

# FY23 Congressionally Directed Spending Request Subcommittee Guidance

## Office of Senator Jeanne Shaheen

*The information below reflects the updated guidance received from the Senate Appropriations Committee for fiscal year (FY) 2023 with respect to congressionally directed spending (CDS) requests. Should you have any questions, please contact Senator Shaheen’s office at [appropriations\\_shaheen@shaheen.senate.gov](mailto:appropriations_shaheen@shaheen.senate.gov) or call 202-224-2841.*

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### **Agriculture, Rural Development, Food and Drug Administration, and Related Agencies**

The Agriculture Subcommittee will only accept CDS requests for the following accounts:

- Agricultural Research Service, Building and Facilities (ARS B&F)
- Animal and Plant Health Inspection Service (APHIS) (S&E)
- Watershed and Flood Prevention Operations (WFPO)
- Rural Development, Community Facilities grants
- Rural Development, Distance Learning, Telemedicine, and Broadband Program (DLT) grants

A recipient of CDS must apply for funding through the normal application process. The Agriculture Subcommittee will not fund CDS items if a recipient cannot meet all program requirements.

#### **Agricultural Research Service, Buildings and Facilities:**

- Requests for ARS B&F may only include funding for repairs and maintenance to existing facilities.

- Funding for construction of a building will not be considered.

Animal and Plant Health Inspection Service (APHIS) Salaries and Expenses:

- Must meet environmental review requirements (i.e. NEPA and ESA)
- While the entire S&E account is open for CDS requests, below are the line items within the account that are most compatible with CDS:
  - Field Crop & Rangeland Ecosystems Pests
  - Pest Detection
  - Plant Protection Methods Development
  - Specialty Crop Pests
  - Tree & Wood Pests
  - Wildlife Damage Management
  - Wildlife Services Methods Development
  - Veterinary Diagnostics
  - Equine, Cervid and Small Ruminant Health
- A few APHIS programs have matching requirements:
  - Grasshopper/Mormon Cricket (Field Crop & Rangeland Ecosystems Pests) – this program conducts surveys, provides technical assistance, and conducts suppression activities. When conducting suppression activities, the Plant Protection Act dictates the federal percentage of control costs and cost sharing for other parties. The federal government pays the total cost of suppression on Federal land (including most tribal trust lands), 50 percent of the cost on state land, and 33 percent of cost on private land.
  - Brucellosis (Cattle Health) – this program has **a 40 percent match** by the States
  - Wildlife Services – reimbursable service agreements are generally **50/50 cost share** and the States would reimburse for their portion.

Watershed and Flood Prevention Operations (WFPO):

- Each project must contain benefits directly related to agriculture, including rural communities, that account for at least 20 percent of the total benefits of the project.
- There are several financial and programmatic requirements in WFPO. An applicant must certify that a program sponsor has contacted their NRCS state office and the proposal meets all program requirements, including financial requirements.

Community Facilities Grants:

This program will fund **up to** 75% of total project costs, with match requirements based on area median income and population as follows:

- Maximum of 75 percent when the proposed project is located in a rural community having a population of 5,000 or fewer; and the median household income of the proposed service area is below the higher of the poverty line or 60 percent of the State nonmetropolitan median household income.

- Maximum of 55 percent when the proposed project is located in a rural community having a population of 12,000 or fewer; and the median household income of the proposed service area is below the higher of the poverty line or 70 percent of the State nonmetropolitan median household income.
- Maximum of 35 percent when the proposed project is located in a rural community having a population of 20,000 or fewer; and the median household income of the proposed service area is below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income.
- Maximum of 15 percent when the proposed project is located in a rural community having a population of 20,000 or fewer; and the median household income of the proposed service area is below the higher of the poverty line or 90 percent of the State nonmetropolitan median household income.

The match requirements are outlined in the CF regulation: 7 CFR 3570.63(b). Towns with populations over 20,000 are not eligible for this program.

In general, CF matching funds must come from a non-Federal source. However, there are two exceptions: (1) sometimes a Federal source will state that it can be used as a match for Federal Grants and (2) when a Federal source loses its Federal identity --- such as CDBG funds that are distributed through a Governor's office (not the CDBG entitlement funding) --- a CF project having these funds as a part of the capital stack can be a part of the applicant required contribution.

CDS requests will be considered outside of the CF state allocations. Therefore, the sole cap that will determine the maximum grant assistance is the match requirement as described above.

In order to best determine the eligibility of the request, please provide the following information in your application:

- Intended use of funds and how the completed construction/acquisition will be used. Please provide as much detail as possible. For example, "the funding will be used to build three new classrooms to teach English." A full list of eligible entities, uses, and limitations can be found here: [7 CFR Part 3570](#)
- Both the requested CDS dollar amount and the total cost of the project
- Service area/beneficiaries – this includes all towns, cities, counties, etc. that will benefit from the services provided and can be more than just the town where the project is physically located. If a project will benefit multiple towns/communities, RD takes a weighted average of the populations and median incomes to determine eligibility and the required match. Without this information, RD will not be able to determine eligibility and the project will not be funded.

