER THAT REQUIRES OR IS MANDATED TO REQUIRE VACCINATION OR IMMUNIZATION FOR COVID-19

(A) An employer that requires or is mandated to require vaccination or immunization for COVID-19 for the employer's employees shall notify in writing the employer's employees by providing a certified copy of the employer's mandatory vaccination or immunization requirement or policy and the exemption options available under Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

### 4. SUBMISSION OF CLAIMS FOR REIMBURSEMENT OF COSTS OF COVID-19 TESTING

(A) An employer and employee shall submit a claim for reimbursement to cover the cost of COVID-19 testing not covered by the employee's health benefit plan on the form(s) provided by the Department for that purpose. The employer or employee shall denote on the form(s) whether the employer or the employee is the Claimant to be reimbursed.

(B) In addition to the properly completed form(s), the Claimant shall provide the original, or a digitally scanned copy, of the invoice, receipt, or other document(s) evidencing that the test was conducted, the name of each employee tested, the cost of COVID-19 testing, the name of the manufacturer of each COVID-19 test, the United States Food and Drug Administration ("FDA") emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested, and with all documents submitted in legible format.

## EXHIBIT B

(C) By both signing the form(s), the employer and employee shall certify that the information provided on the form(s) and all documents submitted with their reimbursement claim are true, accurate, and complete.

(D) Upon receipt of the documents as described in 4(B) and the properly completed form(s), the Disbursing Officer shall issue SFRF funds, if made available, to the Claimant within thirty (30) days.

### 5. OPTION FOR DISTRIBUTION OF FUNDS TO AN EMPLOYER

(A) An employer that chooses to receive funds for disbursement to employees to cover the cost of COVID-19 testing not covered by the employee's health benefit plan shall submit a request for funding on the form(s) provided by the Department for that purpose.

(B) In addition to providing the properly completed form(s), an employer shall provide a proposed testing roster on the form(s) provided by the Department for that purpose.

(C) The Department will determine the amount of funds to be provided to an employer, for disbursement to employees to cover the cost of testing, based upon the information provided on the form(s) and the proposed testing roster.

(D) An employer that receives funds to distribute to employees for COVID-19 testing shall report on a monthly basis to the Department on the form(s) provided by the Department for that purpose. In addition to providing the properly completed form(s), an employer shall provide the original, or a digitally scanned copy, of invoices, receipts, or other documents evidencing that each test was conducted, name of each employee tested, the cost of COVID-19 testing, the name of the manufacturer of each COVID-19 test, the FDA emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested with all documents submitted in in legible format.

(E) An employer that receives funds to distribute to employees for COVID-19 testing shall provide on a monthly basis an updated proposed testing roster, a completed testing roster, and an employee separation roster on the form(s) provided by the Department for that purpose.

(F) By signing the form(s), the employer shall certify that the information provided on the form(s) and all documents submitted with the form(s) are true, accurate, and complete.

(G) Upon receipt of the properly completed forms as described in 5(A) & 5(B), the Disbursing Officer shall issue SFRF funds, if made available, to the employer within thirty (30) days.

This Rule shall expire on July 31, 2023 unless Ark. Code Ann. § 11-5-118 (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly) is extended by the General Assembly.

## **EXHIBIT B**

Source: Arkansas Code Annotated § 11-5-118(g) (Act 1115 of the 2021 Regular Session, 93<sup>rd</sup> General Assembly).

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Larry W. Walther, Secretary  
Arkansas Department of Finance and Administration

Date: January 18, 2022



Arkansas Department of Finance and Administration  
AMERICAN RESCUE PLAN ACT  
CORONAVIRUS STATE FISCAL RECOVERY FUNDS  
Authorized Agent Form

EXHIBIT C

Subrecipient Name \_\_\_\_\_

Name of Authorized Agent	Title of Authorized Agent	Signature of Authorized Agent	Authorized Agent's Contact	Date

Authorized Representative Signature: \_\_\_\_\_

Authorized Representative:(please print) \_\_\_\_\_

Title: \_\_\_\_\_ Date signed: \_\_\_\_\_

For changes to Authorized Agents  
Mail Form to:

