

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS,

Plaintiff,

v.

MERRICK GARLAND; UNITED STATES
DEPARTMENT OF JUSTICE;
CHARLOTTE A. BURROWS; JOCELYN
SAMUELS; KEITH E. SONDERLING;
ANDREA R. LUCAS; CHRISTOPHER
W. LAGE; EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION;
ALEJANDRO MAYORKAS; UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; TAE D. JOHNSON; U.S.
IMMIGRATIONS AND CUSTOMS
ENFORCEMENT; PETER E. MINA;
OFFICE FOR CIVIL RIGHTS AND
CIVIL LIBERTIES; DEANNE
CRISWELL; FEDERAL EMERGENCY
MANAGEMENT AGENCY; and JOSEPH
R. BIDEN, JR.,

Defendants.

No. 5:23-cv-34-H

AMENDED COMPLAINT

On December 23, 2022, only 201 of the Members of the House of Representatives were present in the House's chamber. As that was less than half of the Members, a quorum was not present. The House therefore enjoyed only two powers: it could "adjourn from day to day" and "compel the attendance of absent Members." It was constitutionally unauthorized to do anything else.

The House nevertheless purported to accept the Senate’s amendments to the Consolidated Appropriations Act of 2023 on that day. It did so under a House Rule that allowed absent members to vote by proxy. But the Constitution defines absent members as excluded from “a Quorum to do Business” and therefore unauthorized to vote to enact legislation—by “proxy” or otherwise. Though President Biden signed the Consolidated Appropriations Act, his signature was a nullity because the act never “passed the House of Representatives.”

The Court should declare that the Consolidated Appropriations Act has not been enacted and is not law.

I. PARTIES

1. The State of Texas is the plaintiff. It is a sovereign State of the United States of America.

2. Defendant Merrick Garland is Attorney General of the United States. He is sued in his official capacity.

3. Defendant United States Department of Justice is a cabinet-level executive agency of the federal government.

4. Defendants Charlotte A. Burrows, Jocelyn Samuels, Keith E. Sonderling, and Andrea R. Lucas are members of the Equal Employment Opportunity Commission. They are sued in their official capacities.

5. Defendant Christopher W. Lage is the official exercising the authority of the General Counsel of the Equal Employment Opportunity Commission. He is sued in his official capacity.

6. Defendant Equal Employment Opportunity Commission is an independent agency of the federal government.

7. Defendant Alejandro Mayorkas is Secretary of the United States Department of Homeland Security. He is sued in his individual capacity.

8. Defendant United States Department of Homeland Security is a cabinet-level executive agency of the federal government.

9. Defendant Tae D. Johnson is the Acting Director of U.S. Immigration and Customs Enforcement. He is sued in his official capacity.

10. Defendant U.S. Customs and Border Enforcement is a federal executive agency that is a component of the Department of Homeland Security.

11. Defendant Peter E. Mina is the official exercising the authority of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security. He is sued in his official capacity.

12. Defendant Office of Civil Rights and Civil Liberties is a federal executive agency that is a component of the Department of Homeland Security.

13. Defendant Deanne Criswell is the Administrator of the Federal Emergency Management Agency. She is sued in her individual capacity.

14. Defendant Federal Emergency Management Agency is a federal executive agency that is a component of the Department of Homeland Security.

15. Defendant Joseph R. Biden, Jr., is the President of the United States. He is sued in his official capacity.

II. JURISDICTION AND VENUE

16. The Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331, 1346, and 1361. Federal law grants the Court the power to render the injunctive and declaratory relief Texas seeks. 28 U.S.C. §§ 1361, 2201, 2202; *see also Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326–27 (2015).

17. This district is a proper venue because the State is located here and a substantial part of the events or omissions giving rise to its claim occurred here.

III. FACTUAL BACKGROUND

A. The Consolidated Appropriations Act passes with less than a quorum of Representatives voting on it.

18. The Consolidated Appropriations Act, 2023, began life as H.R. 2617. It was first passed by the House of Representatives in September 2021. 167 Cong. Rec. H5497–98 (Sept. 28, 2021). The Senate passed a different version of the Act in November 2022. *Id.* at S6704 (Nov. 15, 2022). Because the versions passed by the House and the Senate were not identical, the differences between the two had to be resolved before the bill was considered passed by Congress.

19. The Senate assented to the House’s amendments to the bill on December 22, 2022. *Id.* at S10077 (Dec. 22, 2022). The vote was 68 yea, 29 nay, and 3 who were absent from the Senate chamber not voting.

20. Members of the House met the next day to consider the Senate’s amendments to the bill. The House did not have a quorum; only 201 of the Representatives were present. Those present nevertheless proceeded to vote on accepting the Senate’s amendments. The final tally, according to the Clerk of the House, was 225 yea, 201 nay, and 1 present. *Id.* at H10073 (Dec. 23, 2022). The extra 226 votes were cast by Representatives whom absent Representatives had appointed as proxies. *Id.* H10073–74. The votes of those physically present were 88 yea and 113 nay.

21. The appointing Representatives acted under a rule originally promulgated during the 116th Congress. *See* H. Res. 8, § 3(s), 117th Cong., adopted Jan. 4, 2021 (citing H. Res. 965, 116th Cong., adopted May 15, 2020). That rule allowed Members to “designate[] another Member as a proxy” to “cast the vote” of the designating Member if “a public health emergency due to a novel coronavirus is in effect[.]”. H. Res. 965 at § 1(a).

22. According to that same rule, a “Member whose vote is cast or whose presence is recorded by a designated proxy . . . shall be counted for the purpose of establishing a quorum under the rules of the House.” *Id.* § 3(b). The rule did not mention that the

Constitution permits a minority of the House only to “adjourn from day to day” and “compel the attendance of absent Members. . . .” U.S. Const. art. I, § 5, cl. 1.

23. The week after the House members voted on H.R. 2617, President Biden signed it. It was enrolled as Public Law 117-328 on December 29, 2022.

B. The Consolidated Appropriations Act’s Contents.

24. Among the many portions of the Act are two that directly affect Texas. One imposes new legal obligations on employers; one is the creation of new programs permitting the release of illegal aliens into the interior of the country.

1. Amendments to Title VII.

25. One portion of the Act amends Title VII to open States to lawsuits to which they have never before been subjected.

26. Epitomizing the impulse to give legislation a name that will discourage legislators from voting against it, Division II of the Act is dubbed the “Pregnant Workers Fairness Act.” Pub. L. 117-328, Div. II, § 101. It requires covered employers to “make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless” doing so would “impose an undue hardship on the operation of the business” and prohibits “deny[ing] employment opportunities,” “requiring a qualified employee to take leave,” and “tak[ing] adverse action” based on the employee’s need for an accommodation. *Id.* § 103(1), (3)–(5). It imposes the same definitions of “reasonable accommodation” and “undue hardship” as are used in the Americans with Disabilities Act. *Id.* § 102(7).

