

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Finance




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MEMORANDUM

DATE: October 26, 2022

TO: Legislative Budget and Audit Committee

FROM: Alexei Painter, Director 

SUBJECT: Preparation for the November 2, 2022 LB&A Meeting

OMB submitted the following FY23 RPLs for consideration at the November 2, 2022 Legislative Budget and Audit Committee meeting. These RPLs, along with Legislative Finance comments, are posted on our website at <http://www.legfin.akleg.gov>.

RPL#	Agency	Allocation/Program	Amount	Fund Source
08-2023-0130	DCCED	USDA Seafood Processors Pandemic Response and Safety Block Grant Program – Grants of \$6 million or more (expect 1 grant)	\$8,000,000	Federal Receipts (1265) Operating
08-2023-0131	DCCED	USDA Seafood Processors Pandemic Response and Safety Block Grant Program – Grants more than \$2.5 million and less than \$6 million (expect approximately 2 grants)	\$8,000,000	Federal Receipts (1265) Operating
08-2023-0132	DCCED	USDA Seafood Processors Pandemic Response and Safety Block Grant Program – Grants more than \$500 thousand and less than \$2.5 million (expect approximately 8 grants)	\$10,000,000	Federal Receipts (1265) Operating

08-2023-0133	DCCED	USDA Seafood Processors Pandemic Response and Safety Block Grant Program – Grants less than \$500 thousand (expect 50+ grants)	\$7,000,000	Federal Receipts (1265) Operating
10-2023-5089	DNR	Division of Geological & Geophysical Surveys FEMA Award	\$2,960,000	Federal Receipts (1002) Operating
41-2023-0001	JUD	Fairbanks Wellness Court Enhancement Project	\$128,300	Federal Receipts (1002) Operating

If you have any questions that you want an agency to address at the meeting, please call us so we can help ensure the agency has a response prepared.

**Department of Commerce, Community, and Economic Development
Community and Regional Affairs**

Subject of RPL: USDA Seafood Processors Pandemic Response and Safety Block Grant Program – Grants of \$6 million or more	ADN/RPL #: 08-2023-0130
Amount requested: \$8,000,000	Appropriation Authority: Sec 1 Ch 11 SLA 2022 Pg 5 Ln 3
Funding source: Federal Receipts (1265)	Statutory Authority: AS 44.33

PURPOSE

The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), through the Consolidated Appropriations Act of 2021, established a \$50 million grant program to defray expenses incurred by the seafood processing industry in preparing for, preventing exposure to, and responding to the COVID-19 pandemic. Costs must have been incurred between January 27, 2020 and December 31, 2021, and of the \$50 million for this program, \$30.7 million is allocated to Alaska.

Seafood processors operating in Alaska incurred substantial and unanticipated costs to protect communities, keep their workers safe, and continue operations throughout the COVID-19 pandemic in 2020 and 2021. The industry has largely been omitted from COVID-19 relief programs to date. These companies have significant, documented, previously incurred expenses resulting from Federal, State, and local mandates that have thus far been borne almost solely by industry members.

The State's application for this program was developed cooperatively by The Department of Fish and Game and the Department of Commerce, Community, and Economic Development. The Program will provide pro-rated reimbursement of costs incurred by seafood processors and processing vessels, as defined by the USDA, for:

- Workplace Safety Measures: Workplace safety measures, including, but not limited to, personal protective equipment, sanitizer, hand washing stations, air filters, thermometers, cleaning supplies, or similar items.
- Market Pivots: Market pivots such as transition to virtual/online sales costs (online platform development and fees, online marketing, credit card processing fees), supplies, and new signage.
- Retrofitting Facilities: Retrofitting facilities for worker and consumer safety (retrofitting harvester vessels for onboard vessel processing to maximize open-air activities, plexiglass, walk up windows, heat lamps, fans, tents, propane, weights, tables, chairs).
- Transportation: Additional transportation costs incurred to maintain social distancing.
- Worker Housing: Additional worker housing costs incurred to maintain social distancing or to allow for quarantining of new or exposed employees.
- Medical: Unreimbursed costs associated with providing or enabling vaccinations, testing, or healthcare treatment of infected employees, including any paid leave.

