Metro
600 NE Grand Ave.
Portland, OR 97232-2736

Memo

Date: Tuesday, May 18, 2021

To: Eric Arellano, Multnomah County CFO; Jack Liang, Washington County CFO; Elizabeth Comfort, Clackamas County CFO

From: Brian Kennedy, Metro CFO; Rachael Lembo, Metro Finance Manager

Subject: FY22 Supportive Housing Services tax estimates

The Supportive Housing Services (SHS) tax became effective January 1, 2021, and collections began in April 2021. This memo documents Metro's expectations about the amount and timing of those collections through FY22.

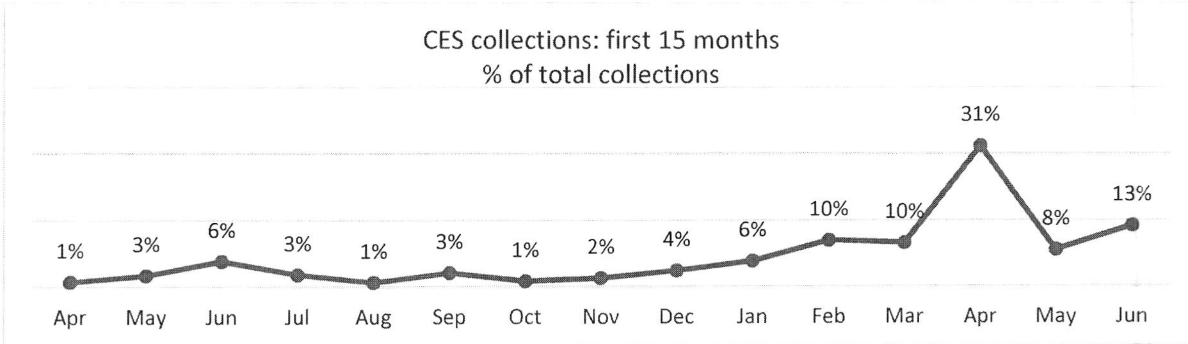
Metro's SHS revenue estimate in the FY22 approved budget is $180 million. This estimate has changed from the original estimate of $250 million based on changes made by the Metro Council to address potential double taxation and other issues. Those changes are anticipated to reduce revenues by 10-16% or $25-$40 million per year. In addition, the pandemic has impacted income of some businesses and individuals subject to these taxes, and Metro has lowered the tax revenue estimated as a result.

In October 2020, Metro provided county partners with an initial FY22 estimate to support program planning: $115 million to be distributed to our county partners for local implementation, allocated by the percentages noted in the ballot measure (see table below). This estimate was deliberately conservative with the intention of ensuring program and participant stability. In our FY22 budget we have budgeted $151 million for distribution to county partners, based on the FY22 revenue estimate noted above. This higher amount ensures Metro has sufficient budget appropriation to disburse funds to the counties as collections come in.

	Total local implementation funding	Clackamas County (21.33%)	Multnomah County (45.33%)	Washington County (33.33%)
Oct 2020 initial estimate	$115 million	$24,529,500	$52,129,500	$38,329,500
FY22 budget	$151 million	$32,208,300	$68,448,300	$50,328,300

Metro will disburse funds to the counties as taxes are collected. Collections are expected to begin slowly and gradually pick up through January 2022, as more payroll companies and employers complete the setup of payroll withholding and begin offering it. Collections are expected to peak in April 2022 when calendar year 2021 tax returns are due.

This is the expected pattern for a new income tax. The first 15 months of collections from the City of Portland's Clean Energy Surcharge (CES) tax are graphed below. Metro expects a similar pattern with the SHS tax, though early collections may be slower because the region hasn't had a local personal income tax since 2005, and a business income tax is new for businesses in Washington and Clackamas counties.



Metro looks forward to partnering with the counties as this new revenue stream begins. We will learn more each month as collections come in, and will share monthly collection reports and be available for discussions on revenue assumptions, tax implementation status, and tax collections at any time.