27. A violation of these new requirements allows for the same remedies using the same procedures as under Title VII of the Civil Rights Act of 1964, *id.* § 104(a). States are among the covered employers subject to those procedures and remedies. *Id.* § 102(2)(B)(iii) (citing 42 U.S.C. § 2000e-16c(a)). That includes the requirement to respond to charges of discrimination filed with the EEOC, investigation by the EEOC,

potential lawsuits by the Attorney General, and private actions by allegedly aggrieved individuals. 42 U.S.C. § 2000e-5; 29 C.F.R. §§ 1601.15–17, 1601.23–25, 1601.28–29.

28. The State of Texas accommodates the reasonable needs of its pregnant employees as a matter of course. The Act, however, purports to subject it to the costs, hassles, and attendant risks of administrative proceedings, investigations, and lawsuits, by both private individuals and the federal government, should either an individual or the federal government feel that the State should indulge unreasonable demands.

29. This new obligation is, indeed, likely without Constitutional warrant. The federal government’s power to abrogate a State’s sovereign immunity is limited by the Fourteenth Amendment to the equal-protection and due-process ills that Amendment was enacted to combat. A lack of workplace accommodations for pregnant employees is not among them. The attempt to abrogate Texas’s sovereign protection from being sued without its consent is a direct stripping of a sovereign power it is entitled to enjoy as one of the United States.

2. New programs for State spending on illegal aliens.

30. The Act also creates a program that encourages illegal aliens to seek additional spending from States.

31. The Act allocates \$20 million to a case-management pilot program for the Department of Homeland Security’s “Alternatives to Detention Program,” Pub. L. 117-328, Div. F, Title I, which releases illegal aliens whom ICE would otherwise detain into the interior of the United States based on a promise to appear at future immigration-court proceedings. *See* U.S. Immig. & Customs Enforcement, *Alternatives to Detention*, <http://www.ice.gov/features/atd> (visited Feb. 13, 2022); Dept. of Homeland Security, *DHS Case Management Pilot Program*, <http://www.dhs.gov/dhs-cmpp> (visited Feb. 13, 2022). That program is chaired by DHS’s Officer for Civil Rights and Civil Liberties. Pub. L. 116-260, Div. F, Title I.

32. The program operates by funding grants, the awarding of which is administered by FEMA, to nonprofits and local governments. *Id.* One of the program’s services is connecting program participants—that is, illegal aliens who have been released into the United States—with social services. *Id.* These include housing assistance, access to counsel, childcare, transportation, healthcare, and schooling. Exh. A (solicitation for grant applications). In November 2022, the program’s board announced that Houston would serve as one of its first two sites and named BakerRipley, a nonprofit corporation, as the lead local service provider. <http://www.cmpp.org> (visited Feb. 13, 2023).

33. ICE is required to “ensure that any individual released from ICE custody on parole, bond, or into the ATD program who resides in an area covered by the pilot program is made aware of these case management services and is referred for services unless they formally decline such services in writing[.]” It must also “provide relevant contact and case file information for such individuals to the grantee servicing the area where such individuals reside.” Cong. Rec. H8472 (Dec. 1, 2020).

34. The services to which local providers are expected to connect illegal aliens include education resources, such as facilitating and confirming enrollment in public schools, and healthcare, such as medical and mental health services administered by local public-health authorities and Texas state hospitals. Exh. A. While nominally charged with assisting program participants with preparing to reintegrate into their home countries, one of the leading performance metrics for service providers is the number of participants who were “*provided legal orientation and obtained referrals*” (emphasis in original), Exh. A at 5. And there is an entirely separate set of performance metrics for “legal access,” including the number of participants that secured legal counsel, the number who secured that counsel thanks to the pilot program, the number and types of immigration relief applied for, and the number and types of immigration relief received. Exh. A at 5–6. There is no such separate set of metrics for any of the other types of services that local providers are expected to provide.

35. The pilot program causes Texas and its local governments to spend additional monies on services to illegal aliens they would not otherwise spend. For example, Texas estimates that it spends millions of dollars each year to furnish healthcare to illegal aliens—\$80 million in Emergency Medicaid funding in Fiscal Year 2019. When it last estimated the amount that public hospital districts spend on uncompensated care for illegal aliens in Fiscal Year 2008, it calculated \$716.8 million.

36. And Texas spends millions of dollars per year on educating illegal aliens and their children. The exact number is unknown, but Texas does know the amounts for a particular subset of these aliens: unaccompanied children released to sponsors in Texas. Given that these children almost universally qualify for classes in English as a second language, the cost to Texas and its public schools of educating those children in the 2020-21 school year was at least \$176 million—“at least” because that shows the cost only of educating the children released to the custody of sponsors *that year*, not the cost of educating children released in previous years who remain in Texas.

37. This is in addition to the general increase in spending that results from creating incentives for additional illegal aliens to enter the United States in general and to relocate to Texas in particular. Lowering the opportunity cost of illegally immigrating to the United States by easing access to social services encourages additional illegal immigration. It does so even for those who ultimately do not receive the benefit of the program that eases that access; the existence of the program directly lowers the risk of illegally immigrating by increasing the chances that doing so will result in additional income, and it indirectly lowers the risk by signaling that the federal government’s priorities have shifted from deterring such immigration to facilitating a transition into living in the United States.

38. These incentives are no surprise to the Defendants. Federal law recognizes that, even for legal immigrants, access to social services should be restricted so that “aliens within the Nation’s borders not depend on public resources to meet their needs, but rather

rely on their own capabilities and . . . the availability of public benefits not constitute an incentive for immigration to the United States.” 8 U.S.C. § 1601(2).

39. In addition to those direct economic harms, the program also harms Texas’s quasi-sovereign interests in the health and well-being, both physical and economic, of its residents and in its rightful status within the federal system. *See Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 607 (1982). The increase in illegal immigration promoted by the DHS pilot program will increase the amount of crime committed in Texas and reduce the wages paid to Texans—injuries to both their physical and economic well-being. Texas cannot use its sovereign lawmaking powers to combat these injuries because its powers over immigration are limited and the federal government that is supposed to protect the State’s interest is not. *See Texas v. United States*, 524 F. Supp. 3d 598, 607, 694 (S.D. Tex. 2021).

C. The Quorum Clause of the Federal Constitution.

40. The Quorum Clause states that:

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and *a Majority of each shall constitute a Quorum to do Business*; but a smaller Number may adjourn from day to day, and may be authorized *to compel the Attendance of absent Members*, in such Manner, and under such Penalties as each House may provide.

U.S. Const. art. I, § 5, cl. 1 (emphasis added).

41. The Quorum Clause’s text, the structure of the Constitution, and the longstanding—and until three years ago, unbroken—practice of Congress to conduct its business in-person collectively reinforce that the Constitution forbids proxy voting.

1. The text of the Quorum Clause requires physical presence.

42. Only with a quorum may either House “do Business.” In context, that necessitates physically present Members. The power to “compel the Attendance of absent Members,” would make little sense if the Constitution did not require physical attendance.