Funds may **not** be used for the following activities:

- To reimburse funds for projects already constructed/acquired or projects that will be completed by the passage of the bill

- To pay initial operating expenses or annual recurring costs, including purchases or rentals that are generally considered to be operating and maintenance expenses (unless a CF loan is part of the funding package)
- To fund facilities to be used primarily for recreation purposes
- To fund facilities to be used primarily for business entrepreneur purposes

Applicants must meet environmental review requirements (i.e., NEPA). Due to the complexity of these grants, all applications should be vetted through your State RD office – the Subcommittee will not consider projects that are ineligible.

### Distance Learning and Telemedicine (DLT) Grants

The following project and applicant eligibility criteria must be met prior to a congressionally directed spending request being approved:

- There is **a flat 15 percent match** (matching funds cannot come from another Federal source)
- Full list of eligible entities, uses, and limitations can be found here: [7 CFR Part 1734 Subpart A and B](#)
- Reminder, even though for-profit entities are eligible for this program, they are not eligible for congressionally directed spending requests.
- **Broadband deployment is not an eligible use of funds for DLT**

For both CF Grants and DLT Grants, state directors and local specialists are available to answer specific questions regarding eligibility of a proposed project. You can find their contact information at this link: <https://www.rd.usda.gov/about-rd/state-offices>.

### Commerce, Justice, Science and Related Agencies

The CJS Subcommittee will only accept CDS in the following accounts:

- “Department of Commerce; National Institute of Standards and Technology (NIST); Scientific and Technical Research Services (STRS); External Projects”;
- “Department of Commerce; NIST; Construction of Research Facilities; Extramural Construction”;
- “Department of Commerce; National Oceanic and Atmospheric Administration (NOAA); Operations, Research, and Facilities (ORF); Special Projects”;
- “Department of Justice; Office on Justice Programs; State and Local Law Enforcement Assistance; Byrne Discretionary”;
- “Department of Justice; Community Oriented Policing Services (COPS); COPS Law Enforcement Technology and Equipment”;
- “National Aeronautics and Space Administration; Safety, Security and Mission Support”.

CDS should fund local projects that further the missions of CJS agencies by increasing the understanding of the oceans and the atmosphere, protecting our communities, and promoting space- or standards- related science. Successful projects will match the project to the

authorization or mission of an agency or account and have the support of local officials or communities.

#### NOAA ORF Special Projects

Projects should address fisheries, marine mammals, ocean, climate, weather, and atmospheric research and programs. Construction projects will not be accepted.

#### NIST STRS External Projects

Projects should address standards-related research and technology development. Construction projects will not be accepted.

#### DOJ Byrne Discretionary

The Subcommittee will accept requests for CDS for Byrne Discretionary projects to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice systems. Awarded grants will be subject to the requirements of [2 CFR Part 200](#) and the [DOJ Grants Financial Guide](#). Allowable costs are those costs consistent with the principles set out in the 2 CFR Part 200, Subpart E, and those permitted by the grant program's authorizing legislation. This funding cannot be used for land acquisition or construction.

#### DOJ COPS Law Enforcement Technology and Equipment

The Subcommittee will accept requests for CDS for COPS Law Enforcement Technology projects for the development of technologies and automated systems to assist law enforcement agencies in investigating, responding to, and preventing crime. Recipients shall include State, local, Tribal, and territorial governments and their public agencies (for example, police and/or sheriff's departments). Allowable activities are limited to the statutorily allowable purpose areas under the [COPS Office statute](#), including the procurement of equipment, technology, or support systems, and the development of new technologies to assist recipient entities in reorienting the emphasis of their activities from reacting to crime to preventing crime.

#### NASA Safety, Security and Mission Support (SSMS)

Projects should focus on science education, research, and technology development related to NASA's mission. Medical research projects and projects at NASA-owned Visitor Centers or a State's designated Space Grant Consortium will not be funded. **This account does not fund construction but could be used for equipment, research funding, or education programs.**

#### NIST Construction of Research Facilities, Extramural Construction

The Subcommittee will accept CDS for NIST Extramural Construction projects for non-Federal research facilities at research institutions and colleges and universities.

## **Energy and Water Development**

The Subcommittee will only consider CDS requests for items in the following accounts:

- Corps of Engineers: Investigations
- Corps of Engineers: Construction
- Corps of Engineers: Operation & Maintenance
- Corps of Engineers: Mississippi Rivers & Tributaries: Investigations
- Corps of Engineers: Mississippi Rivers & Tributaries: Construction
- Corps of Engineers: Mississippi Rivers & Tributaries: Operation & Maintenance
- Bureau of Reclamation: Water and Related Resources
- Department of Energy: “Energy Projects” Account will include the following topic areas:
  - Renewable and Clean Energy projects
  - Electricity and Energy Resiliency projects
  - Cybersecurity and Energy Security projects
  - Nuclear Energy Projects
  - Fossil Energy or Carbon Management Projects

### **Special Guidance for Department of Energy CDS Requests:**

- The Committee will not fund projects for multiple years, the funding requested should reflect a funding amount that can complete the project.
- The Committee will not fund construction of buildings or new facilities (no brick and mortar), even if it will have clean energy associated with it.
- The Committee will not fund electric vehicle charging projects, unless the project is connected to larger clean energy sources (like a battery) or has clean energy applications beyond the charging station.
- Statutory cost sharing requirements may apply to these projects, as required by section 988 of the Energy Policy Act of 2005. The amount of required cost sharing will depend on the scope and technological maturity of the project:
  - Research or development activities of a basic or fundamental nature: no minimum cost share.
  - Research or development activities of an applied nature: minimum 20 percent cost share.
  - Demonstration or commercial application: minimum 50 percent cost share.
  - Some projects may contain elements of more than one of the categories shown above. Therefore, some projects may have a blended cost share.