PREVIOUS LEGISLATIVE CONSIDERATION

This project was previously approved by the Legislative Budget and Audit Committee as RPL 08-2022-0188. That approval increased the fiscal year 2022 operating authority.

Agency Contact: Hannah Lager, Acting Administrative Services Director, (907) 465-5533

LFD Contact: Alexei Painter, Legislative Fiscal Analyst, (907) 465-5413

TIMING ISSUES

This funding was planned to be fully expended during fiscal year 2022, however several unanticipated factors caused a delay in the awards to subgrantees requiring budget authority in fiscal year 2023 to issue awards. This request is to extend the budgetary authority to fiscal year 2023 to allow for final grant issuance.

At the time of the fiscal year 2022 RPL, DCCED originally expected USDA to make award announcements for the Seafood Processors Pandemic Response and Safety Block Grant in December 2021 but grant awards for states were not made public until February 14, 2022. This grant is a new program for the department. Department staff were charged with developing the entire grant program and review process during an exceedingly short timeframe with limited and delayed federal guidance. The department has placed a high priority on ensuring equitable treatment of applications, which has been time consuming given a wide variety in types of applications received. DCCED has been limited in staff capacity for this task.

Based on the USDA press release and award information, DCCED determined eligibility criteria, created the program webpage, and finalized the application and instructions. DCCED IT staff developed the online application portal as quickly as possible but were limited by staff capacity and a simultaneous priority of altering the AK-ARPA Business Relief Program application to open it for a second round in mid-March 2022.

DCCED announced the grant program to the public on March 21 and the program was opened for applications on April 5, only slightly later than the originally intended launch date of March 2022. The original application period closing date of May 5 was extended to May 20 based on feedback received from grantees that the timeline was too short given the volume of expense documentation that seafood processors needed to compile for their applications.

Applications received for the grant program greatly exceeded the amount of federal funding available. Grants will be awarded based on a pro-rated portion of eligible expenditures to ensure that all eligible applicants receive some amount of funding. However, this approach does require extensive review of eligible expenses prior to grant issuance which has resulted in an extended process. Significant expenses of unclear eligibility will be checked with USDA grant staff for a final determination, which adds to processing time.

Grant application review is near completion, and the department plans to issue an initial proposed grant list in October. Grant payments are anticipated to be issued in fall 2022.

BUDGETARY ISSUES

The fiscal year 2022 RPL expired on June 30, 2022. DCCED was not able to fully complete the review and award process prior to the original expiration date. The total amount of grant award to be distributed is \$30,694,746. In order to meet the RPL criteria included in Chapter 11 SLA 2022 Section 77(e)(2) this award is split into four RPLs based on subgrantee size.

This RPL adds authority for grants of \$6 million or more. The grants list has not yet been finalized, but initial calculations indicate 1 award in this range.

This funding aligns with the mission of the department to support Alaska's economy. This award does not require state match, and will be fully federally funded. The Division of Community and Regional Affairs will administer these grants.

Legislative Fiscal Analyst Comment: RPLs 08-2023-0130 through 0133 were previously approved by the LB&A committee in Fiscal Year 2022 as a single \$35 million item, RPL 08-2022-0188. However, the agency did not award the grants and the authority lapsed at the end of FY22. The four new RPLs are for the same federal award and add up to \$33 million, providing some flexibility between grant categories above the \$30.7 million grant award.

These RPLs seek to expand the budgeted authority of the Community and Regional Affairs appropriation and allocation in the FY23 operating budget, HB 281. Section 77(e) of that bill provides limitations on the RPL process, and reads in part:

“(e) ... an appropriation item for the fiscal year ending June 30, 2023, may not be increased under AS 37.07.080(h)...
(2) by more than \$10,000,000.”

