

ARRA Funding Application Questions and Answers

If you're a state or local health agency or a community-based partner seeking funds through the CDC's American Recovery and Reinvestment Act (ARRA) of 2009: Communities Putting Prevention to Work, our team of lawyers, urban planners, and policy analysts can strengthen your application.

The Centers for Disease Control and Prevention have posted a great deal of information about the initiative and its goals, how to apply for funds, and other logistics on their website at www.cdc.gov/nccdphp/recovery/index.htm. We encourage you to visit that site for more information about what the CDC has to offer and how the program works.

Continue reading below for answers to questions regarding what PHLP offers. Please contact us at info@phlpnet.org if you need information beyond what we've provided here or on our website at www.phlpnet.org/arra.

General Questions

What does PHLP offer that we can't get from our own local legal counsel, planner, or policy advisor?

PHLP attorneys and policy experts specialize in developing legal and policy tools for disease prevention and health promotion. We are comfortable working with community based organizations, government agency staff, and other public health leaders. We often establish consulting relationships with state and local legal counsel or other agencies and partner with them to best serve the community's needs. Many of these local experts need to be generalists and do not have an opportunity to develop expertise of disease prevention or health promotion issues. Further, given the press of other business, they may not have time or opportunity to engage in the depth or breadth of legal research that supports PHLP products.

Does PHLP work with in-state attorneys or other experts?

Yes, PHLP does work with in-state experts in at least two different ways. First, by partnering with state and local legal counsel as described above. And, second, by hiring in-state experts on highly technical legal or policy issues that are specific to state law.

Is an attorney-client relationship established?

No, PHLP does not establish an attorney-client relationship with any agency, group, or individual.

Can we pick and choose between PHLP services or are they always bundled?

Yes, state and local governments can work with PHLP in many different ways. We offer tailored services at all stages of the cycle of law and policy development. That said, to offer some service—such as crafting model legislation—requires that PHLP also conducts original research to identify and analyze legal questions, as these stages in the cycle are necessarily linked. For more information, see the Budget Projections document available at: www.phlpnet.org/arra.

What variables do we need to consider when identifying how to budget for services?

PHLP provides a range of anticipated costs associated with the various stages of policy development as it is very difficult to know in advance how complex a legal or policy question may be. Only after initial research and an examination of state statutes and regulations can a firm estimate be developed. Further, some states and localities have many questions and ask for significant one-to-one consultation as they determine their policy goals, or move towards enactment and implementation.

Would PHLP be able to provide letters of support to ARRA applicants if requested?

Yes, if we are asked to work with a state or local health department on legal and policy technical assistance, we would be glad to write a letter of recommendation indicating our commitment to work with the health agency.

Tobacco Control Questions

We are thinking about creating regulations restricting e-cigarettes and other non-tobacco nicotine products that are non-FDA approved for cessation. Would this be considered inappropriate for the grant since it is not actually tobacco?

Only the CDC can tell you what it will allow. We have heard CDC will consider policy interventions that are not specifically listed in the MAPPs framework if the community provides sufficient justification. So, if you want to propose this strategy, you can talk about the negative public health effects from e-cigarettes on your community. Also, if you are proposing a series of policies to the CDC—some of which directly involve tobacco and some of which involve non-tobacco products—that might be fine.

The AG in my state has resisted making involuntary exposure to secondhand smoke (SHS) a nuisance/trespass. Do you have ideas about other legal bases for offering folks a legal remedy in statute?

A direct method of addressing this problem is to pass a law prohibiting smoking in certain areas. That way you don't need to rely on nuisance or trespass. Instead, you can cite the smoker for violating the law prohibiting smoking.

Even without specifically declaring exposure to SHS a nuisance, a person exposed to SHS can still try to bring a claim based on existing nuisance law. It will just make your case more difficult to prove.

In the rental housing context, tenants may have other legal remedies against someone whose smoke is drifting into their apartment. For more information see our fact sheet on “Legal Options for Tenants Suffering from Drifting Tobacco Smoke” available at: www.phlpnet.org/tobacco-control/products/tenantsdriftingsmoke.

Nutrition and Physical Activity Questions

Can you talk about the role of closed campuses for lunchtime as a recommended policy change?

Schools have the power to decide if students can leave the school campus for lunch. A closed campus policy, requiring that students remain on campus during lunch breaks, can be one part

of a broader strategy to improve nutrition for school children. One study found that students who attend schools with open campus policies were significantly more likely to eat fast food than students who attend schools with closed campus policies.

A closed campus policy should be combined with other measures that improve nutritional choices for students on campus. School cafeterias should offer students nutritious, appealing meals. There is currently an effort at the federal level to increase funding for the National School Lunch Program through the Children Nutrition Act reauthorization process in 2010. Schools should have nutrition standards for other foods that are sold to students on campus, such as through a la carte lines. This can be done at the school, district, or state level. Schools should also work to eliminate junk foods from vending machines by negotiating more favorable contracts with vending machine companies.