## **Financial Services and General Government**

The Subcommittee will only consider CDS requests for items in the following accounts:

- Small Business Administration, Administrative Provision
- National Archives and Records Administration, National Historical Publications and Records Commission
- National Archives and Records Administration, Repair and Restoration
- General Services Administration, Federal Buildings Fund, Construction and Acquisition
- Office of National Drug Control Policy – Prevention Grants

## **Homeland Security**

For FY 2023, the following accounts are eligible for CDS requests:

- Federal Emergency Management Agency Pre-Disaster Mitigation Projects; and
- Federal Emergency Management Agency Emergency Operations Center Grant Program

### **Pre-Disaster Mitigation Projects:**

Requested projects must meet the eligibility requirements of the Building Resilient Infrastructure and Communities (BRIC) grant program, including the cost-share requirement, benefit cost ratio, and environmental and historic preservation requirements. Requirements can be found in the most recent [Notice of Funding Opportunity](#). For any projects designated for funding in the final FY 2023 Homeland Security Appropriations Act, the state agency responsible for administering mitigation grants in the requestor's state must submit an application to the Federal Emergency Management Agency, and that entity will serve as the administrative agent for the grant.

**Therefore, all project proposals must be accompanied by a letter of support from the appropriate state agency affirming that it believes the project is eligible.**

### **Emergency Operations Center Grant Program:**

Requested projects must meet the eligibility requirements of the Emergency Operations Center grant program, including the cost-share requirement and environmental and historic preservation requirements. Requirements can be found in the most recent [Notice of Funding Opportunity](#). For any projects designated for funding in the final FY 2023 Homeland Security Appropriations Act, the state administrative agency (SAA) must submit an application to the Federal Emergency Management Agency, and that agency will serve as the administrative agent for the grant.

Therefore, all project proposals must be accompanied by a letter of support from the appropriate SAA affirming that it believes the project is eligible.

## **Interior, Environment and Related Agencies**

The following programs are eligible for CDS requests:

- Clean Water: EPA, STAG, Clean Water SRF, Clean Water CDS
- Drinking Water: EPA, STAG, Drinking Water SRF, Drinking Water CDS
- Sanitation Facilities Construction: Sanitation Facilities Construction, Sanitation Facilities Construction CDS
- Historic Preservation Fund: NPS, Historic Preservation Fund Projects
- State and Private Forestry: USFS, State and Private Forestry, Forest Resource Information and Analysis

### **Clean Water and Drinking Water State and Local Projects**

The subcommittee will accept CDS requests for local and/or municipal projects included on a state's most recently finalized Clean Water or Drinking Water State Revolving Fund Intended Use Plan (IUP). The subcommittee may consider projects that are eligible for funding under State Revolving Loan Fund (SRF) guidelines, but are not on the state IUP list.

**There is a minimum 20% cost share requirement** for any state or local water infrastructure grant funded through congressionally directed spending. In almost all cases, other federal funds cannot be used to meet this 20% cost share. Please note that only the non-federal portion of assistance provided by a State Revolving Loan Fund can be applied towards a project's matching requirement.

Applicants for the Clean Water and Drinking Water accounts are required to provide the following information in their application:

- What is the project purpose, e.g., drinking water, wastewater, stormwater, and/or water quality protection?
- How will the project help the recipient meet applicable water standards—e.g. improve drinking water quality or improve surface/groundwater quality?
- Is this project primarily to support existing water needs or to support future growth? Note that projects primarily to support future growth are typically ineligible for State Revolving Funds.
- Is this request seeking funding for planning and design, construction, or both?
- Describe the project recipient—are they a municipality? Public water system? Other public entity?
- What is the total estimated cost of the project, based on the facilities plan or preliminary engineering report?
- What is the amount requested for the project?
- Is the amount requested scalable to a lower amount and if so, what is the minimum amount?
- Please list any funding received from federal appropriations, including the fiscal year and source of funding (Clean Water SRF, Drinking Water SRF, STAG grants, USDA Rural Development Program, FEMA, or others)?



- Does the community have a financing plan certified by an authorized local official demonstrating how it will cover the matching funds of 20% or more?
- What are the anticipated non-federal sources of funding for this project?