43. Supreme Court precedent supports this construction of the Quorum Clause. The Court has held that to constitute a “Quorum” necessary to “do Business,” the Constitution requires “the *presence* of a majority, and when that majority are present the power of the house arises.” *United States v. Ballin*, 144 U.S. 1, 6 (1892) (emphasis added). And “presence” means that the members must be “actually and physically present.” *Christoffel v. United States*, 338 U.S. 84, 89 (1949). *See also United States v. Reinecke*, 524 F.2d 435, 439–40 (D.C. Cir. 1975) (applying *Christoffel*).

44. At the Founding, “present” meant “[n]ot absent; face to face; being at hand.” 2 Samuel Johnson, *A Dictionary of the English Language* (4th ed. 1773) (“Johnson’s Dictionary”). “Congress” at that time signified “[a] meeting,” meaning an “assembly” or coming “face to face.” 1 Johnson’s Dictionary. The first American dictionary similarly defined “presence” as “A being in company near or before the face of another.” 2 Noah Webster, *An American Dictionary of the English Language* (1828).

2. The structure of the Constitution supports the text’s meaning.

45. Other clauses of the Constitution confirm that Members must be physically present for purposes of a quorum to vote on legislation.

46. Article I, § 4 requires Congress to “assemble” at least once per year, where “assemble” meant “[t]o bring together into one place” or “congregated.” 1 Johnson’s Dictionary; *see also* U.S. Const. art. I, § 5, cl. 4 (no adjournment “to any other Place than that in which the two Houses shall be sitting”); U.S. Const. art. II, § 3 (discussing convening and adjourning Congress).

47. Article I, § 6 grants certain privileges to Members, but those privileges require physical presence. Specifically, Members are privileged from arrest “during their

Attendance at the Session of their respective Houses, and in going to and returning from the same.” U.S. Const. art. I, § 6, cl. 1. This privilege—which refers to “going” to the House and “returning” home—would be surplusage if Members could stay home to vote.

48. The Yeas and Nays Clause discusses counting the votes “of those Present.” U.S. Const. art. I, § 5, cl. 3. Similarly, the impeachment power requires that Senate votes be by two thirds of the “Members present” in a proceeding where “the Chief Justice shall preside.” U.S. Const. art. I, § 3, cl. 6.

49. Neighboring language refers to “presence,” too, in a manner that would rob it of meaning if proxy voting were allowed. *E.g.*, U.S. Const. art. II, § 2, cl. 2 (“[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur[.]”); U.S. Const. amend. XII (“the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted”).

3. Historical practice supports the text’s meaning and the Constitution’s structure.

50. Particularly when interpreting questions concerning “the allocation of power between the two elected branches of [the federal] Government,” courts “*put significant weight upon historical practice.*” *NLRB v. Noel Canning*, 573 U.S. 513, 524 (2014) (emphasis in original). “Long settled and established practice is a consideration of great weight in a proper interpretation of constitutional provisions” regarding the separation of powers, and “a practice of at least twenty years duration ... ‘is entitled to great regard in determining the true construction’” of such a question. *The Pocket Veto Case*, 279 U.S. 655, 689–690 (1929) (quoting *State v. South Norwalk*, 58 A. 759, 761 (Conn. 1904)). The historical practice here leads to a single conclusion: The Quorum Clause requires physical presence.

51. For 231 years, Congress operated with in-person quorum calls and voting—as had the Continental Congress. And in the Continental Congress, “the representatives of the States ha[d] been almost continually assembled, and [] the members from the most

distant States [were] not chargeable with greater intermissions of attendance than those from the States in the neighborhood of Congress.” Federalist No. 14 (Madison).

52. This personal attendance is unsurprising; the Founders rejected proxy voting multiple times. During debates over the Articles of Confederation, Benjamin Franklin proposed proxy voting. His proposal would have allowed those “necessarily absent” to “be allowed to appoint” a “Proxy, who may vote for him.” Proposed Articles of Confederation, Art. VIII (July 21, 1775), *reprinted in* The Papers of Benjamin Franklin, vol. 22 (Yale 1982). The proposal was rejected. *See* Articles of Confederation art. V. Likewise, delegates at the Constitutional Convention rejected proposals that would have allowed Representatives to “vote by proxy”—but only after James Madison added language giving Congress the power to compel absent Members’ attendance. *See, e.g.,* Records of the Federal Convention of 1787 (Farrand’s Records), vol. 3, 620, 622.

53. In-person voting continued for more than two centuries. During the Yellow Fever epidemic, Thomas Jefferson urged President Washington to keep Congress sitting in Philadelphia, then the capital, even if it meant meeting “in the open f[ie]lds.” T. Jefferson, Letter to George Washington (Oct. 17, 1793), Natl. Archives. In the aftermath of that epidemic, the Third Congress enacted a law—still in force today—stating that “[w]henever Congress is about to convene, and from the prevalence of contagious sickness, or the existence of other circumstances, it would, in the opinion of the President, be hazardous to the lives or health of the members to meet at the seat of Government,” the President could “convene Congress at such other place as he may judge proper.” Acts of the Third Congress of the United States, Sess. I, ch. 17 (April 3, 1794), *codified at* 2 U.S.C. § 27. What it did not do was enact legislation that would allow Members to vote by proxy in future public-health emergencies.

54. This reluctance to embrace proxy voting continued into the 19th Century. Days after the attack on Fort Sumter, President Lincoln “summoned” the “Senators and

Representatives . . . to assemble at their respective Chambers” on the coming Fourth of July. A. Lincoln, Proclamation (Apr. 15, 1861).

55. In the 20th Century, Congress assembled during the 1918 Spanish Flu pandemic. 57 Cong. Rec. 1, 10 (Dec. 2, 1918). Throughout the Cold War, Congress stood ready in the event of a nuclear attack to continue doing business in person in a secret congressional bunker hidden in West Virginia. *The Secret Bunker Congress Never Used*, Natl. Public Radio (Mar. 26, 2011). And into the 21st Century, following the September 11 attacks that had targeted the U.S. Capitol, Congress considered scenarios to address the continuity of Congress, most directly with expedited election of Members to the House in extraordinary circumstances. It did not, however, seriously consider or adopt proxy voting. *See, e.g.*, R. Eric Petersen and Sula P. Richardson, Cong. Res. Serv., RL32958, *Continuity of Congress: Enacted and Proposed Federal Statutes for Expedited Election to the House in Extraordinary Circumstances* (Aug. 9, 2005).

56. Texas does not dispute—indeed, does not wish to dispute—that it is “within the competency of the [H]ouse to prescribe any method which shall be reasonably certain to ascertain the fact” of a “presence of a majority.” *Ballin*, 144 U.S. at 6. But the House’s authority to decide the method by which it *determines* whether a majority of Members is present does not permit it select a method that *invents* such a fact. A House of Congress “may not by its rules ignore constitutional restraints or violate fundamental rights.” *Id.* at 5. By allowing proxy voting and purporting to enact legislation of nationwide importance through that mechanism, however, Congress has done just that—“ignore[d] constitutional restraints” on its authority and transgressed the Constitution.

