

**ARPA Project Name: Inter-Island transportation economic program**  
**ARPA Funds: combined \$8,000,000.00**

2.13	Other Economic Support	\$8,000,000.00
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**Port Authority**

**Timeline to implementation: 6 months to 18 months**

**Overview**

The public health emergency declaration and resulting mitigation protocols exacerbated difficulties in operations of the lone commercial seaport and airport, which handle 100% of cargo, goods, and passengers entering the Territory. The prevention and mitigation protocols to safely transport passengers, goods and supplies between the main island of Tutuila, the Manu’a Islands, Aunu’u Island and the outer islands of Swains Islands and Rose Atoll were severely limited by the lack of adequate sea vessels. The COVID-19 pandemic and the resulting public health emergency declaration has highlighted how the lack of reliable transportation has a direct and profound impact on the residents of these islands access to healthcare services and the ability to transport goods for their businesses.

Improving the access to reliable transportation will reduce the negative economic impact to businesses and promote safe operations for the transportation of goods and passengers within the territorial waters of American Samoa.

**Project Background**

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

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

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

The public health emergency declaration has highlighted the critical need to improve transportation between our main island of Tutuila and all the other islands in American Samoa. The ability to transport passengers to and from these outer islands for healthcare services and for any and all commercial activity is critical for our recovery. Global supply chain issues are felt even more in the outer islands, the Manu'a Islands in particular, as our main inter-island ferry cannot access the Manu'a island ports year-round due to difficult weather conditions.

Improving surface transportation for transporting medicines, medical supplies, grocery goods, building materials, equipment, vehicles and all manner of basic necessities are also critical to our recovery.

Providing reliable transportation for healthcare related needs and for addressing the negative economic impact in American Samoa's outer islands are essential in our response to the impact of the COVID-19 pandemic and the public health emergency declaration.

#### **(a) KEY STAKEHOLDERS**

Engagement and inclusion of all relevant stakeholders will be important for making each project effective in meeting its stated goals. For the Inter-Island Transportation Project, the key stakeholders are:

- Port Authority
- Department of Health
- Marine & Wildlife
- Department of Legal Affairs (Immigration)
- Department of Agriculture
- Treasury
- Port users (importers/exporters, stevedoring, shipping and Port tenants)
- Private sector representation
- Other branches of Government (legislative representation)
- ARPA Oversight Office

#### **(b) COMMUNITY ENGAGEMENT**

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

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

- A Notice of Proposed Project will be published online, in local newspapers, and via television or radio broadcasts. The Notice will specify that there will be thirty (30) days for the public to provide comment either in writing or by attendance at scheduled public hearings.
- Concurrent to the publication of the Notice, a draft proposal and scope of work will be published on the ARPA website for the public to review.
- General meetings with the public will be scheduled and publicized within the thirty (30) day Notice period. Email comments will also be accepted.
- Presentations to the Legislature will be conducted during the Notice period, as needed.
- At the close of the public comment period, the agency will have 20 days to revise the project as appropriate and submit the Final Draft to the ARPA Oversight Office.
- The Final Draft of the Project will be posted for public review once completed and certified by the ARPA Oversight Office.

It is the responsibility of the agencies in charge to publicize notices and adhere to the stated timelines. For the New Medical Facility Project, the anticipated date for the Notice of Proposed Project will be \_\_\_\_\_, 2021.

**(c) TIMELINE ON PROJECT LAUNCH**

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

The new inter-island transportation Project must identify the proposed start date, the completion dates of each phase of the project, inclusion of any notice/bid periods for procurement purposes, and an estimated date of completion, along with any other dates relevant to the project progress.

**(d) SCOPE of Project (Inter-Island transportation project)**

Project Leads (Department) must provide the following:

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

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

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

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

Define scope of project based on response to Covid-19 pandemic and the public health emergency declaration, for the proposed inter-island transportation project must include:

- Meet all U.S. Coast Guard requirements to operate with American Samoa waters
- Ability to meet transportation requirements as set forth by Port Authority
- Minimum 10 years of Service
- Minimum hauling capacity of passengers and goods
- Ability to transport goods and passengers 12 months a year between American Samoa islands (Tutuila, Aunuu, Manu’a, Rose Atoll & Swains Islands)
- Ability to enter all Ports within American Samoa

**(e) Aherence to ASG Procurement Process**

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

CLAUSE	REQUIRED BY AMERICAN SAMOA ADMINISTRATIVE CODE	APPLIES TO
EQUAL OPPORTUNITY	10.0250(d)(3), 10.0260(c)	All Contracts in excess of \$10,000
DAVIS BACON ACT	10.0250(d)(5)	Construction contracts that exceed \$2,000 and when required by federal grant program legislation

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT	10.0250(D)(6); 10.0260(D)	Construction contracts in excess of \$2,000 or contracts in excess of \$2,500 which involve employment of mechanics or laborers
CLEAN AIR AND WATER	10.0250(d)(7); 10.0260(f)	All contracts over \$100,000 (unless requirement has been waived by EPA)
TERMINATION FOR CONVENIENCE	10.0260(a)	Contracts in excess of \$10,000
TERMINATION FOR DEFAULT	10.0260(b)	Contracts in excess of \$10,000
PROHIBITION AGAINST GRATUITIES AND KICKBACKS	10.0260(f)	All contracts
PROHIBITION AGAINST CONTINGENT FEES	10.0260(g)	All contracts
PROHIBITION AGAINST COLLUSION	10.0260(i)	All contracts

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

**(f) Reconsideration Process**

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

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

### *Covered Disputes:*

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

### *Reconsideration Requests:*

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

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

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

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

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

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

### **(g) Local Certification/Licensing/Permitting**

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

**(h) ARPA Reporting Requirements**

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