The plain reading of this language is that it does not just prevent a *single RPL* from exceeding \$10,000,000, it prevents a *single appropriation item* from being increased by more than \$10,000,000 in total, even through several RPLs. These RPLs, then, do not appear to comply with the language of Section 77(e)(2). While splitting this item into multiple parts is a gesture towards compliance with the restrictions of this section, it does not bring the items into compliance.

The committee has three options:

1. Approve the four RPLs as-is, accepting that doing so likely violates the appropriation language in HB 281.
2. Deny the four RPLs altogether. The Governor could implement them after waiting 45 days (creating the same litigation risk as the above option) or the grantees could wait for a supplemental appropriation in the 2023 session to receive funds.
3. Revise the RPLs to \$10 million total, allowing grantees to receive approximately 1/3 of their funding now but making them await a supplemental appropriation for the remaining 2/3.

The committee should weigh the litigation risk of approving the against the policy implications of denying them. Allowing them to go forward despite the language of HB 281 may set an undesirable precedent. On the other hand, the legislature already considered and approved these funds, and their disbursement has already been delayed. The recipients may be harmed by further delaying disbursement until a supplemental appropriation could be made during the 2023 legislative session.

**Department of Commerce, Community, and Economic Development
Community and Regional Affairs**

Subject of RPL: USDA Seafood Processors Pandemic Response and Safety Block Grant Program – Grants more than \$2.5 million and less than \$6 million	ADN/RPL #: 08-2023-0131
Amount requested: \$8,000,000	Appropriation Authority: Sec 1 Ch 11 SLA 2022 Pg 5 Ln 3
Funding source: Federal Receipts (1265)	Statutory Authority: AS 44.33

PURPOSE

The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), through the Consolidated Appropriations Act of 2021, established a \$50 million grant program to defray expenses incurred by the seafood processing industry in preparing for, preventing exposure to, and responding to the COVID-19 pandemic. Costs must have been incurred between January 27, 2020 and December 31, 2021, and of the \$50 million for this program, \$30.7 million is allocated to Alaska.

Seafood processors operating in Alaska incurred substantial and unanticipated costs to protect communities, keep their workers safe, and continue operations throughout the COVID-19 pandemic in 2020 and 2021. The industry has largely been omitted from COVID-19 relief programs to date. These companies have significant, documented, previously incurred expenses resulting from Federal, State, and local mandates that have thus far been borne almost solely by industry members.

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PREVIOUS LEGISLATIVE CONSIDERATION

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Agency Contact: Hannah Lager, Acting Administrative Services Director, (907) 465-5533

LFD Contact: Alexei Painter, Legislative Fiscal Analyst, (907) 465-5413

TIMING ISSUES

This funding was planned to be fully expended during fiscal year 2022, however several unanticipated factors caused a delay in the awards to subgrantees requiring budget authority in fiscal year 2023 to issue awards. This request is to extend the budgetary authority to fiscal year 2023 to allow for final grant issuance.

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BUDGETARY ISSUES

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This RPL adds authority for grants more than \$2.5 million and less than \$6 million. The grants list has not yet been finalized, but initial calculations indicate approximately 2 awards in this range.

This funding aligns with the mission of the department to support Alaska's economy. This award does not require state match, and will be fully federally funded. The Division of Community and Regional Affairs will administer these grants.

Legislative Fiscal Analyst Comment: RPLs 08-2023-0130 through 0133 were previously approved by the LB&A committee in Fiscal Year 2022 as a single \$35 million item, RPL 08-2022-0188. However, the agency did not award the grants and the authority lapsed at the end of FY22. The four new RPLs are for the same federal award and add up to \$33 million, providing some flexibility between grant categories above the \$30.7 million grant award.

