

LIHWAP IM-2021-02 Vendor Agreement FY2021

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Low Income Household Water Assistance Program Information Memorandum

IM#: LIHWAP-IM-2021-02
DATE: July 21, 2021
TO: LIHWAP Grantees
SUBJECT: LIHWAP Vendor Agreement Resources
ATTACHMENT(S): [Attachment 1: PowerPoint Slides from OCS' Vendor Agreement Webinar on 6.24.2021](#) (PDF)
[Attachment 2: OCS' Sample Vendor Agreement Template](#) (PDF)
[Attachment 3: Wisconsin Grantee Sample Vendor Agreement](#) (PDF)
[Attachment 4: Washington Grantee Sample Vendor Agreement](#) (PDF)
[Attachment 5: Minnesota Grantee Sample Vendor Agreement](#) (PDF)

The purpose of this Information Memorandum is to provide Low Income Household Water Assistance Program (LIHWAP) grantees with resources to help establish vendor agreements with water and wastewater providers in order to utilize LIHWAP funds equitably and efficiently to ensure low-income households have access to water and wastewater services. After brief background information on the purpose of LIHWAP effort, this guidance provides information on training materials and a sample vendor agreement template, followed by answers to several critical questions.

Background on Purpose of LIHWAP

Access to safe and affordable drinking water and wastewater services is a fundamental element of health, safety, and well-being for households across America. Yet water affordability is a significant and growing concern in communities across the country, and many communities have faced significant challenges related to water safety, aging water infrastructure, and even water shortages due to drought. Moreover, water affordability concerns and the growing crisis of household indebtedness disproportionately impacting low-income individuals and communities of color can be related to multiple adverse household impacts in terms of service disconnections and lien sales, leading to home foreclosures and evictions.

For many low-income households across America, water affordability needs have been significantly exacerbated by the COVID-19 public health crisis, and while water is required to follow the federal guidance from the Centers for Disease Control and Prevention (CDC) advising washing hands frequently in order to reduce the transmission of Covid-19, the pandemic has made it significantly more difficult for individuals and families to pay their home drinking water and wastewater bills. While some states have instituted temporary moratoria on shutoffs, water consumers have accumulated debts that have serious economic consequences not only for household consumers, but also for public water utilities.

While water costs and accessibility vary significantly from state to state, the Low Income Household Water Assistance Program (LIHWAP) provides critical nationwide emergency support on behalf of low-income households so that these households are not forced to choose between paying for water services and other necessities like housing, food, and medicine.

LIHWAP Vendor Agreement Training Materials and Sample Template

Attached are the presentation materials from the Office of Community Services' (OCS) webinar on vendor agreements hosted on June 24, 2021, from 2:00-4:00pm (ET) for grantees administering LIHWAP. Below are some of the common questions OCS received during the webinar regarding the creation and execution of vendor agreements with Water Utility Companies. Additionally, attached you will find a sample vendor agreement template developed by OCS, as well as sample vendor agreements from LIHWAP grantees who have started to establish agreements with water vendors.

The attached LIHWAP Sample Vendor Agreement Template is not a required document; it is a resource that can be adapted by LIHWAP grantees and subgrantees as they work to launch their programs. If you will be using the Sample Vendor Agreement Template for your program, please review each section and adapt/modify the content to meet your needs and align with your LIHWAP Plan. Also, please note that OCS does not endorse any of the attached sample vendor agreements created by LIHWAP grantees. We are sharing these agreements merely as examples of current LIHWAP agreements that are in place. We thank the grantees who have graciously offered to share their draft/current vendor agreements with the LIHWAP Network.

Answers to Questions About Vendor Agreements

1) Question: Should I delay the start of my program until all vendor agreements have been executed in my area?

Answer: No. If all vendor agreements are not executed, OCS recommends launching this program in phases and executing agreements with the largest utility vendors in your service area first in order to serve the most households as quickly as possible. If a vendor agreement is not executed prior to the implementation of the program, we suggest setting aside some funds to ensure equitable distribution of benefits to eligible households. When feasible, we recommend agencies start accepting the first round of

applications during this Fiscal Year (i.e., prior to October 1, 2021) because this is an emergency program.

2) Question: Are grantees required to have vendor agreements in place in order to make payments to water utilities? We have a very large number of water utilities in our state and some are very small.

Answer: OCS recommends written agreement or contracts with water utilities for the protection of all parties. However, the terminology and procedures may vary among states, territories, and tribes, and simplified agreements may be possible with very small utilities. In the absence of a written vendor agreement, a grantee would need to propose rigorous alternate procedures to assure consumer protections, financial accountability, and consistency with the Terms and Conditions. These funds are subject to the Single Audit Act, and any procedure created in the absence of a written vendor agreement must provide assurances that protections are being made for all parties and households.

3) Question: Are grantees required to use the sample vendor agreements developed and/or disseminated by OCS? What if our state has already begun negotiations or has already established vendor agreements using our own format?

Answer: Grantees are not required to use OCS' Sample Vendor Agreement Template (or the sample vendor agreements forms from LIHWAP grantees), but OCS encourages all grantees to review the Sample Vendor Agreement Template and consider if the information and categories included in the Template is useful for your agreement(s). Grantees that do not have an existing format for agreements are encouraged to use and adapt the sample agreement, which has been designed to help ensure accountability to the Terms and Conditions of the award. OCS strongly encourages LIHWAP grantees and subgrantees to work with their own legal counsel in adapting the sample vendor agreement or creating their own vendor agreement.

4) Question: Can vendor agreements for payment of arrearages also include payment of reconnection fees, charges, and penalties?