The following list provides some examples of the types of projects that *are typically eligible* for SRF funding and are most frequently funded. This list is not intended to be exhaustive.

| <b>Projects that generally ARE eligible for SRF funding</b>  |   |
|--|---|
| <b>Clean Water / Waste Water</b>   | <b>Drinking Water</b>   |
| 1. Wastewater treatment plants, including sludge handling facilities.  | 1. Facilitate compliance with national primary drinking water regulations or address serious risks to public health including non-regulated contaminants (i.e. PFAS).   |
| 2. Collector Sewers - Small sewers that convey wastewater from residences, commercial establishments, and industrial sites.  | 2. Rehabilitate or develop water sources (excluding reservoirs, dams, dam rehabilitation and water rights) to replace contaminated sources.   |
| 3. Interceptor Sewers - Large sewers that convey wastewater from collector sewers directly to a wastewater treatment facility.                                       | 3. Install or upgrade treatment facilities.   |
| 4. Sewer Pipes – Rehabilitation is only eligible if the pipes are publicly owned.  | 4. Install or upgrade storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering the water system.  |
| 5. Outfall Sewer - A sewer that conveys treated wastewater from a wastewater treatment facility to the receiving waters.   | 5. Install or replace transmission and distribution pipes to prevent contamination caused by leaks or breaks in the pipe, or improve water pressure to safe levels.   |
| 6. Storm Water Management – Measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water (i.e. storm sewers, green infrastructure, etc.). | 6. Projects to consolidate water supplies – for example, when individual homes or other public water supplies have a water supply that is contaminated, or the system is unable to maintain compliance for financial or managerial reasons – are eligible for DWSRF assistance. |

|  |  |
|--|--|
| <p>7. Combined sewer overflow (CSO) control and sanitary sewer overflow (SSO) control.</p>   | <p>7. Land is eligible only if it is integral to a project that is needed to meet or maintain compliance and further public health protection.</p> |
| <p>8. Infiltration/Inflow Correction - Construction activities that prevent surface water or groundwater from entering the sewer system.</p>   | <p>8. Project planning, design and other related costs</p>   |
| <p>9. Water Security - Installation or upgrade of physical security infrastructure such as lighting, fencing, monitoring and access control. Also, cybersecurity measures, installation of safer 10 treatment technologies, and more secure storage of on-site treatment.</p>  |  |
| <p>10. Septic Tanks - Remediation, rehabilitation, removal and replacement of failing tanks are eligible, as well as installation of new tanks.</p>  |  |
| <p>11. Land - The leasing and fee-simple purchase of land, including surface and subsurface easements, needed to locate eligible municipal or Tribal projects, and land integral to the treatment process. Municipal purchase of land and/or conservation easements for source water protection are also eligible.</p> |  |
| <p>12. Water Reuse - Projects involving the municipal reuse or recycling of wastewater, stormwater, or subsurface drainage water.</p>  |  |
| <p>13. Capital Nonpoint Source Pollution Control Projects – e.g., river or streambank restoration, agricultural best management practices (i.e., buffer strips, manure containment structures), wetlands restoration, etc.</p>   |  |

Note that SRF projects have very specific eligibility requirements. The following table lists some of the project types that are *ineligible* for SRF funding:

| <b>Projects that generally are NOT eligible for SRF funding</b>  |  |
|--|--|
| <b>Clean Water / Waste Water</b>   | <b>Drinking Water</b>  |
| 1. Land, except for projects described in the subsequent table under eligibility #11                               | 1. Dams or rehabilitation of dams  |
| 2. Operations and maintenance costs  | 2. Operations and maintenance costs  |
| 3. Non-municipal point source control  | 3. Water rights, except if the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy or if the water rights purchase is covered by EPA's DWSRF Class Deviation for Water Rights 2019 |
| 4. Acid drainage correction  | 4. Reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located  |
| 5. Ambient water quality monitoring  | 5. Laboratory fees for monitoring  |
| 6. Flood Control Projects, unless the project is otherwise managing, reducing, treating, or recapturing stormwater | 6. Projects needed mainly for fire protection  |
| 7. Privately owned sewer pipes   | 7. Projects for systems that lack adequate technical, managerial, and financial capability, unless assistance will ensure compliance   |
|  | 8. Projects for systems in significant noncompliance, unless funding will ensure compliance  |
|  | 9. Projects primarily intended to serve future growth  |

### Historic Preservation Fund (HPF):

The Historic Preservation Fund (HPF), established to help fund the programs engendered by the National Historic Preservation Act (Public Law 89-665; 54 USC 300301 et seq.), was designed to preserve historical and archaeological sites in the United States of America. The subcommittee anticipates that most requests will be made within the HPF for the Save America's Treasures (SAT) program. All HPF grantees must meet standards set by the Secretary of the Interior and comply with the [audit requirements](#), and each successful CDS recipient must complete an application through [grants.gov](#). The subcommittee will accept CDS requests for non-formula funded activities within HPF that meet the qualifications of HPF programs. Please note that acquisitions of collections or historic properties are not eligible under the HPF. For more information, please visit [here](#). The maximum project amount is \$500,000.

The subcommittee will review requests for projects **in the context of existing HPF grants**. For example, for SAT, the subcommittee will require that the property be listed as an historic place on the National Register of Historic Places or as a National Historic Landmark.