Arkansas Department of Finance and Administration  
Attn: Office of Accounting – ARPA 2<sup>nd</sup> Floor  
P. O. Box 3278  
Little Rock, AR 72203-3278



# CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SUBCONTRACTOR		SUBCONTRACTOR NAME	
<input type="checkbox"/> Yes <input type="checkbox"/> No			
TAXPAYER ID NAME:		IS THIS FOR: <input type="checkbox"/> Goods? <input type="checkbox"/> Services? <input type="checkbox"/> Both?	
YOUR LAST NAME:		FIRST NAME:	M.I.:
ADDRESS:			
CITY:	STATE:	ZIP CODE:	COUNTRY:

**AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:**

## F O R I N D I V I D U A L S \*

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse *is* a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held [senator, representative, name of board/ commission, data entry, etc.]	For How Long?		What is the person(s) name and how are they related to you? [i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.]	
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Relation
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

☐ None of the above applies

## F O R A N E N T I T Y ( B U S I N E S S ) \*

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held [senator, representative, name of board/commission, data entry, etc.]	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?		
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Ownership Interest (%)	Position of Control
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

☐ None of the above applies

## Contract and Grant Disclosure and Certification Form

**Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.**

**As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:**

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

*Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.*

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

**I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.**

Signature\_\_\_\_\_Title\_\_\_\_\_Date\_\_\_\_\_

Vendor Contact Person\_\_\_\_\_Title\_\_\_\_\_Phone No.\_\_\_\_\_

Agency use only

Agency Number_____	Agency Name_____	Agency Contact Person_____	Contact Phone No._____	Contract or Grant No._____
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## FORM FOR SUBMISSION OF REIMBURSEMENT CLAIMS

Employer Name		Employer FEIN	
Employer Street Address		City	State
		Zip Code	
Employee Name	Social Security Number	Employee Number	Date of Hire
Employee Street Address	City	State	Zip Code
Type of COV D-19 Test for Which Reimbursement is Requested		Name of the Manufacturer of the Test and US Food & Drug Administration Emergency Use Authorization Number of the Test	
Is the cost of COVID-19 testing covered by the employee's health benefit plan? (Yes or No) _____			
Is this a claim for reimbursement of cost of COVID-19 testing? (Yes or No) _____			
Is the employer or the employee the Claimant for reimbursement? (Employer or Employee) _____			
<b>Important – Read Before Signing</b> This form must be properly completed, and signed by both the employer and employee, when requesting reimbursement for the cost of testing not covered by the employee's health benefit plan. By signing this form, you certify under penalty of perjury, based on information and belief formed after reasonable inquiry, the statements and information contained in this form and the attached documents are true, accurate, and complete.			
Employer Signature	Employer Printed Name	Title	Date
Employee Signature	Employee Printed Name	Title	Date
<p><b>For Reimbursement Claims</b> In addition to the properly completed form(s), the following documents <b>must</b> be attached: the original, or a digitally scanned copy, of the invoice, receipt, or other documents evidencing that each test was conducted, the name of each employee tested, the name of the manufacturer of the COVID-19 test, the cost of COV D-19 testing, the United States Food and Drug Administration (FDA) emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested with all documents submitted in legible format. FDA emergency use authorization number information for COV D-19 tests can be found at: <a href="https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas">https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas</a></p> <p><b>Mail the completed form(s) and all documents to</b> Department of Finance and Administration, Office of Accounting, P O Box 3278, Little Rock, AR 72203-3278          Failure to furnish the properly completed form(s) or the required documentation will delay your claim for reimbursement.</p> <p><b>Please see the instructions for completing the form on the next page.</b></p>			

# IMPORTANT PLEASE READ

## EMPLOYERS THAT SEEK TO RECEIVE SFRF FUNDS

**IMPORTANT:** Prior to receiving State Fiscal Recovery Funds, an employer must execute the Arkansas Department of Finance and Administration COVID-19 Testing Program Subrecipient Agreement and agree to abide by its terms and conditions.