IV. CLAIMS FOR RELIEF

57. To the extent Texas’s claims for relief are or may be inconsistent, it pleads them in the alternative.

A. Count I: Declaration on Violation of the Quorum Clause

58. Article I, Section 5, Clause 1 requires that a majority of the Members of either House of Congress be actually present in order for there to be a “Quorum to do Business.” Absent a majority of actually present Members, the House is forbidden by the Constitution to vote on legislation or to conduct any other “Business.”

59. As described above, this reading of the Quorum Clause is confirmed by the clause’s plain text, the structure of the Constitution, and centuries of consistent historical precedent. Even in times of national crisis and grave danger to the safety of the assembled Members, Congress has never before authorized proxy voting by its Members, much less purported to have passed a law when a quorum could be achieved only by pretending that absent members were present.

60. The legislation that Texas challenges passed the House without a quorum. It therefore violates the Quorum Clause. Texas is entitled to a declaration to that effect.

B. Count II: Injunctive Relief

61. Texas is entitled to both preliminary and permanent injunctions preventing the Defendants from enforcing the Act’s unconstitutional requirements. Each of the factors governing the award of injunctive relief favor Texas.

1. Texas is likely to prevail on the merits.

62. Texas is likely to prevail when this case reaches final judgment. The Constitutional violation is clear: The President signed a bill that was not passed by a majority of a quorum of the House. The bill was never enacted into law because it failed one of the requirements for doing so. A portion of what was illegally enrolled as a law purports to subject Texas to suit for new legal obligations; another part authorizes spending on a program that injures Texas by drawing more illegal immigrants to the State.

63. The legal violation and the injury are clear. The remedy is to stop the federal government from carrying those illegalities into effect.

2. Texas is suffering irreparable harm.

64. The financial injuries Texas is suffering are irreparable. Texas cannot compel the federal government to reimburse it; sovereign immunity protects that government from attempts to hold it to account in the courts.

65. The harm to Texas's sovereign interest is likewise irreparable. Once a lawsuit is brought against Texas and it has to appear to defend itself, it has lost the protection of sovereign immunity that it is entitled to enjoy.

66. The injuries to Texas's quasi-sovereign interests are irreparable, too. The damage to its law-enforcement and public-safety interests cannot be remedied after the fact.

3. Balance of hardships and public interests.

67. Because there are governments on both sides of this case, the balance of hardships and the public interest merge. That merger makes clear that Texas enjoys the greater equity here.

68. On the one hand, Texas is irreparably harmed by the Defendants' enforcement of an unconstitutional law. It can never recover for the injuries that federal enforcement causes, and intrusions upon its sovereign power are irremediable by definition.

69. On the other hand, the Defendants suffers no injury if their behavior is enjoined. Not only is it always in the public interest to enforce the law—here, enforcing the Constitution when it conflicts with a mere statute—one of the purported injuries, a private plaintiff's inability to sue the State, would not even be to the federal government and would in any case be remedied by a future award of damages.

4. Conclusion: Texas is entitled to an injunction.

70. Texas is therefore entitled to a decree enjoining the Defendants from enforcing the Pregnant Workers Fairness Act against it. It is further entitled to a decree enjoining the

Defendants from continuing to fund grants through and otherwise operate DHS's pilot program.

V. PRAYER FOR RELIEF

Texas respectfully requests that the Court:

1. Declare that the Consolidated Omnibus Act, 2023, was adopted in violation of the Constitution and is therefore unlawful.
2. Issue preliminary and permanent injunctive relief enjoining the Defendants from enforcing the Pregnant Workers Fairness Act against Texas.
3. Issue preliminary and permanent injunctive relief enjoining the Defendants from continuing to fund grants through and otherwise operate DHS's pilot program.
4. Award such other relief as the Court deems equitable and just.

Dated February 15, 2023.

Respectfully submitted.

KEN PAXTON

Attorney General of Texas

BRENT WEBSTER

First Assistant Attorney General

GRANT DORFMAN

Deputy First Assistant Attorney
General

Office of the Attorney General of Texas

P.O. Box 12548, Capitol Station

Austin, Texas 78711-2548

(512) 463-2100

/s/ Aaron F. Reitz

AARON F. REITZ

Deputy Attorney General for Legal Strategy

Texas Bar No. 24105704

aaron.reitz@oag.texas.gov

LEIF A. OLSON

Chief, Special Litigation Division

Texas Bar No. 24032801

leif.olson@oag.texas.gov

J. AARON BARNES

Special Counsel

Texas Bar No. 24099014

aaron.barnes@oag.texas.gov

ETHAN SZUMANSKI

Assistant Attorney General

Texas Bar No. 24123966

ethan.szumanski@oag.texas.gov

Texas Public Policy Foundation

901 Congress Ave.

ROBERT HENNEKE

Texas Bar No. 24026058

Austin, Texas 78701
(512) 472-2700

rhenneke@texaspolicy.com

CHANCE WELDON
Texas Bar No. 24076767
cweldon@texaspolicy.com

MATTHEW MILLER
Texas Bar No. 24046444
mmiller@texaspolicy.com

NATE CURTISI
Arizona Bar No. 033342
ncurtisi@texaspolicy.com

Counsel for the State of Texas

**CMPP National Board
Case Management Pilot Program (CMPP)
Subrecipient Solicitation**

Issued By: Case Management Pilot Program National Board

CFDA Number: 97.102

Funding Opportunity Title: Calendar Year 2022 Case Management Pilot Program (CMPP)

Funding Opportunity Number: DHS-22-GPD-102-00-01

Deadline for Applications: October 19, 2022

Authorizing Authority for Program Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260

Appropriation Authority for Program Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260

Total Amount Available: \$5 million

Projected Period of Performance Start Date(s): As soon as possible 2022

Projected Period of Performance End Date(s): August 31, 2024

Number of awards anticipated: 2 or more awards

Individual Award amount: \$2,262,000 per award, with \$4,400,000 max

Funding Instrument Type: Subaward, Cooperative Agreement

Cost Share or Match: None

A. PROGRAM DESCRIPTION

The Case Management Pilot Program (CMPP) shall make available case management and associated services to non-detained non-U.S. citizens (hereinafter noncitizens) in immigration removal proceedings, including those enrolled in U.S. Immigration and Customs Enforcement (ICE) Alternatives to Detention (ATD), in specific geographic locations served by the CMPP. CMPP Board, and CWS as a Secretariat, will provide subawards to service providers (individually or within a consortium, with a strong preference for consortium applications) to provide case management services including but not limited to: mental health screening; human trafficking screening; legal orientation; cultural orientation; flexible funds assistance; connections to community social services which include job training, school enrollment support, mental health and psychosocial support (MHPSS); and for individuals who have been determined to be removable from the US, CMPP will assist with supportive departure planning and information and/or referral to reintegration services (if and where available). It is anticipated that CMPP awardees will provide connection, referral and/or enrollment support to a range of services identified as a priority to the participants which may or could include access to counsel, affordable housing, childcare, transportation, healthcare, schooling, language classes, and cultural orientation programs.