Applicants must answer each of the following questions within their application:

1. What type of entity is the recipient (e.g., non-profit organization, state or local government, educational institution, Federally-recognized Indian Tribe, Alaska Natives, or Native Hawaiian Organizations)? **Please specify.**
2. Has the project received a previous federal grant in the past? For SAT, previous projects can be viewed here: NPS SatMap. Please answer one of the following: **YES and note the year, the amount, and the federal program; or NO.**
3. If the request is for SAT, does the recipient have in place, or a plan to provide, the one-to-one match with non-federal cash and/or in-kind contribution? **Please answer YES, NO, or N/A.**
4. Would the requested project fund an eligible activity under the HPF? For example, for SAT, please visit [here](#). **Please answer YES or NO.**

For HPF, if the request is for property, does the property meet the HPF program requirements of being listed on the National Register of Historic Places or as a National Historic Landmark individually or as contributing to an historic district? **Required YES, NO, or N/A**

### State and Private Forestry (SPF):

The State & Private Forestry account provides technical and financial assistance grants to non-federal forest landowners, including state, Tribal and local governments. Activities within this account include forest health management, cooperative fire protection, wood innovation, and urban and community forestry. Requests must meet USFS eligibility requirements for the

appropriate grant program. Project requests should be part of the state's Forest Action Plan, or contribute to meeting the goals of the Forest Action Plan.

Applicants for the State and Private Forestry accounts are required to provide the following information in their application:

- Does the project meet the eligibility and matching requirements as specified on the USFS webpage for the relevant grant program?
- Does the USFS have the authority to provide funds to this project and/or recipient?
- Is the project part of a state Forest Action Plan or otherwise ranked in a prioritized list (provide list name and rank)?
- How does this project contribute to the state Forest Action Plan?
- What is the federal nexus for this project and why should there be a federal funding component?
- Has this project received previous federal funds (provide year, amount, and program)?
- What is the total cost of the project? Are there matching funds or partner contributions?
- Is the amount requested scalable to a lower amount and if so, what is the minimum amount?
- What is the timeline for this project?
- Describe how the project will conserve and steward working forests or open space, protect forest health from insects and disease, meet urban and community forestry goals, create opportunities for innovative wood use, improve fire mitigation efforts, or otherwise benefit communities and forested lands.

#### Projects on Agency Lists

Applications for funding for projects included in the fiscal year 2023 President's Budget should not be submitted as CDS requests if the request is for funding at or below the President's request level. The subcommittee will only consider CDS requests for projects that are not included in the President's Budget or for funding levels that are above the amounts provided in the President's Budget. The subcommittee will have a strong preference for projects included on agency-submitted priority lists.

**LWCF:** Great American Outdoors Act, Land and Water Conservation Fund: Pursuant to the Great American Outdoors Act of 2020 (P.L. 116-152) and the Consolidated Appropriations Act, 2022 (P.L. 117-103), prioritized project lists will accompany the President's budget request in five LWCF accounts. This requirement is delivered in two separate lists: 1) a list of projects proposed for funding in the President's Budget; and 2) a supplemental list of projects that are ready but unfunded. Any funding request for activities not included in the President's Budget must be submitted as CDS. Note that while third party organizations may advocate for specific projects, the Grantee for federal acquisition is the federal agency that will eventually manage the land (BLM, FWS, NPS, or USFS), or in the case of the Forest Legacy Program, it is the state.

**LRF:** Great American Outdoors Act, Legacy Restoration Fund: Pursuant to the Great American Outdoors Act of 2020 (P.L. 116-152) and the Consolidated Appropriations Act, 2022 (P.L. 117-103), prioritized project lists for deferred maintenance projects to be funded by the National

Parks and Public Lands Legacy Restoration Fund will accompany the President's budget request for BLM, FWS, NPS, USFS, and BIE schools. There will be a high bar for considering any projects not present on the current year's lists.

**LMCON: Land Management Agency Construction:** The four land management agencies (BLM, FWS, NPS, and USFS) receive annual appropriations for new construction and other capital improvement projects and typically include a short list of specific projects in the President's budget request. There will be a high bar for considering any projects not present on the current year's lists. Note that the Grantee is the federal agency.

For Land and Water Conservation Fund (LWCF), Legacy Restoration Fund (LRF), or Land Management Agency Construction (LMCON), please indicate if the project on the relevant list provided by the administration? **Required YES or NO**

**The subcommittee may also consider CDS within the following accounts, but only on a case-by-case basis:**

Land Management Agencies, Local Projects and Research: In order for requests to be considered within this category, they must be relevant to the specified mission area within the bureaus listed below and contribute to responsible stewardship of land, wildlife, and recreation resources or contribute to priority research areas that inform stewardship of those resources. Proposed projects should contribute to local, state, and federal efforts to benefit species, habitat, and/or enhanced stewardship of land and water resources. Project funding is not intended to primarily fund annual operations and maintenance of existing programs at the state, federal, or local level.

- *BLM, Management of Land and Resources, Habitat Management Priorities* – project requests may be considered for activities related to wildlife and aquatic habitat management.
- *NPS, National Recreation and Preservation, Statutory and Contractual Aid* – project requests may be considered for activities relating to operating, managing, and preserving resources, including as authorized by law.
- *FWS, Resource Management, Stewardship Priorities* – project requests may be considered for fish and aquatic conservation, habitat conservation, recovery, and restoration activities.
- *USGS, Surveys Investigations and Research, Special Initiatives* – project requests may be considered for high priority and core science research, and ecosystem and water resources related activities.