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3. Revise the RPLs to \$10 million total, allowing grantees to receive approximately 1/3 of their funding now but making them await a supplemental appropriation for the remaining 2/3.

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**Department of Commerce, Community, and Economic Development
Community and Regional Affairs**

Subject of RPL: USDA Seafood Processors Pandemic Response and Safety Block Grant Program – Grants more than \$500 thousand and less than \$2.5 million	ADN/RPL #: 08-2023-0132
Amount requested: \$10,000,000	Appropriation Authority: Sec 1 Ch 11 SLA 2022 Pg 5 Ln 3
Funding source: Federal Receipts (1265)	Statutory Authority: AS 44.33

PURPOSE

The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), through the Consolidated Appropriations Act of 2021, established a \$50 million grant program to defray expenses incurred by the seafood processing industry in preparing for, preventing exposure to, and responding to the COVID-19 pandemic. Costs must have been incurred between January 27, 2020 and December 31, 2021, and of the \$50 million for this program, \$30.7 million is allocated to Alaska.

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The State's application for this program was developed cooperatively by The Department of Fish and Game and the Department of Commerce, Community, and Economic Development. The Program will provide pro-rated reimbursement of costs incurred by seafood processors and processing vessels, as defined by the USDA, for:

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PREVIOUS LEGISLATIVE CONSIDERATION

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Agency Contact: Hannah Lager, Acting Administrative Services Director, (907) 465-5533

LFD Contact: Alexei Painter, Legislative Fiscal Analyst, (907) 465-5413

TIMING ISSUES

This funding was planned to be fully expended during fiscal year 2022, however several unanticipated factors caused a delay in the awards to subgrantees requiring budget authority in fiscal year 2023 to issue awards. This request is to extend the budgetary authority to fiscal year 2023 to allow for final grant issuance.

At the time of the fiscal year 2022 RPL, DCCED originally expected USDA to make award announcements for the Seafood Processors Pandemic Response and Safety Block Grant in December 2021 but grant awards for states were not made public until February 14, 2022. This grant is a new program for the department. Department staff were charged with developing the entire grant program and review process during an exceedingly short timeframe with limited and delayed federal guidance. The department has placed a high priority on ensuring equitable treatment of applications, which has been time consuming given a wide variety in types of applications received. DCCED has been limited in staff capacity for this task.

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BUDGETARY ISSUES

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This RPL adds authority for grants more than \$500 thousand and less than \$2.5 million. The grants list has not yet been finalized, but initial calculations indicate approximately 8 awards in this range.

This funding aligns with the mission of the department to support Alaska's economy. This award does not require state match, and will be fully federally funded. The Division of Community and Regional Affairs will administer these grants.

Agency Contact: Hannah Lager, Acting Administrative Services Director, (907) 465-5533
LFD Contact: Alexei Painter, Legislative Fiscal Analyst, (907) 465-5413

Legislative Fiscal Analyst Comment: RPLs 08-2023-0130 through 0133 were previously approved by the LB&A committee in Fiscal Year 2022 as a single \$35 million item, RPL 08-2022-0188. However, the agency did not award the grants and the authority lapsed at the end of FY22. The four new RPLs are for the same federal award and add up to \$33 million, providing some flexibility between grant categories above the \$30.7 million grant award.

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**Department of Commerce, Community, and Economic Development
Community and Regional Affairs**

Subject of RPL: USDA Seafood Processors Pandemic Response and Safety Block Grant Program – Grants less than \$500 thousand	ADN/RPL #: 08-2023-0133
Amount requested: \$7,000,000	Appropriation Authority: Sec 1 Ch 11 SLA 2022 Pg 5 Ln 3
Funding source: Federal Receipts (1265)	Statutory Authority: AS 44.33

PURPOSE

The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), through the Consolidated Appropriations Act of 2021, established a \$50 million grant program to defray expenses incurred by the seafood processing industry in preparing for, preventing exposure to, and responding to the COVID-19 pandemic. Costs must have been incurred between January 27, 2020 and December 31, 2021, and of the \$50 million for this program, \$30.7 million is allocated to Alaska.