Through subawards under this solicitation, the recipient(s) would make available case management and other services as described above.

Subaward agreements, which will include the substantial involvement of CMPP National Board via fiduciary agent Church World Service, Inc., will be for up to \$2,262,000 U.S. Dollars (USD) in Calendar Years 2022-2024. Case Management Pilot Program (CMPP) will be sub-awarded to entities preferably working within a consortium, and for work that is within targeted communities with high rates of asylum seekers within continental U.S. with demonstrated need within their community for implementation of the priorities and objectives listed above.

Contact Person(s): For questions on this solicitation email info@cmpp.org

Background and Program Goals:

The CMPP's goals are to ensure that noncitizens who are engaged in immigration removal proceedings in the U.S. have access to voluntary, supportive comprehensive case management services and are provided referrals for critical services such as mental health screening, human trafficking screening, legal orientation programs, cultural orientation programs, and that for participants who will be removed have access to information and reintegration services (if and where available), and other social services that CMPP participants may identify as a priority.

The CMPP also provides an opportunity for the Department of Homeland Security (DHS) to evaluate the effectiveness of voluntary case management services for noncitizens in immigration removal proceedings, in a program that is overseen and managed through a National Board, which is chaired by the DHS Officer for Civil Rights and Civil Liberties and comprises nongovernmental organizations with experience providing and/or evaluating case management programs for immigrants and asylum seekers.

In addition, the CMPP provides an opportunity for DHS to assess the demand for CMPP services and for nonprofit and/or local government capacity to provide and/or connect voluntary participants to effective services. DHS plans to evaluate effectiveness by looking at what, if any, impact CMPP services have on participants' attendance at immigration court hearings, compliance with immigration obligations and orders, ability to secure legal representation, and ability to access a range of social services that CMPP participants identify as priorities through an individual participatory service planning process.

The CMPP National Board, chaired by the Officer for Civil Rights and Civil Liberties (CRCL), will distribute funds via subaward/s to eligible local governments and nonprofits (hereinafter, subrecipients) and manage the National program.

1. Program Objectives:

- to serve up to at least 700 individuals within the CMPP program
- to ensure that noncitizens engaged in immigration removal proceedings have voluntary access to case management services
- to ensure that noncitizens engaged in immigration removal proceedings have access to critical services such as mental health screening, human trafficking screening, legal orientation programs, and cultural orientation programs
- to ensure that noncitizens engaged in immigration removal proceedings who will be removed, have access to supportive departure planning and reintegration services, where available
- to ensure that noncitizens engaged in immigration removal proceedings have access to other critical supportive services that they identify as a priority
- to provide an opportunity to demonstrate and evaluate the effectiveness of voluntary case management services for immigrants in removal proceedings
- to assess the demand for CMPP services by noncitizens in immigration removal proceedings
- to demonstrate nonprofit and/or local government capacity to provide and/or connect participants to effective services
- to evaluate the effectiveness of providing CMPP services to noncitizens in immigration removal proceedings on participants' attendance at immigration court hearings, compliance with immigration obligations and orders, health, and wellbeing

- to evaluate the effectiveness of CMPP to provide referral and facilitate connection to legal representation
- to evaluate the effectiveness of CMPP to provide access to a range of social services through a client-led, service planning process
- to evaluate the effectiveness of CMPP services.

2. CMPP Activities must include the following, at minimum:

1. Intake
2. Individual assessment
3. Individual service planning
4. Individual goal setting
5. Screenings (mental health, trafficking, legal etc.)
6. Flexible Fund Assistance, if needed
7. Referrals
8. Enrollments
9. Follow up
10. Orientations provided (Job, Legal, Cultural etc.)

3. Participants and Audiences:

Primary: Noncitizens engaged in immigration removal proceedings who are previously enrolled in ICE ATD program.¹

4. Performance indicators

The CMPP will monitor and report on a variety of performance indicators that are Specific, Measurable, Achievable, Relevant and Time-bound (SMART)² and relate to those individuals voluntarily enrolled in the CMPP with each subrecipient. The CMPP National Board will aggregate, elaborate, and analyze performance data to determine individual subrecipient and overall programmatic performance. All indicators should allow for disaggregation by key parameters as appropriate, including, dates of arrival/referral/enrollment/assessment, family size, location, country of origin, and, when applicable, gender.

The CMPP National Board will create a central data collection system where each subrecipient will be expected to enter performance data and indicators.

¹ Those who voluntarily enroll in CMPP will be removed/unenrolled from ICE ATD programs.

² **Specific, Measurable, Achievable, Relevant and Time-bound.** The first criterion, **Specific**, means that the indicator needs to be narrow and accurately describe what needs to be measured. **Measurable** means that regardless of who uses the indicator it would be measured in the same way. **Achievable** (or attainable) means that collecting the data should be straightforward and cost-effective. **Relevant** requires that the indicator be closely linked to the relevant outcome. Finally, **Time-bound** means that there should be a timeframe linked to the indicator (such as the frequency with which it is collected or measured).

The subrecipient will be responsible for quarterly reporting on each indicator included in the subaward agreement, as well as for the analysis of progress and/or impediments to reaching CMPP targets. The CMPP National Board, per policy, will assess the quality of data reported by subrecipients as part of the award activities. Therefore, applicants should be aware that subrecipients will be expected to be engaged and collaborate in periodic data quality assessments.

A minimum set of indicators and key disaggregates are proposed below and must be included in submitted proposals. Applicants are encouraged to outline additional SMART indicators that may enhance the understanding of the progress toward the achievement of CMPP goals. The indicators and targets will subsequently flow into a "final" PMP (performance monitoring plan) that the subrecipient will submit to CMPP National Board within 30 days of award, for approval. The applicants must also outline in the submitted proposals how they plan to maintain confidentiality and safety of Personal Identifiable Information (PII) of the participants.

Minimum Indicators

Basic Program Performance Metrics

- Number of individuals enrolled in CMPP
- Number of CMPP participants who were offered *case management services*, including the breakdown of how many participants received or declined services
- Number of participants who were offered, *provided legal orientation and obtained referrals*, including whether referrals were to pro-bono or low-bono legal services, including the breakdown of how many participants received services or declined services
- Number of CMPP participants who identified each of the following services as a priority, and the number who were:
 - Provided mental health screening;
 - Provided or referred for mental health services;
 - Obtained mental health services.
 - Provided human trafficking screening;
 - Provided or referred for cultural orientation programming;
 - Obtained cultural orientation services;
 - Provided or referred for legal services
 - Provided departure information, planning and/or reintegration services;
 - Connected to other participant-identified needed social services such as housing assistance, access to counsel, childcare, transportation, healthcare, schooling, language classes, and orientation

Legal Access Program Performance Metrics:

- Number of CMPP participants without legal counsel at time of CMPP enrollment
- Number of CMPP participants that secured legal counsel during the program period.

- Number of CMPP participants that secured legal counsel due to CMPP program referral
- Length of time to first immigration hearing date
- Length of time to immigration case resolution
- Breakdown and percentage of forms of immigration relief applied for
- Breakdown and percentage of forms of immigration relief granted, such as asylum, CAT, etc.