## INSTRUCTIONS FOR COMPLETING THIS FORM:

1. **Employer name** – provide the complete legal name of the employer.
2. **Employer FEIN** – provide the employer's Federal Employer Identification Number.
3. **Employer Street Address** – provide the physical street address of the employer.
4. **City** – provide the city in which the employer is located.
5. **State** – provide the state in which the employer is located.
6. **Zip Code** – provide the employer's zip code.
7. **Employee Name** – provide the full name of the employee.
8. **Social Security Number** – provide the social security number of the employee.
9. **Employee Number** – provide the employee's employee number.
10. **Date of Hire** – provide the date of hire of the employee.
11. **Employee Street Address** – provide the physical street address of the residence of the employee.
12. **City** – provide the city in which the employee resides.
13. **State** – provide the state in which the employee resides.
14. **Zip Code** – provide the employee's zip code.
15. **Type of Test for Which Reimbursement is Requested** – provide whether the test for which you are requesting reimbursement is an antigen detection, molecular diagnostic, or proof of immunity test.
16. **Name of Test Manufacturer and US FDA EUA Number** – provide the name of the manufacturer of the COVID-19 test and provide the United States Food and Drug Administration. Emergency Use Authorization number for the COVID-19 test.
17. **Is the cost of COVID-19 testing covered by the employee's health benefit plan?** – provide a yes or no answer to this question.
18. **Is this a request for prearranged COVID-19 testing?** – provide a yes or no answer to this question.
19. **Is this a claim for reimbursement of cost of COVID-19 testing?** – provide a yes or no answer to this question.
20. **Is the employer or the employee the Claimant for reimbursement?** – provide whether the employer or employee is the Claimant for reimbursement; answer by stating employer or employee.
21. **Employer Signature** – a person authorized by the employer to bind the employer must sign in this box.
22. **Employer Printed Name** – print the name of the authorized person that is signing on behalf of the employer.
23. **Title** – provide the title of the person signing on behalf of the employer.
24. **Date** – provide the date that the authorized person signed on behalf of the employer.
25. **Employee Signature** – the employee must sign in this box.
26. **Employee Printed Name** – provide the employee's printed name in this box.
27. **Title** – provide the employee's title in this box.
28. **Date** – provide the date that the employee signed this form.



## FORM FOR REQUESTING DISTRIBUTION OF FUNDS TO EMPLOYER FOR COVID-19 TESTING AND FOR MONTHLY REPORTING

Employer Name	Employer FEIN		
Employer Street Address	City	State	Zip Code
Total Number of Employees	Number of Unvaccinated Employees		

### FUNDING REQUEST FOR DISTRIBUTION OF FUNDS TO AN EMPLOYER TO COVER COST OF EMPLOYEE COVID-19 TESTING

Number of Antigen Detection Tests Requested	Number of Molecular Diagnostic Tests Requested	Number of Proof of Immunity Tests Requested
Testing Schedule for Antigen Detection Tests	Testing Schedule for Molecular Diagnostic Tests	Testing Schedule for Proof of Immunity Tests
Anticipated Cost of Each Antigen Detection Test	Anticipated Cost of Each Molecular Diagnostic Test	Anticipated Cost of Each Proof of Immunity Test
United States Food and Drug Administration (FDA) Emergency Use Authorization Number for Antigen Detection Test	FDA Emergency Use Authorization Number for Molecular Diagnostic Test	FDA Emergency Use Authorization Number for Proof of Immunity Test
Name of the Manufacturer of Antigen Detection Test	Name of Manufacturer of Molecular Diagnostic Test	Name of Manufacturer of Proof of Immunity Test
Amount of Funding Requested for Antigen Detection Tests	Amount of Funding Requested for Molecular Diagnostic Tests	Amount of Funding Requested for Proof of Immunity Tests