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This RPL adds authority for grants less than \$500 thousand. The grants list has not yet been finalized, but initial calculations indicate approximately 50+ awards in this range.

This funding aligns with the mission of the department to support Alaska's economy. This award does not require state match, and will be fully federally funded. The Division of Community and Regional Affairs will administer these grants.

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The plain reading of this language is that it does not just prevent a *single RPL* from exceeding \$10,000,000, it prevents a *single appropriation item* from being increased by more than \$10,000,000 in total, even through several RPLs. These RPLs, then, do not appear to comply with the language of Section 77(e)(2). While splitting this item into multiple parts is a gesture towards compliance with the restrictions of this section, it does not bring the items into compliance.

The committee has three options:

1. Approve the four RPLs as-is, accepting that doing so likely violates the appropriation language in HB 281.
2. Deny the four RPLs altogether. The Governor could implement them after waiting 45 days (creating the same litigation risk as the above option) or the grantees could wait for a supplemental appropriation in the 2023 session to receive funds.
3. Revise the RPLs to \$10 million total, allowing grantees to receive approximately 1/3 of their funding now but making them await a supplemental appropriation for the remaining 2/3.

The committee should weigh the litigation risk of approving the against the policy implications of denying them. Allowing them to go forward despite the language of HB 281 may set an undesirable precedent. On the other hand, the legislature already considered and approved these funds, and their disbursement has already been delayed. The recipients may be harmed by further delaying disbursement until a supplemental appropriation could be made during the 2023 legislative session.

**Natural Resources
Fire Suppression, Land & Water Resources
Geological & Geophysical Surveys**

Subject of RPL: Division of Geological & Geophysical Surveys FEMA Award Division of Geological & Geophysical Surveys	ADN/RPL #: 10-2023-5089
Amount requested: \$2,960,000	Appropriation Authority: Sec 1 Ch 11 SLA 2022 Pg 30, Ln 31
Funding source: Federal Receipts (1002) FY2023 Operating	Statutory Authority: AS 41.08

PURPOSE

The Division of Geological & Geophysical Surveys (DGGS) requests additional federal receipt authority due to a funding award from the Federal Emergency Management Agency (FEMA) to the Alaska Geospatial Office (AGO).

This additional federal receipt authority will allow DGGS to acquire lidar data in communities throughout Alaska. The lidar data will be used for community planning, relocation, and infrastructure assessment and development. The data will be made publicly available via the State Geoportal and shared to all state agencies.

DGGS has received \$2,960,000 from FEMA to improve digital mapping data and create a statewide database to archive and distribute data. No state match is required.

PREVIOUS LEGISLATIVE CONSIDERATION

In FY2021, DGGS was appropriated \$408,300 in federal receipt authority, due to an increase in federal grants, additional authority is needed.

The last time DGGS requested additional federal authority was in FY2018, resulting from a large, multi-year project led by the Alaska Volcano Observatory to upgrade instrumentation throughout the Aleutians, Alaskan Peninsula, and Cook Inlet.

TIMING ISSUES

Funds are imminent but are in various stages of being awarded – from issuance of grants, notification of intent to award, and increases to existing funding arrangements. All funds are anticipated; additional federal funding is necessary to be awarded during the fiscal year to meet the need. The award letter from FEMA is attached to this request.

Approval is needed now to begin the planning and development work that occurs during the off seasons in preparation for the spring, summer and fall field work. The off-season work consists of the analyses, interpretation, mapping and report preparation and publication, and preparation for the upcoming field season. As the work is distributed

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throughout the year, a delay in approval may preclude the possibility of conducting the work, and loss of federal funds.