Schools should also think about the surrounding food environment. Even if a school has a closed campus policy, students have access to restaurants and corner stores before and after school. Schools can work with towns and cities to prohibit new fast food restaurants within a certain distance of the school through zoning policy. Schools and municipalities can also restrict unhealthy mobile vendors, such as ice cream carts, from locating within a certain radius of the school and promote healthy vendors using incentives.

PHLP has a model healthy beverage vending contract for schools and a model ordinance prohibiting new fast food restaurants from locating within a certain distance of schools. In addition, we have tools and strategies to strengthen enforcement of policies. We can also work with you to develop partnerships with your local schools to create healthier food and physical activity environments for everyone.

What successes have you had with partnering with fast food chains to add and support healthy choices on their menu?

State and many local health departments have the authority to regulate fast food chains. For example, many states and localities around the country have passed menu-labeling laws, which require fast food chains to disclose calorie and other nutrition information on their menus and menu boards. One goal of these laws is to ensure that consumers have enough information to make healthy food choices. Another potential regulation that has not been tested yet is prohibiting fast food chains from offering toys with unhealthy children's meals. Under this policy, chain restaurants could offer toys with children's meals that meet nutrition standards.

Some communities, such as Somerville, Massachusetts, have begun to develop healthy restaurant certification programs that restaurants can participate in. These programs typically ask restaurants to offer a certain number of healthy options that are labeled as such. Some programs require other healthy policies, such as prohibiting smoking in the restaurant or requiring calorie labeling on the menu. If a restaurant satisfies the requirements of the program, they receive a healthy seal and often free marketing from the municipality.

It may be possible for communities to institutionalize such programs through local policy and create more rigorous inspection processes, as they have with food safety inspections. PHLP is currently researching the best way to craft such a certification process that would protect the health of the community and reward healthy local businesses.

Do you have examples of communities or states that have used media campaigns to improve public understanding and support of land use changes, such as non-motorized transportation plans, complete streets, farmers markets, etc.?

There are many examples of these types of media campaigns. In Shasta County in Northern California, the Healthy Shasta Campaign, which is a collaboration of the Shasta County Public Health Department, numerous towns, a local foundation, the National Park Service, the Shasta Family YMCA, and the Network for a Healthy California, is promoting a wide variety of active living and healthy eating issues. See www.healthyshasta.org/index.php. These include billboard, TV, radio and print and online ads and informational material that promote bike commuting, walking groups, local recreation opportunities, and farmers markets, and that link people to resources. This Shasta County effort is one of the many such campaigns that the Network for a Healthy California of the California Public Health Department is supporting in the State of California. See www.cdph.ca.gov/programs/CPNS/Pages/default.aspx.

Eat Right Montana is engaged in a similar media effort to promote healthy eating and an active lifestyle (see www.eatrightmontana.org/index.html) as is Steps to a HealthierNY (see www.health.state.ny.us/prevention/healthy_lifestyles/steps/) and Live Well Colorado (see www.livewellcolorado.org) and many others.

We love our cars! How can we address this?

If you build complete streets and dense, mixed use, walkable, transit-oriented neighborhoods you will have places where you can drive your car if you want to but you won't have if you don't want to. Others won't have to drive either. When you build dense, mixed use, walkable, transit-oriented places, people will have a choice of convenient ways to get to where they need to go to and driving will remain an option, just not the only option.

How is PHLP planning on working in California with the Strategic Growth Council?

PHLP is a member of the Steering Group of the Strategic Alliance for Healthy Food and Activity Environments (Strategic Alliance), which is a coalition of nutrition and physical activity advocates in California. In that capacity PHLP staff members have testified at Strategic Growth Council meetings and have met with individual members of the Strategic Growth Council to speak with them about how land use planning, economic development, redevelopment and transportation planning can work together with public health to build healthier communities. We intend to continue to work with the Strategic Council in this way.

If we're focusing on menu-labeling for neighborhoods where there aren't many chains with 20+ stores nationwide, will we have an issue with preemption if the national menu labeling bill passes?

The current version of the national menu labeling bill has a preemption provision that would prevent states and localities from imposing on chains of 20 or more restaurants nutrient content disclosure requirements "of the type" required in the national law. The preemption provision would leave the door open for states and localities to impose nutrient content disclosure requirements on chains of fewer than 20 restaurants. There is one caveat here: Under the current version of the bill, a solo restaurant or a chain of fewer than 20 restaurants could choose to abide by the federal menu labeling requirements—this would require bi-annual federal registration—and in so doing, could exempt itself from any state or local menu labeling requirements.

So the national menu labeling bill would not stand in the way of local menu labeling ordinances targeted at independent restaurants and chains of fewer than 20 restaurants. If a locality were to enact such an ordinance, the menu labeling requirements in the ordinance would apply to all restaurants that are not in a chain of 20 or more, except those restaurants that voluntarily abide by the federal menu labeling requirements.

One final point to keep in mind is that a locality interested in passing such an ordinance would have to consider not only federal but also state law. In some states, localities might lack the ability to regulate food service establishments either because state law does not give them the authority to do so or because state law preempts them from doing so.

For more information on our services, visit www.phlpnet.org/arra.