<b>MONTHLY DISBURSEMENT REPORT</b>	<b>REPORT PERIOD From: (MM/DD/YYYY)</b>	<b>REPORT PERIOD To: (MM/DD/YYYY)</b>
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Amount of Funding Received for Antigen Detection Tests	Amount of Funding Received for Molecular Diagnostic Tests	Amount of Funding Received for Proof of Immunity Tests
Date Funding for Antigen Detection Tests Was Received	Date Funding for Molecular Diagnostic Tests Was Received	Date Funding for Proof of Immunity Tests Was Received
Amount of Funding Disbursed for Antigen Detection Tests During Current Reporting Period	Amount of Funding Disbursed for Molecular Diagnostic Tests During Current Reporting Period	Amount of Funding Disbursed for Proof of Immunity Tests During Current Reporting Period
Amount of Funding for Antigen Detection Tests Not Disbursed to Employees	Amount of Funding for Molecular Diagnostic Tests Not Disbursed to Employees	Amount of Funding for Proof of Immunity Tests Not Disbursed to Employees

#### Important – Read Before Signing

By signing this form, you certify under penalty of perjury, based on information and belief formed after reasonable inquiry, the statements and information contained in this form and the attached documents are true, accurate, and complete.

Employer Signature	Employer Printed Name	Title	Date
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**For Request for Funding** In addition to providing the properly completed form(s), an employer **must** provide a proposed testing roster on the form(s) provided by the Department for that purpose.

**For Monthly Reporting** In addition to providing the properly completed form(s), an employer **must** provide the original, or a digitally scanned copy, of invoices, receipts, or other documents evidencing that each test was conducted, name of each employee tested, the cost of COVID-19 testing, the name of the manufacturer of each COVID-19 test, the United States Food and Drug Administration (FDA) emergency use authorization number for each test, and a paycheck stub for the most recent pay period for each employee tested with all documents submitted in in legible format. An employer **must** provide on a monthly basis an updated proposed testing roster, a completed testing roster, and an employee separation roster to the Department of Finance and Administration. FDA emergency use authorization number information for COVID-19 tests can be found at: <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas>

**Mail the completed form(s) and all documents to** Department of Finance and Administration, Office of Accounting, P.O. Box 3278, Little Rock, AR 72203-3278  
Failure to furnish a properly completed form or the required documentation will delay your request for testing or claim for reimbursement.

**Please see the instructions for completing the form on the next page.**

# IMPORTANT PLEASE READ

## EMPLOYERS THAT SEEK TO RECEIVE SFRF FUNDS

**IMPORTANT:** Prior to receiving State Fiscal Recovery Funds, an employer must execute the Arkansas Department of Finance and Administration COVID-19 Testing Program Subrecipient Agreement and agree to abide by its terms and conditions.

### INSTRUCTIONS FOR COMPLETING THIS FORM:

1. **Employer name** – provide the complete legal name of the employer.
2. **Employer FEIN** – provide the employer's Federal Employer Identification Number.
3. **Employer Street Address** – provide the physical street address of the employer.
4. **City** – provide the city in which the employer is located.
5. **State** – provide the state in which the employer is located.
6. **Zip Code** – provide the employer's zip code.
7. **Total Number of Employees** – provide the total number of the employer's employees.
8. **Number of Unvaccinated Employees** – provide the number of the employer's employees who are not vaccinated against COVID-19.