BUDGETARY ISSUES

The anticipated funding and resulting project work meet long-term plans, missions, measures and statutory responsibility of the division: *“conduct geological and geophysical surveys to determine the...locations and supplies of groundwater and construction materials; the potential geologic hazards to buildings, roads, bridges, and other installations and structures; and shall conduct such other surveys and investigations as will advance knowledge of the geology of the state...” AS 41.08.020.*

There are no general funds available for these projects.

This federal funding provides salary support for several DGGS staff and contract staff. No new positions will be added, current staff within DGGS will be working on these projects.

If this request does not get approved projects will halt, which will significantly impact our ability to acquire needed map data for Alaska and receive future federal funds. The division has insufficient federal receipt authority to accommodate these grants. We also anticipate requesting additional federal authority in FY2024.

Line 1000	243,849
Line 2000	4,200
Line 3000	2,708,891
Line 4000	3,060
Total	2,960,000

Legislative Fiscal Analyst Comment: There are no technical issues with this RPL.

This RPL would increase FY23 DGGS federal receipt authority from \$2.7 million to \$5.7 million. The department anticipates requesting additional federal authority in FY24.

**Judiciary
Therapeutic Courts**

Subject of RPL: Fairbanks Wellness Court Enhancement Project	ADN/RPL #: 41-2023-0001
Amount requested: \$128,300	Appropriation Authority: Sec 1 Ch 11 SLA 2022 Page 43 Line 10
Funding source: Federal Receipts (1002) FY2023 Operating	Statutory Authority: AS 22

PURPOSE

The Fairbanks Wellness Court Enhancement project seeks to expand treatment, community supervision, case management, urinalysis testing, recovery support, and other services to a greater number of addicted and Veteran offenders than are currently served in the Fairbanks North Star Borough. The project is expected to admit 25 new participants by the end of year four of the grant, benefiting the community of Fairbanks and the criminal justice system, and reducing incarceration costs for the state.

Funding for this four-year project has been awarded to the Court System by the Department of Justice, Office of Justice Programs, Bureau of Justice Programs, FY2022 Adult Drug Court Discretionary Grant. The total amount of federal funding approved over the 4-year period is \$746,519. The amount requested for direct services in FY2023 is \$128,300.

PREVIOUS LEGISLATIVE CONSIDERATION

This Court was not previously funded by any federal grant funding.

TIMING ISSUES

The Alaska Court System received notice on 9/28/2022 that the grant request for this project was funded. In the FY2024 operating budget, the Alaska Court System will include a request for base budget funding for future years as this grant covers the period of FY2023 – FY2027. The first and last years' funding requests are for partial state fiscal years (nine months in FY2023 and 3 months in FY2027). No state match is required.

BUDGETARY ISSUES

This project will fund the expansion of services currently offered to Veterans in the Fairbanks North Star Borough. The Alaska Veterans for Justice organization advocated for the expansion of the Fairbanks Wellness Court to provide additional services to Veterans. This project will be reviewed for its effectiveness throughout its four-year funding cycle. Depending on the outcomes of this expansion project, continuation funding from the State of Alaska may be pursued.

Funding received will pay for a probation officer hired and managed by the Division of Behavioral Health (DBH) Services. The FY2023 cost for this position is \$107,400. The balance of the contractual services funding will be expended as follows: \$14,800 for contracted urinalysis technician services and \$2,500 for contracted urinalysis testing services.

The funding to pay for a full-time position will be transferred to DBH through a Reimbursable Services Agreement (RSA).

The first year's funding will be allocated as follows:

Contractual Services	\$124,700
Commodities	<u>3,600</u>
Total FY2023 Request	<u>\$128,300</u>

Legislative Fiscal Analyst Comment: This RPL expands federal receipt authority in the Therapeutic Courts appropriation and allocation from \$200.0 to \$328.3. This is a multi-year project, and future years will require an increment in the FY24 budget.

There are no technical issues with this RPL.