Bureau of Indian Affairs, Operation of Indian Programs, Special Initiatives: BIA provides direct services and funding for compacts and contracts for Tribes to provide programs for a wide range of activities. While the Subcommittee will not consider CDS projects for individual tribes, the Subcommittee may consider requests from other eligible entities that honor the commitment to invest in Tribal communities, create economic opportunities, foster cultural heritage, promote efficient and effective Tribal governance, and conserve natural resources.

EPA, Science and Technology, Research: National Priorities: Project requests may be considered for high priority lines of research related to environmental quality and human health.

EPA, State and Tribal Assistance Grants, STAG Infrastructure Grants: Requests will only be considered for projects related to existing funding categories and activities within the STAG account that will result in improvements in environmental quality and/or human health.

### **Labor, Health and Human Services, Education and Related Agencies**

The LHHS Subcommittee will only accept CDS requests in the following accounts:

- Department of Labor—Employment and Training Administration—Training and Employment Services
- Department of Health and Human Services—Health Resources and Services Administration— Program Management
- Department of Health and Human Services—Substance Abuse and Mental Health Services Administration—Health Surveillance and Program Support
- Department of Health and Human Services—Administration for Children and Families—Children and Families Services Programs
- Department of Health and Human Services—Administration for Community Living—Aging and Disability Services Programs
- Department of Education— Innovation and Improvement—Fund for the Improvement of Education
- Department of Education—Rehabilitation Services—Demonstration and Training
- Department of Education—Higher Education—Fund for the Improvement of Postsecondary Education

Except where specifically authorized and noted, CDS cannot be used for construction (or the acquisition of property) or renovation of buildings. In addition, recipients of CDS may not subgrant to other organizations or agencies.

#### Department of Labor Employment and Training Administration (ETA):

CDS projects funded by ETA (through the Workforce Innovation and Opportunity Act (WIOA) demonstration authority) must be focused on meeting the employment and training needs of workers. Generally these projects should include direct services which could include career services, training services (including work-based training), supportive services, and other permissible services, as they are defined in WIOA. CDS funding may be used for the purchase of equipment, but generally only if it is an incidental part of the larger project. A similar standard applies to curriculum development, which should be incidental to the project's emphasis on direct services to individuals. If a larger portion of the CDS funding is expected to be used for equipment or curriculum development, please provide a detailed justification for how such costs relate to meeting the employment and training needs of workers. CDS cannot be used for construction or renovation of facilities.

## Department of Health and Human Services

### **Health Resources and Services Administration (HRSA):**

CDS within HRSA should be submitted through the Program Management account and must fall under one of the following categories:

- **Health Facilities Construction and Equipment**—CDS for the cost of construction, renovation, or capital equipment purchase for facilities for health, mental health, or substance abuse services, training of health professionals, or medical research. Examples of eligible facilities include hospitals; health centers and clinics; skilled nursing facilities; mental health centers; facilities for schools of medicine, nursing, or other health professions; and medical research laboratories. In addition to construction and renovation, funding can be used to acquire capital equipment, such as lab equipment, x-ray machines, or telehealth and information technology. Equipment-only grants—that is, grants not involving construction—are permissible. Generally, any equipment having a useful life of more than one year and a unit cost of at least \$5,000 will be eligible as capital equipment. Equipment with lower costs may also be eligible, provided that it is treated as an item of capital expense under the recipient institution’s pre-existing, written accounting policies. Equipment expenses for health information systems and electronic medical records systems are permitted expenditures. The costs of expendable supplies such as pharmaceuticals, lab chemicals, or office paper are not eligible.

HRSA Health Facilities funding cannot be used to acquire land or purchase existing buildings, or to pay salaries or other operating costs. Funding cannot be used to pay for work previously completed. CDS can be used for architectural and engineering costs associated with an eligible construction project, but cannot be used for general feasibility studies or planning and design.

- **Rural Health** —CDS for projects to improve health care in rural areas. Examples of eligible activities include medical, dental, or mental health care services; health promotion and education; chronic disease management; telehealth services; and improvements to emergency medical services. Grant funds can be used for services only in areas that meet HRSA’s definition of rural. For lists of eligible areas and further information regarding that definition, see: <https://www.hrsa.gov/rural-health/about-us/definition/index.html>.

### **Substance Abuse and Mental Health Services Administration (SAMHSA):**

CDS within SAMHSA should be submitted through the Health Surveillance and Program Support account and must fall under one of the following categories:

- **Mental Health**—funding to support programs that promote the prevention or treatment of mental health disorders, including rehabilitation, outreach, and other support services.
- **Substance Abuse Treatment**—funding to support programs that improve access, reduce barriers, and promote high quality, effective treatment and recovery services



- **Substance Abuse Prevention**—funding to support programs to prevent the onset of illegal drug use, prescription drug misuse and abuse, alcohol misuse and abuse, and underage alcohol and tobacco use.

CDS within SAMSHA cannot be used for construction (other than a limited amount of renovation necessary to carry out a funded project).

*Needle Exchange:* A General Provision prohibits the award of funding for projects which distribute sterile needles or syringes for I.V. drug injection.

*Use of Illegal Substances:* A General Provision prohibits the award of funding for projects which promote the legalization of illegal drugs or substances.