### INSTRUCTIONS FOR COMPLETING FUNDING REQUEST SECTION:

9. **Number of Antigen Detection Tests Requested** – provide the number of antigen detection tests that the employer proposes to be conducted.
10. **Number of Molecular Diagnostic Tests Requested** – provide the number of molecular diagnostic tests that the employer proposes to be conducted.
11. **Number of Proof of Immunity Tests Requested** – provide the number of proof of immunity tests that the employer proposes to be conducted.
12. **Testing Schedule for Antigen Detection Tests** – provide whether the testing schedule for antigen detection tests will be weekly, monthly, or if upon a set number of days, provide the number of days between each test.
13. **Testing Schedule for Molecular Diagnostic Tests** – provide whether the testing schedule for molecular diagnostic tests will be weekly, monthly, or if upon a set number of days, provide the number of days between each test.
14. **Testing Schedule for Proof of Immunity Tests** – provide whether the testing schedule for proof of immunity tests will be weekly, monthly, or if upon a set number of days, provide the number of days between each test.
15. **Anticipated Cost of Each Antigen Detection Test** – provide the anticipated cost of each antigen detection test.
16. **Anticipated Cost of Each Molecular Diagnostic Test** – provide the anticipated cost of each molecular diagnostic test.
17. **Anticipated Cost of Each Proof of Immunity Test** – provide the anticipated cost of each proof of immunity test.
18. **US FDA Emergency Use Authorization ("EUA") Number for Antigen Detection Test** – provide the FDA EUA for the antigen detection test that the employer proposes to use for COVID-19 testing.
19. **US FDA EUA Number for Molecular Diagnostic Test** – provide the FDA EUA for the molecular diagnostic test that the employer proposes to use for COVID-19 testing.
20. **US FDA EUA Number for Proof of Immunity Test** – provide the FDA EUA for the proof of immunity test that the employer proposes to use for COVID-19 testing.
21. **Amount of Funding Requested for Antigen Detection Tests** – provide the total dollar amount of funding requested for antigen detection tests.
22. **Amount of Funding Requested for Molecular Diagnostic Tests** – provide the total dollar amount of funding requested for molecular diagnostic tests.
23. **Amount of Funding Requested for Proof of Immunity Tests** – provide the total dollar amount of funding requested for proof of immunity tests.

### INSTRUCTIONS FOR COMPLETING MONTHLY DISBURSEMENT REPORT SECTION:

24. **Report Period From** – provide the report period From date in MM/DD/YYYY format.
25. **Report Period To** – provide the report period To date in MM/DD/YYYY format.
26. **Amount of Funding Received for Antigen Detection Tests** – provide the total dollar amount of funding received for antigen detection tests.
27. **Amount of Funding Received for Molecular Diagnostic Tests** – provide the total dollar amount of funding received for molecular diagnostic tests.
28. **Amount of Funding Received for Proof of Immunity Tests** – provide the total dollar amount of funding received for proof of immunity tests.
29. **Date Funding for Antigen Detection Tests Was Received** – provide the date that the employer received funding for antigen detection tests.
30. **Date Funding for Molecular Diagnostic Tests Was Received** – provide the date that the employer received funding for molecular diagnostic tests.
31. **Date Funding for Proof of Immunity Tests Was Received** – provide the date that the employer received funding for proof of immunity tests.
32. **Amount of Funds Disbursed for Antigen Detection Tests During Current Reporting Period** – provide the total dollar amount of funds disbursed for antigen detection tests during the current reporting period.
33. **Amount of Funds Disbursed for Molecular Diagnostic Tests During Current Reporting Period** – provide the total dollar amount of funds disbursed for molecular diagnostic tests during the current reporting period.
34. **Amount of Funds Disbursed for Proof of Immunity Tests During Current Reporting Period** – provide the total dollar amount of funds disbursed for proof of immunity tests during the current reporting period.
35. **Amount of Funding for Antigen Detection Tests Not Disbursed to Employees** – provide the total dollar amount of funding previously received for antigen detection tests that has not been disbursed to employees.
36. **Amount of Funding for Molecular Detection Tests Not Disbursed to Employees** – provide the total dollar amount of funding previously received for molecular detection tests that has not been disbursed to employees.
37. **Amount of Funding for Proof of Immunity Tests Not Disbursed to Employees** – provide the total dollar amount of funding previously received for proof of immunity tests that has not been disbursed to employees.



Arkansas Department of Finance and Administration  
AMERICAN RESCUE PLAN ACT  
CORONAVIRUS STATE FISCAL RECOVERY FUNDS  
**PROPOSED TESTING ROSTER**

Subrecipient Name\_\_\_\_\_

Employee Name	Employee Address	Employee Social Security Number	Employee Date of Hire	Employee Number	Type of Test Proposed	Manufacturer’s Name for Each Test	US FDA EUA Number for Each Test	Anticipated Cost of Test	Testing Schedule (Weekly, Monthly, Semi-annually)

**Important – Read before signing.**  
By signing this form, you certify under penalty of perjury, based on information and belief formed after reasonable Inquiry, the statements and information contained in this form and the attached documents are true, accurate, and complete.