Answer: Yes, payments of arrearages can include payment of standard reconnection fees, charges, and penalties. The vendor agreements should state LIHWAP funds can be used to cover fees associated with reconnection. However, these fees should be standard fees consistent with the existing and ongoing business practices of the water utility (rather than a special fee charged to LIHWAP households). Grantees have discretion in determining whether these costs are included in the maximum benefit level or are in addition to the maximum benefit level.

5) Question: Can we issue vendor agreements without an approved LIHWAP plan (i.e. receiving our remaining funding)?

Answer: Vendor agreements can be executed prior to submitting the LIHWAP Plan, but all agreements need to be consistent with the LIHWAP Terms and Conditions.

6) How do we allocate the costs and time associated with the negotiation and creation of vendor agreements? Are you expecting the scope of this effort to be resolved before the application is submitted'?

Answer: We recognize the complexity of this effort, particularly given the extensive amount of water vendors involved and the fact that most grantees are establishing brand new organizational relationships with these vendors. We encourage you to allocate the costs associated with vendor agreement negotiations to the allowable 15% of administrative costs. We know this can be a daunting task that requires dedicated time to complete. As such, we do not expect that all the vendor agreements will be completed before the submission of the LIHWAP Plan. However, we do encourage you, to the extent possible, to start the process of meeting with and talking to water and wastewater vendors, particularly during the development of the Plan to help you think through some of the logistics of launching LIHWAP. Lastly, given the sheer amount of water and wastewater vendors you may have to negotiate agreements with, we recommend creating a prioritization process to ensure timely completion of vendor agreements.

7) Question: What approach would you recommend for providing water assistance to low-income households when a water provider does not want to participate in LIHWAP? Can payments be paid directly to the household in this instance?

Answer: OCS will be providing technical assistance around vendor negotiations. We do not want households to be left unserved due to an unwilling vendor. If a water vendor does not participate, they will not receive the funding to lower the debt owed to them by eligible households. We encourage you to keep negotiating with the vendor and try to resolve any issues. The legislation does not allow payments to be made directly to a household.

8) Question: Can a vendor receive more than one LIHWAP payment for a particular household?

Answer: There is not a limit on the number of payments that can be issued on behalf of each household. However, LIHWAP is an emergency program, and there is great amount of need for water and wastewater assistance, so grantees should prioritize assistance for those who have been disconnected from services and who are in danger of having their services disrupted. Then, based on available resources, grantees can use funding to reduce the rates charged for services, including supporting households who may have received assistance before if their services were previously disconnected.

9) Question: What are the requirements for obtaining public input on the LIHWAP Plan?

Answer: OCS does not specify the amount of time required for a public comment period. Grantees have discretion when setting the time period; however, grantees should ensure the public has a reasonable

amount of time to provide input on the Plan. For example, 48 hours would not be a reasonable amount of time for the public to review the Plan in its entirety and provide a response. Public input methods can consist of in person hearings, but that is not a requirement. Other methods to obtain public input include, but are not limited to, virtual meetings, public notification, and comments through electronic methods such as a website and email for community member and stakeholders that are unable to attend public hearings in person (i.e., rural community members, those with limited access to transportation, etc.). The public input process should include, to the extent possible, outreach activities to populations that are likely to be disconnected or are at risk of being disconnected from water services. OCS also recommends obtaining input about the Plan from water utilities while grantees are developing and completing the Plan and vendor agreements.

10) Question: What are your suggestions for working with a large number of vendors?

Answer: OCS recommends setting up a process for prioritizing vendors based on size. We encourage grantees to try to set up agreements with the vendors serving the largest number of households first in order to get benefit dollars out quickly. If this approach is taken, consider setting aside funding for the households served by water vendors that will likely take more time and effort for agreements to be finalized. We also encourage you to use the resources listed on slide 30 of the Vendor Agreement presentation that was hosted on June 24, 2021. Slide 30 of the presentation lists water vendor associations. These non-profit groups have memberships in all states and can be a resource for getting information to multiple vendors at one time. Also, state water boards are often broken up into regions with assigned staff. Use the water boards as a resource to build relationships with water vendors.

11) Question: I have been asked by the water suppliers how they will credit the bill since they also charge a solid waste program e.g. household garbage, limbs and other trash.

Answer: We suggest working with the water utility vendors that provide multiple utility services to produce an itemized bill listing the cost of each service. Each vendor will need to provide an invoice that clearly states the cost of the water service only. Most utility vendors already have a way to produce this type of itemized bill. We recommend that grantees include this requirement in their vendor agreement and negotiate, as part of the agreement, consumer protections that require water restoration when LIHWAP benefits cover the amount owed for water services, even if the other utilities are still in a negative balance.

Additional Questions and Contact Information

If you are a LIHWAP grantee and you have additional questions that are not answered in this Information Memorandum, please reach out to the LIHWAP program contact for your region. LIHWAP staff contact information can be found here: <https://www.acf.hhs.gov/ocs/contact-information/lihwap-contact-information>.

For general questions, please reach out to LIHWAP@acf.hhs.gov.

Thank you for your attention to these matters. OCS looks forward to continuing to provide high-quality services to OCS grantees.

/s/

Lauren Christopher
Director, Division of Energy Assistance
Office of Community Services

Files

-  [COMM_LIHWAP_IM-2021-02 Vendor Agreement_FY2021](#) (210.76 KB)
-  [TRG_LIHWAP_Grantee Webinar on Vendor Agreements_062421](#) (277.01 KB)
-  [COMM_LIHWAP_Sample Vendor Agreement_FY2021](#) (145.35 KB)
-  [Attachment 3 Wisconsin Grantee Sample Vendor Agreement](#) (183.58 KB)
-  [Attachment 4 Washington State Grantee Sample Vendor Agreement](#) (97.05 KB)
-  [Attachment 5 Minnesota Grantee Sample Vendor Agreement](#) (150.07 KB)

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