#### **Administration for Children and Families (ACF)**

CDS within ACF should be submitted through the Children and Families Services Programs account and must fall under one of the following categories:

- **Child Abuse Prevention**—CDS for projects to improve the prevention, assessment, identification, and treatment of child abuse and neglect through research, model service improvement, information dissemination, and technical assistance. Projects must serve or target abused and/or neglected children and their families.
- **Social Services Research and Demonstration**—CDS for projects to promote the ability of families to thrive through financial self-sufficiency in order to reduce poverty and to promote the healthy development and greater well-being of children and families. Projects can serve a diverse population including: low-income individuals, children, youth, families, individuals with developmental disabilities, and Native Americans.

CDS cannot be used for construction or renovation of facilities.

#### **Administration for Community Living (ACL)**

- **Aging and Disability Services Programs**—CDS for projects to improve the ability of older adults and individuals of all ages with disabilities to live independently and participate fully in their communities. Generally, CDS should focus on improving access to, or the quality of, education, training, support services, and independent living services for older adults and individuals with disabilities.

CDS cannot be used for construction or renovation of facilities.

#### Department of Education

**Fund for the Improvement of Education (FIE)**—Elementary and secondary education CDS can be designated under this heading for a wide variety of elementary and secondary education projects, including instructional services, afterschool centers, curricula development, teacher training, acquisition of books and computers, arts education, social and emotional learning activities, full-service community schools, and early childhood education. In general, the focus

of elementary and secondary education CDS should be providing early childhood or K-12 educational services.

In addition, CDS to provide and improve special education services at the elementary and secondary levels are also eligible under this heading. These CDS may include early intervention services for infants and toddlers, transition services, and postsecondary education services.

Eligible grantees are state education agencies, school districts, colleges and universities, and other public and private nonprofit entities. Generally, CDS intended for individual schools is provided to the applicable school district and not directly to the individual school. CDS cannot be used for construction or renovation of school buildings, except in the case of minor remodeling required as part of technology upgrades. Daycare and childcare projects that do not include educational services are not eligible under this account.

**Rehabilitation Services Demonstration and Training**—CDS can be designated under this heading for a wide variety of projects that further the purposes of the Rehabilitation Act, including by providing individuals with disabilities with education, training, support services, and independent living services. Generally, CDS should focus on improving access to, or the quality of, such services for individuals with disabilities. Eligible grantees include State vocational rehabilitation agencies, community rehabilitation programs, Indian tribes or tribal organizations, or other public or nonprofit agencies and organizations.

CDS cannot be used for construction or renovation of facilities.

**Higher Education Fund for the Improvement of Postsecondary Education (FIPSE)**—CDS projects funded through FIPSE should primarily be focused on improving access to, or the quality of, postsecondary education. This can include a range of activities as authorized and specified in section 741(a) of the Higher Education Act (i.e. the FIPSE authorization). Grantees are usually colleges and universities, but may include other public and private nonprofit organizations.

Examples of the types of projects that can be funded under FIPSE include projects to hire and train faculty, establish and improve degree programs, improve teacher preparation programs, develop and improve curricula, upgrade technology, equipment, and telecommunications, provide student support, and implement university partnerships with school districts. If a significant portion of grant funds are expected to be used for the purchase of equipment make sure to note that and include a justification for that use of funds.

CDS funding cannot be used for construction or renovation of facilities, except in the case of minor remodeling required as part of technology upgrades.

### **Military Construction, Veterans Affairs and Related Agencies**

The following accounts are eligible for CDS requests:

- Military Construction, Army

- Military Construction, Navy and Marine Corps
- Military Construction, Air Force
- Military Construction, Defense-Wide
- Military Construction, Army National Guard
- Military Construction, Air National Guard
- Military Construction, Army Reserve
- Military Construction, Navy Reserve
- Military Construction, Air Force Reserve

Requests may include major construction, unspecified minor military construction, and planning and design, however, only certain major military construction projects within these accounts are eligible for CDS. Eligible projects can be found on the lists below.

Eligible Lists:

- Future Years Defense Program (FYDP).—Each military department, to include the Guard and Reserve, as well as Defense-Wide agencies, plans its major military construction program five years into the future. FYDPs identify these future planned projects, which are candidates for CDS requests. Some of the lists can be found on the website of the Under Secretary of Defense (Comptroller). Additional inquiries on the FYDP or whether a specific project is included should be directed to the Senate Liaison Offices of each military department.
- Unfunded Requirements/Priorities Lists (UFR/UPL).—In addition to the annual budget request and as required by law, each military department submits to the congressional defense committees a document identifying unfunded priorities that could be funded if additional appropriations were provided. Questions about the UFR list or whether a specific project is included should be directed to the Senate Liaison Offices of each military department.
- Cost-to-Complete (CTC).—Variables such as construction market conditions can affect cost estimating throughout the military construction programming process, and as such, DOD can experience cost increases that cannot be sufficiently covered by available appropriated funding. In these cases, the military departments may submit a list of projects separate from the budget request that have received an authorization and appropriation, but require additional funding to be completed. Once the full budget request is released, questions about these lists and whether specific projects are included should be directed to the Senate Liaison Offices of each military department.

It is the practice of the Committee to only provide funding which can be executed in the year of appropriation, and therefore CDS eligibility is further limited by the executability of funding.