Authorized Representative Signature\_\_\_\_\_

Authorized Representative:(please print) \_\_\_\_\_

Title: \_\_\_\_\_

Date signed: \_\_\_\_\_

Mail Form to:  
Arkansas Department of Finance and Administration  
  
Attn: Office of Accounting – ARPA 2<sup>nd</sup> Floor  
P. O. Box 3278  
Little Rock, AR 72203-3278  
  
Email Form to:  
COVID19TESTING@DFA.ARKANSAS.GOV



Arkansas Department of Finance and Administration  
AMERICAN RESCUE PLAN ACT  
CORONAVIRUS STATE FISCAL RECOVERY FUNDS  
**COMPLETED TESTING ROSTER**

Subrecipient Name\_\_\_\_\_

Employee Name	Employee Address	Employee Social Security Number	Employee Date of Hire	Employee Number	Type of Test Completed	Name of Manufacturer for Each Test	US FDA EUA Number for Each Test	Cost of Test	Testing Schedule (Weekly, Monthly, Semi-annually)

**Important – Read before signing.**  
By signing this form, you certify under penalty of perjury, based on information and belief formed after reasonable inquiry, the statements and information contained in this form and the attached documents are true, accurate, and complete.

Authorized Representative Signature\_\_\_\_\_

Authorized Representative:(please print) \_\_\_\_\_

Title: \_\_\_\_\_

Date signed: \_\_\_\_\_

Mail Form to:  
Arkansas Department of Finance and Administration  
  
Attn: Office of Accounting – ARPA 2<sup>nd</sup> Floor  
P. O. Box 3278  
Little Rock, AR 72203-3278  
  
Email Form to:  
COVID19TESTING@DFA.ARKANSAS.GOV





Arkansas Department of Finance and Administration  
AMERICAN RESCUE PLAN ACT  
CORONAVIRUS STATE FISCAL RECOVERY FUNDS  
**EMPLOYEE SEPARATION ROSTER**

Subrecipient Name\_\_\_\_\_

Employee Name	Employee Address	Employee Social Security Number	Employee Date of Hire	Employee Number	Date of Separation	Funding Received	Funding to Return

**Important – Read before signing.**  
By signing this form, you certify under penalty of perjury, based on information and belief formed after reasonable inquiry, the statements and information contained in this form and the attached documents are true, accurate, and complete.

Authorized Representative Signature\_\_\_\_\_

Authorized Representative:(please print) \_\_\_\_\_

Title: \_\_\_\_\_

Date signed: \_\_\_\_\_

Mail Form and payment to:  
Arkansas Department of Finance and Administration  
  
Attn: Office of Accounting – ARPA 2<sup>nd</sup> Floor  
P. O. Box 3278  
Little Rock, AR 72203-3278  
  
Email Form to:  
COVID19TESTING@DFA.ARKANSAS.GOV

## FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Finance and Administration

DIVISION Office of Accounting

PERSON COMPLETING THIS STATEMENT Andy Babbitt, CPA, CFE

TELEPHONE NO. (501) 682-5228 FAX NO. (501) 683-0823 EMAIL: andy.babbitt@dfa.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

Method of Distribution of American Rescue Plan Act ("ARPA") Funds for COVID-19 Testing

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

Not applicable

- b) The reason for adoption of the more costly rule;

Not applicable

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

Not applicable

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

Not applicable

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0.00

Total \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0.00

Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

The rule does not impose a cost to any private individuals, entities, or businesses in the state.

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 1,300,000.00

\$ 2,678,000.00

The rule does not impose a cost to any county or municipality in the state. The volume of the claims for reimbursement and requests for funds will dictate staffing needs. The following discussion is the upper limit of anticipated staffing. The Department of Finance and Administration will need to contract or employ approximately 44 staff to enter data, monitor the Subrecipient's activities related to Act 1115 of 2021, and disburse funds under this rule. Additionally, database development will need to be undertaken to help monitor claims and automate the payment process.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☐

\*\*

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

\*\* The cost noted in question 6 above will be borne by ARPA funds. There will be no cost to general revenue.