Compliance/Outcome Measures:

- Number of CMPP participants who attended scheduled Executive Office of Immigration Review (EOIR) immigration court hearings, as applicable (Include breakdown of those with legal representation and those *pro se*)
- Number of CMPP participants identified as victims of human trafficking
- Number of CMPP clients (1) with a final order of removal during the time they are enrolled in CMPP; and (2) who complied with the order

Key disaggregates

| | | |
|---|--|--|
| <ul style="list-style-type: none"> • Gender • Family • Country of Origin • Date of Birth • Date of Arrival • Preferred Language | <ul style="list-style-type: none"> • Date of Referral • Referred by • Date of Enrollment • Date of Assessment • Type of Assessment (Phone, virtual, Face to Face) | <ul style="list-style-type: none"> • Individual Service Plan • Screenings • Referrals (Number, Sectors, Services etc.) • Enrollments (Number, Sectors, Services etc.) • Legal screening (assessed potential form of relief) • Legal outcome (date, result) |
|---|--|--|

5. Substantial Involvement

CMPP National Board fiduciary agent Church World Service, Inc. will be substantially involved in the oversight, implementation, monitoring and reporting of the program outcomes. Substantial involvement will include the following:

- a. Review of subrecipient’s implementation plans;
- b. Award management (Financial and Programmatic)
- c. Development of CMPP Manual
- d. Technical assistance (training, FAQ, guidance, site visits, etc.)
- e. Conducting program monitoring
- f. Defining data requirements and indicators

- g. Conducting data blending³
- h. Reporting requirements and oversight
- i. Approval of specified key personnel; Key personnel are defined as those who:
 - i. are 100% FTE on the project and
 - ii. are within a Management, Director, Coordination/ Senior Specialist role within the project scope
- j. Approval of the subrecipient’s monitoring and evaluation plans
- k. Approval of any subgrant by the subrecipient (sub-subgrants)
- l. Assurance that substantive provisions and all activities are included in the program description, negotiated in the budget, and made part of the subaward.

Additionally, the CMPP National Board and/or DHS may conduct a program process and or outcome evaluation. Applicant must be aware that they may be required to participate in such program evaluation activities.

B. FEDERAL AWARD INFORMATION

Overall authority for this project is in Department of Homeland Security Appropriations Act, 2021, Pub. L. No. 116-260. CMPP National Board through its fiduciary agent Church World Service, Inc. will award subawards (cooperative agreements) to applicants whose application best meets the scoring criteria of this solicitation. Depending on the quality of performance and other factors, CMPP National Board and its fiduciary agent may consider additional supplemental funding to continue activities and extend the period of performance, if funds are available. Eligible competitive proposals may be considered for award if additional funds are made available.

1. Summary of Award Information

| | |
|--------------------------------------|---------------------------------|
| Type of Award: | Subaward, Cooperative Agreement |
| Fiscal Year Funds | CY 2022 |
| Approximate Total Funding: | \$5 million |
| Approximate Number of Awards: | 2 or more |
| Maximum individual award amount: | \$2,262,000 per award |
| Anticipated Award Date: | November 2022 |
| Anticipated Project Completion Date: | August 31, 2024 |

Timeline for Award Adjudication

³ **Data blending** is a method for combining data from multiple sources

| | |
|---------------------------------|---------------|
| Deadline for Applications: | Oct. 19, 2022 |
| Anticipated Project Start Date: | November 2022 |

C. ELIGIBILITY INFORMATION

Eligibility is limited to state and local government and/or US nonprofit/nongovernmental organizations subject to section 501 (c) (3) of the U.S. tax code, educational institutions, and public international organizations.

Eligible submissions are those which: 1) arrive electronically to info@cmpp.org by the designated deadline; 2) have heeded all instructions contained in the solicitation, including registrations and length and completeness of submission; and 3) are in compliance with all of the guidelines stated in the solicitation and this document.

1. Cost Sharing or Matching

There is no mandatory level of cost-sharing (matching) for this program.

2. Other Eligibility Requirements

In order to be eligible to receive a subaward, the lead organization and all their subrecipients must have a [Unique Entity Identifier](#)⁴. As these funds are obligated to follow 2 CFR § 200.332 - Requirements for pass-through entities. Please see Section D.7 for information on how to obtain these registrations. For consortia applications, it is necessary for all consortium members, who will receive funding, to have a unique entity identifier or be registered in SAM.gov.

D. APPLICATION AND SUBMISSION INFORMATION

1. Address to Submit Application Package

Email: info@cmpp.org

2. Content and Form of Application Submission

⁴ <https://www.gsa.gov/about-us/organization/federal-acquisition-service/office-of-systems-management/integrated-award-environment-iae/iae-systems-information-kit/unique-entity-identifier-update>

Please follow all instructions below carefully. Proposals that do not meet the requirements of this announcement or fail to comply with the stated requirements will be ineligible.

3. Content of Application

- a. The proposal clearly addresses the goals and objectives of this funding opportunity
- b. All documents are in English
- c. All budgets are in U.S. dollars
- d. All pages are numbered
- e. All documents are formatted to 8 ½ x 11 paper,
- f. All Microsoft Word documents are single-spaced,
- g. 12 point Times New Roman font,
- h. 1-inch margins (all the way around)

The following are **required** documents:

4. Proposal

- **Project Abstract (2 pages maximum):** Cover sheet stating the applicant's name and organization, consortium members and partner organizations, proposal date, program title, program period proposed start and end date, and brief purpose of the program. Short narrative that outlines the proposed program, including program objectives and anticipated impact.
- **Project Proposal (20 pages maximum):** The proposal should contain sufficient information that anyone not familiar with it would understand exactly what the applicant wants to do. You may use your own proposal format, but it must include all the items below.
 1. **Introduction to the Organization (Consortium) members:** A description of lead organization, consortium members' and subrecipients roles and responsibilities; past and present operations, showing ability to carry out the program, including information on all present grants from any U.S. government agencies.
 2. **Problem Statement:** Clear, concise, and well-supported statement of the problem to be addressed and why the proposed program is needed.
 3. **Program Goals and Objectives:** The "goals" describe what the program intends to achieve. The "objectives" refer to the intermediate accomplishments on the way to the goals. These should be achievable and measurable.
 4. **Program Activities:** Describe the program activities (minimum set of activities described above) and how they will help achieve the objectives.
 5. **Program Methods and Design:** A description of how the program is expected to work to solve the stated problem and achieve the goals and objectives. Include a logic model with clear outcomes identified.