Eligible major military construction projects must therefore be:

- Authorized in the Fiscal Year 2023 or prior year National Defense Authorization Act;
- At 35% design or higher with a DD 1391\*; and
- Prepared to award a contract in Fiscal Year 2023;

\* A DD 1391 form is required by the Department of Defense for any military construction project. It contains scope and cost estimates, an assessment of the current requirements, justification for the project, and anticipated contracting and construction timelines. Any project that meets the CDS eligibility requirements should have a DD 1391.

### **Transportation, Housing and Urban Development and Related Agencies**

The THUD subcommittee will only accept requests for CDS for the following accounts, and the CDS item must have a reasonable expectation of being obligated before funds expire:

- “Transportation Planning, Research, and Development (TPR&D)” for transportation research projects eligible under title 23 or title 49, United States Code (not for project-specific planning that is eligible for funding under HIP, TIG, or CRISI);
- “Grants-in-Aid for Airports (Airport Improvement Program or AIP)” for airport projects eligible under chapter 471 of title 49, United States Code;
- “Facilities and Equipment (F&E)” for terminal air traffic control facility replacement projects eligible under part A of subtitle VII of title 49, United States Code;
- “Highway Infrastructure Program (HIP)” for highway projects eligible under title 23, United States Code;
- “Transit Infrastructure Grants (TIG)” for transit projects eligible under chapter 53 of title 49, United States Code;
- “Consolidated Rail Infrastructure and Safety Improvement (CRISI) Grants” for rail projects eligible under section 22907 of title 49, United States Code; and
- “Community Development Fund” for “Economic Development Initiatives (EDI)” eligible under chapter 69 of title 42, United States Code.

#### **Transportation Planning, Research & Development (TPR&D)**

Planning for specific local highway, transit, or rail projects that are eligible under HIP, TIG, or CRISI should NOT be included in this account. Applicants are encouraged to use this account for national or regional research and development projects.

#### **Airports (AIP)**

Requests may be submitted under the AIP account for airport projects eligible under chapter 471 of title 49, United States Code.

Applicants are required to provide a link to the airport master plan that includes the requested project. Applicants are also required to provide the status of the planning and environmental

work so the Subcommittee can assess the readiness of the project, as well as a description of all other sources of funding contributing to the total cost of the project.

#### FAA Facilities and Equipment (F&E)

Requests may be submitted under this account for terminal air traffic control tower facility replacement projects eligible under part A of subtitle VII of title 49, United States Code.

Applicants should provide a statement of why the tower needs to be replaced. Applicants are required to provide the age of the tower, number of enplanements, operational line of sight issues, other related infrastructure work not covered by the cost of replacing the air traffic control tower (roads, utilities, etc.), and any other information to justify the project. In addition, the justification is required to provide the status of the planning and environmental work so the Subcommittee can assess the readiness of the project. Requests should provide information on how the CDS funding will ensure completion of a project or segments of a project, including the total cost of the project, the CDS funding amount, and any other identified sources of funding.

#### Highways (HIP)

CDS request within the HIP account for highway projects must be eligible under title 23, United States Code, including, but not limited to, highway and bridge construction projects, planning, environmental review, design, and right-of-way acquisition. Operational expenses are not eligible.

Requests can receive funding for highway projects that are not currently on the STIP or TIP, but for which a State DOT has provided a letter confirming that: (1) the project is eligible for Federal-aid highway funding under title 23, United States Code; (2) the State DOT is willing to carry out the project if funding is enacted; and (3) the State DOT will include the project on the STIP or TIP once funding for the project is enacted.

#### Transit (TIG)

CDS request within the TIG account must be for transit projects eligible under chapter 53 of title 49, United States Code. Requests may be submitted for projects that are not currently on the STIP or TIP, but for which a transit agency has provided a letter confirming that: (1) the project is eligible for transit funding under chapter 53 of title 49, United States Code; (2) the transit agency is willing to carry out the project if funding is enacted; and (3) the transit agency will include the project on the STIP or TIP once funding for the project is enacted.

#### Rail (CRISI)

Requests may be submitted under the CRISI account for rail capital projects eligible under section 22907 of title 49, United States Code. Requests may be submitted for rail projects that are not currently on State rail plan, but for which a State rail agency or State DOT has provided a letter confirming that: (1) the project is eligible for rail funding under section 22907 of title 49, United States Code; (2) the State rail agency, State DOT, or other relevant State agency is willing to carry out the project if funding is enacted; and (3) the State rail agency or State DOT will include the project on the State Rail Plan once funding for the project is enacted.

#### Economic Development Initiatives (EDIs)

CDS request for EDIs within the “Community Development Fund” account must fall under activities eligible under section 5305 of chapter 69 of title 42, United States Code, as well as for affordable housing construction.

Examples of eligible EDI projects include, but are not limited to:

- Acquisition of real property (land, water rights, buildings);
- Construction of new affordable housing;
- Blight removal or remediation; and,
- Construction, rehabilitation, and improvements of public facilities (except buildings for general conduct of government), such as neighborhood centers, parks, and shelter for persons having special needs such as survivors of domestic violence and the homeless.

For more information on types of eligible activities, applicants should review HUD’s resources on the CDBG program [here](#).