## **Legal Notice of Rule Making, Public Hearing, and Comment Period**

The Department of Finance and Administration (“Department”) is promulgating proposed permanent rule 006.09.4 to administer the COVID-19 Testing Program which the Department created to comply with Act 1115 of the 2021 Regular Session. The proposed permanent rule provides a method of distribution of coronavirus 2019 (“COVID-19”) relief funds, if made available, from the American Rescue Plan Act of 2021, Pub. L. No 117-2, to employees and employers to cover the cost of testing not covered by an employee’s health benefit plan, to include the: 1) timely distribution of funds to recipients within thirty (30) days; 2) establishment of an option for distribution to an employer that chooses to receive funds for disbursement to employees; and 3) verification and method of authentication of receipts that shall meet legislative auditing requirements, including the development of forms. The Department has authority to promulgate rules for this program pursuant to Ark. Code Ann. §§ 25-8-102(a) and 11-5-118(g) (Act 1115 of the 2021 Regular Session).

The Department by this notice solicits comments of any interested party to the proposed permanent rule. Full and complete copies of the proposed permanent rule are available for inspection and review on the Department’s website at: [https://www.dfa.arkansas.gov/images/uploads/administrativeServicesOffice/ProposedPermanentRule\\_006.09.4.pdf](https://www.dfa.arkansas.gov/images/uploads/administrativeServicesOffice/ProposedPermanentRule_006.09.4.pdf) or may be obtained by contacting the Department at (501) 682-2272. Written comments will be accepted through March 14, 2022 at 4:30 p.m via email to [ProposedRuleComment@dfa.arkansas.gov](mailto:ProposedRuleComment@dfa.arkansas.gov) or by mailing to the Department of Finance and Administration, Office of Accounting, 1509 West 7<sup>th</sup> Street, 2<sup>nd</sup> Floor, Little Rock, AR 72201.

A public meeting for the proposed rule will be held on March 11, 2022, beginning at 2:00 p.m., Central Time, to accept comments on the proposed permanent rule. The meeting will be held in the 5<sup>th</sup> floor board room at 1515 West 7<sup>th</sup> Street, Little Rock, AR 72201.



**DEPARTMENT OF FINANCE AND ADMINISTRATION**  
**OFFICE OF ACCOUNTING**

**Reason for and Summary of Proposed Permanent Rule 006.09.04**

The reason for creating proposed permanent rule 006.09.4 ("Rule") is that Act 1115 of the Regular Session of the Arkansas General Assembly ("Act 1115") requires the Department of Finance and Administration ("Department") to establish rules regarding the method of distribution of coronavirus 2019 (COVID-19) relief funds from the American Rescue Plan Act of 2021, Pub. L. No. 117-2, if such funds are made available, to employees and employers to cover the cost of COVID-19 testing not covered by an employee's health benefit plan, to include the: timely distribution of funds to recipients within thirty (30) days; establishment of an option for distribution to an employer that chooses to receive funds for disbursement to employees; and verification and method authentication of receipts that meets legislative auditing requirements including the development of forms.

The Rule defines several terms that are necessary to implement the COVID-19 Testing Program ("Program") which the Department created to comply with Act 1115. The Rule describes the requirements that an employer or employee must meet in order to participate in the Program. The Rule provides that under the Program, an employer or employee may submit a claim for reimbursement of the cost of COVID-19 testing and an employer may submit a request for funding to disburse to employees for reimbursement of the cost of COVID-19 testing. The Rule further provides that an employer that requires or is mandated to require vaccination or immunization for COVID-19 must notify in writing the employer's employees by providing a certified copy of the employer's mandatory vaccination or immunization requirement or policy and the exemption options available under Ark. Code Ann. § 11-5-118 (Act 1115).

The Rule lays out the procedures to be followed for submission of claims for reimbursement including the form(s) to be completed and the necessary documentation to be provided with each such request. The Rule also lays out the procedures to be followed by an employer that chooses to receive funds for disbursement to employees including the form(s) to be completed, the necessary documentation to be provided with each such request, and the monthly reporting requirements.