6. **Program Data Collection and Compliance:** A description of existing case management tools and means to ensure and comply with HIPAA and any U.S. Government privacy laws regulations, and policies upon request. Including a plan to maintain confidentiality and safety of Personal Identifiable Information (PII) of the participants.
 7. **Proposed Program Schedule and Timeline:** The proposed timeline for the program activities. Include the dates, times, and locations of planned activities and events.
 8. **Key Personnel:** Names, titles, roles, and experience/qualifications of key personnel involved in the program. What proportion of their time will be used in support of this program?
 9. **Program Consortium Partners:** List the names and type of involvement of key partner organizations and sub-awardees, and letters of support, if available.
 10. **Program's Accountability to Affected Populations (AAP):** Applicants will need to describe how they plan to ensure AAP.
 11. **Program safeguards against discrimination:** Applicants will need to describe how they will ensure program services are provided within a gender equity lens and how they ensure participants are equally provided access to services due to their gender, language competence, disability, age, religion.
 12. **Sustainability:** Applicant can share plan for continuing the program beyond the grant period, if applicable.
- **Summary Budget in USD (2 pages)**, in Excel, printable on 8 ½ x 11 letter-sized paper, using the format in the provided Excel Budget Template;
 - **Detailed Budget in USD**, in Excel, for primary applicant and each sub-recipient listed in "Contractual" within a printable on letter-sized paper, using the format in the provided Excel Budget Template;
 1. **Budget Components:** After filling out the Excel Budget, use a separate sheet of paper to describe each of the budget expense categories in detail.
 2. All sub-recipient costs should be listed under "Contractual," and should also be broken out and organized according to the same subcategories in the main budget.
 3. Individual contractors should also be listed under "Contractual", and each should be listed separately from applicant's line items.
 4. The budget should be for the entire project period. Successful applicants may be asked to provide a year-by-year budget after the award is signed;
 - **Budget Narrative (5 page max)** that includes an explanation for each line item in the spreadsheet, as well as the source and description of all cost share offered. See section *H. Other Information: Guidelines for Budget Submissions* below for further information.
- 5. Attachments (do not count towards page limit):**
- a. 1-page CV or resume of key personnel who are proposed for the program. Key personnel are defined as those who:

1. are over 50% to 100% FTE on the project and
 2. are within a Management, Director, Coordination/ Senior Specialist role within the project scope.
- b. Letters of support from organizations or program partners describing the roles and responsibilities of each partner
 - c. Organizational Chart for prime applicant (only)
 - d. The prime applicant has a Federally approved NICRA and includes NICRA charges in the budget, the latest NICRA should be included as a PDF file.

6. Mandatory Attachment Forms (do not count towards page limit):

- a. **Completed and signed SF-424**, The Certifications and Assurances that your organization is agreeing to in signing the 424 are available at <https://www.grants.gov/web/grants/forms/sf-424-mandatory-family.html>.
- b. **Disclosure of Lobbying Activities** if your organization engages in lobbying activities, a (SF-LLL) form is required; <https://apply07.grants.gov/apply/forms/sample/SFLLL-V1.1.pdf>
- c. **Letter of Disclosure** for proposed consultants/personnel (if applicable) of potential conflicts of interest, employment with a local/state/federal government.

7. Unique Entity Identifier and System for Award Management (SAM.gov)

Each applicant and their subrecipients are excepted to follow all requirements under 2 CFR 200 (d)) is required to: (i) Be registered in SAM before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has this award or an application or plan under consideration by CMPP National Board. The CMPP National Board may not make an award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the CMPP National Board is ready to make an award, the CMPP National Board may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant.

In addition, if the organization plans to sub-contract or sub-grant any of the funds under an award, those sub-awardees must also have a unique entity identifier (UEI) number.

All organizations applying for an award must obtain these registrations. All are free of charge at www.SAM.gov registration

8. Submission Dates and Times

Applicants are urged to submit before the stated deadline. All applications must be submitted by 11:59 PM Eastern Standard Time (EST) on October 19, 2022. Applications received after the deadline will not be considered.

9. Funding Restrictions

Funding cannot be used for direct legal representation of enrolled of CMPP participants in this project.

10. Other Submission Requirements

CWS requires proposals must be submitted electronically through info@CMPP.org.

E. APPLICATION REVIEW INFORMATION

1. Criteria

Each application will be evaluated and rated based on the criteria outlined below.

- The variety of participating nonprofit organizations and/or community-based and/or government consortia entities that apply together.
- There is a lead local government or nonprofit organization;
- The defined project is focused on a targeted community with high rates of asylum seekers within continental U.S. with demonstrated need within their community.
- Applicant has demonstrated capacity to provide voluntary and trauma informed ⁵case management services to immigrants, victims of trafficking, refugees, and/or asylum seekers, especially women and girls and other vulnerable migrants and including services for people with limited English proficiency and people with disabilities;
- Applicant has the capability to leverage community resources for program beneficiaries, meet their self-identified needs, and collect and report data related to case management services;
- Applicant has the capacity, either internally or through partnerships with other community-based organizations, to provide case management services, including but not limited to: mental health screening; trafficking screening; legal orientation; and cultural orientation programs;

⁵ Trauma-Informed Care (TIC) is **an approach in the human service field that assumes that an individual is more likely than not to have a history of trauma**. Trauma-Informed Care recognizes the presence of trauma symptoms and acknowledges the role trauma may play in an individual's life- including service staff.

- Applicant has the capacity, either internally or through partnerships with other community-based organizations, to provide or connect participants to the following services:
 1. health screening and medical services
 2. referral to legal service providers
 3. family wellness (parenting, MHPSS, etc.)
 4. job training
 5. school enrollment support;

with the minimum activities including but not limited to:

1. Intake
 2. Individual assessment
 3. Individual service planning
 4. Individual goal setting
 5. Screenings (mental health, trafficking, legal etc.)
 6. Flexible Fund Assistance (optional)
 7. Referrals
 8. Enrollments
 9. Follow up
 10. Orientations provided (Job, Legal, Cultural etc.)
- Applicant has the capacity, either internally or through a partnership with other community-based, national, or international organizations, to provide departure planning;
 - Applicant has the capacity, either internally or through a partnership with other community-based, national, or international organizations to provide information about or referral to existing reintegration services to non-U.S. citizens returning to their countries of origin;
 - Applicant has extensive experience with federal grant awards; and robust financial controls to ensure clear accurate and timely reporting and if applicable the capacity to provide direct assistance.

2. Scoring

Quality and Feasibility of the Program Idea – 25 points: The program idea is well developed, with detail about how program activities will be carried out. The program meets the criteria on providing services within a targeted area as defined in the criteria. The proposal includes a reasonable implementation timeline.

Organizational Capacity and Record on Previous Grants – 25 points: The organization has expertise in its stated field and has the internal controls in place to manage federal funds. This includes a financial management system and a bank account.

- Provide a description of the organization including its general purpose, goals, annual budget (including funding sources), and major current activities and projects undertaken.
- Discuss the applicant organization's experience in providing individualized, client centered, trauma informed case management services to refugee, immigrants and asylum seekers and refugees.
- Discuss the roles and responsibilities of the project implementation team (prime applicant and key partners/sub-recipients/consultants).

Program Planning/Ability to Achieve Objectives – 15 points: Goals and objectives are clearly stated, and program approach is likely to provide maximum impact in achieving the proposed results. The proposal should further outline the expected and achievable results for the project, which could include suggestions in **Section A**.

It should also outline the relevant and appropriate main activities to accomplish the goals and expected results. Explain the assumptions on which the success of the project depends, and the involvement of other stakeholders.

Budget – 10 points: The budget justification is detailed. Costs are reasonable in relation to the proposed activities and anticipated results. The budget is realistic, accounting for all necessary expenses to achieve proposed activities. Proposals should keep estimated overhead and administrative costs within proportion of proposed expenditures that are reasonable, allowable, and allocable to the proposed project activities and reflect the applicant's understanding of the allowable cost principles established by Office of Management and Budget (OMB) in 2 CFR 200.

Monitoring and evaluation plan – 15 points: Applicant demonstrates it is able to measure program success against key outputs and provides milestones to indicate progress toward goals outlined in the proposal. Proposals should discuss how progress towards the expected results will be measured and identify which performance outcomes will be measured and how data on these indicators will be collected, analyzed, and used for program management. Applicant should set associated targets for the data outcomes to be collected and indicators that it proposes to achieve. Include an explanation of how data and information will be collected, analyzed, and used, and how baseline measurements will be established.

Accountability to Affected Populations, Gender Equity and Sustainability – 10 points: Provide an outline of how program activities will meet accountability to affected populations, and gender equity. Furthermore, articulate how or if sustainability could or may continue to have a positive impact after the end of the program.

3. Review and Selection Process

A CMPP National Board will evaluate all nation-wide eligible applications. Subsequently the CMPP National Board via CMPP fiduciary agent Church World Service, Inc. will provide subawards. The CMPP National Board reserves the right to reduce, revise, or increase proposal budgets in accordance with the program needs and availability of funds.

F. AWARD ADMINISTRATION INFORMATION

1. Award Notices

The award will be written, signed, awarded, and administered by Church World Service, Inc. The subaward agreement is the authorizing document, and it will be provided to the recipient for review. The recipient may only start incurring program expenses beginning on the start date shown on the subaward agreement document signed by Church World Service.

Issuance of this solicitation does not constitute an award commitment on the part of the CMPP National Board via Church World Service, Inc., nor does it commit CMPP National Board or Church World Service to pay for costs incurred in the preparation and submission of these proposals. Further, the CMPP National Board and Church World Service reserve the right to reject any or all proposals received.

2. Payment Method

The subawardee will be paid on a cost reimbursable basis through a Cost Reimbursement invoice. These invoices will be processed and provided by Church World Service, Inc. to subawardee for expenses and stipulated within the subaward.

4. Administrative and National Policy Requirements

Terms and Conditions: Before submitting an application, applicants should review all the terms and conditions and required certifications that will apply to this award, to ensure that they will be able to comply. These include: 2 CFR 200, 2 CFR 600, Certifications and Assurances, and the FEMA <https://www.fema.gov/fact-sheet/fiscal-year-2022-fema-standard-terms-and-conditions>.

5. Reporting

Reporting Requirements: Subawards will provide detailed requirements as they pertain to financial reports, program narrative reports and data collection requirements. The award document will specify how often these reports must be submitted.

Applicants should be aware of the post-award reporting requirements reflected in 2 CFR 200 Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters.

Progress Reports: The subaward(s) will provide CMPP National Board via Church World Service with regular programmatic narrative reports, which include synthesis of performance analysis that describes activities undertaken, progress toward goals, objectives and target;

compliance with the anticipated work plan, challenges and responses taken or recommended responses, and proposed next steps. The subaward may propose additional strategies for achieving results, developing communications, and disseminating lessons learned as necessary to account for the specific goals of the sub-award. Regular reports will additionally include a summary of all reported expenditures as stated, in the format provided. Programmatic narrative reports will be submitted to CMPP National Board via Church World Service within a timeframe to be stipulated within the sub-award and that set forth:

- Significant activities achieved in the period
 - how activities reflect progress toward achieving goals;
- Evaluation of progress towards goals/targets/objectives with quantitative and qualitative data, as appropriate;
- Identified problems/challenges in implementing the project and its correlated corrective action plan taken;
- An update on expenditures during the reporting period;
- Supporting documentation or products related to project activities (such as presentation, trainings, self-surveys, travel, critical engagements etc.); and
- Project Spotlight an item that significantly highlights the program impact such as a significant story, program impact, individual outcomes, or success as well as photos of implementation.

Financial Reports: The subaward is required to submit financial reimbursement reports throughout the project period, using the provided request for reimbursement, as part of the sub-award agreement.

Final Report: The final report will be due no later than 90 days after completion or termination of all project activities. The Final Report shall include the following elements: executive summary, successes, outcomes, best practices, how the project will be sustained, and a final financial report. A template will be provided by CMPP National Board via CWS near the completion date of project.

G. AWARDING AGENCY CONTACTS

If you have any questions about the grant application process, please contact: info@CMPP.org.

H. OTHER INFORMATION

1. Conflict of Interest

In accordance with applicable Federal awarding policy, applicants must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity.

2. Illicit Financing

All recipients must comply with E.O. 13224 and all U.S. laws that prohibit transactions with, and the provision of resources and support to individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the order and laws.

When vetting information is requested by CMPP National Board via Church World Service, Inc., information may be submitted on via email to info@CMPP.org, or hardcopy to the CMPP National Board/Church World Service 475 Riverside Dr. #700 New York, NY 10115.

3. Guidelines for Budget Justification

Personnel and Fringe Benefits: Describe the wages, salaries, and benefits of temporary or permanent staff who will be working directly for the applicant on the program, and the percentage of their time that will be spent on the program.

Travel: Per U.S. federal travel regulations, estimate the costs of economy fare, refundable travel and per diem for this program, for program staff, consultants or speakers, and participants/beneficiaries. If the program involves international travel, include a brief statement of justification for that travel.

Equipment: Describe any machinery, furniture, or other personal property that is required for the program, which has a useful life of more than one year (or a life longer than the duration of the program), and costs at least \$5,000 per unit.

Supplies: List and describe all the items and materials, including any computer devices, that are needed for the program. If an item costs more than \$5,000 per unit, then put it in the budget under Equipment.

Contractual: Describe any goods and services that the applicant plans to acquire through a contract with a vendor. Also describe any sub-awards to non-profit consortium partners that will help carry out the program activities.

Other Direct Costs: Describe other costs directly associated with the program, which do not fit in the other categories. For example, shipping costs for materials and equipment or applicable taxes. All "Other" or "Miscellaneous" expenses must be itemized and explained. If the sub-awardee intends to provide flexible funds, this must be included.

Indirect Costs: These are costs that cannot be linked directly to the program activities, such as overhead costs needed to help keep the organization operating. If your organization has a Negotiated Indirect Cost Rate (NICRA) and includes NICRA charges in the budget, attach a copy of your latest NICRA. Organizations that have never had a NICRA may request indirect costs of 10% of the modified total direct costs as defined in 2 CFR 200.68.

“Cost Sharing” refers to contributions from the organization or other entities other than the U.S. Embassy. It also includes in-kind contributions such as volunteers’ time and donated venues.