CC: Patricia Rojas, Metro Housing Director; Marc Jolin, Joint Office of Homeless Services Director; Komi Kalevor, Housing Services Director for Washington County; Jason Kirkpatrick, Housing Authority of Clackamas County; Ed Johnson, Housing Authority of Clackamas County

Health, Housing
& Human Services
CLACKAMAS COUNTY

Jill Smith, *Executive Director*
Housing Authority of
Clackamas County

EQUAL HOUSING OPPORTUNITY

May 24, 2021

To: Gary Schmidt, Clackamas County Administrator

From: Rod Cook, Interim Director, H3S
Jill Smith, Housing Director

Re: Supportive Housing Services (SHS) Funding

At your request staff prepared this memo to demonstrate the difference between planned investments outlined in our Local Implementation Plan, (LIP) and the anticipated receipt of funding. As you know, recent communications from Metro staff indicate that the majority of tax revenues to fund this work will be received the third quarter of FY21-22 and distributed to the Counties following that receipt. Total projected FY21-22 SHS funding for Clackamas County is $32,208,300

FY21-22

100% Full tax collection anticipated for FY21-22 (Metro Projection) = $32.2M

LIP Plan is based on prior projections of $24.5M

Projected funding to be distributed to Clackamas County – Quarters 1 – 3 = $7,728,000

Tax Disbursement Schedule Based on New Modeling *		
Q1 - Estimated Disbursement July 2021	**$**	**3,220,000.00**
Q2 - Estimated Disbursement Oct 2021	**$**	**2,254,000.00**
Q3 - Estimated Disbursement Jan 2022	**$**	**2,254,000.00**
Q4 - Estimated Disbursement Apr 2022	*$*	*8,372,000.00*
Q1 FY22-23 Estimated Disbursement July 2022	*$*	*24,150,000.00*
Total Tax estimated for collection FY21-22	**$**	**32,200,000.00**
Projected total Disbursement to County Q1-3	**$**	**7,728,000.00**

*Model based on collections of the City of Portland's Clean Energy Surcharge (CES) tax in Metro Memo 5/18/21

Full Implementation of the SHS Program FY21-22 for Q1-3

Q1-3 Budget Based on Approved LIP	$	18,772,233.20
New Revenue Projection Q1-3 from Metro	$	7,728,000.00
Funding Gap for Full Program Implementation	$	11,044,233.20

SHS LIP Budget for Year 1 Projected $24.5M

	Amount
Population A (75%) - Disabled & Experiencing Long Term Homelessness	
Outreach	$ 1,000,000.00
Immediate Shelter/Transitional	$ 1,664,000.00
Shelter Capitol/Aquistion/Rental	$ 2,800,000.00
Housing Placement	$ 625,000.00
Housing Navigation	$ 850,000.00
Long Term Rent Assistance	$ 3,600,000.00
Services & Case Management	$ 2,400,000.00
Admin for Community Based Organizations	$ 1,646,728.00
Total Population A investments	**$ 14,585,728.00**
Population B (25%) - At Risk of Long Term Homelessness	
Outreach	$ 210,000.00
Immediate Shelter/Transitional	$ 416,000.00
Shelter Capitol/Acquisition/Rental	$ 700,000.00
Housing Placement	$ 180,000.00
Housing Navigation	$ 318,750.00
Long Term Rent Assistance	$ 600,000.00
Short Term Rent Assistance	$ 1,276,000.00
Eviction Prevention	$ 631,840.00
Admin for Community Based Organizations	$ 411,682.00
Total for Population B investments	**$ 4,744,272.00**
Capacity Building/Program Operations (75%/25% split)	
Rent Assistance & Program Operations	$ 1,520,000.00
Capacity building for Culturally Specific Providers	$ 1,200,000.00
Total Capacity Building/Program Operations	**$ 2,720,000.00**
Administrative - 5%	**$ 1,225,000.00**
Required Regional Investment of 5%	**$ 1,225,000.00**
	$ 24,500,000.00

Minimum Start-up of the SHS Program FY21-22 for Q1-3

Q1-3 Minimum Start-up Budget	$	11,963,062.50
New Revenue Projection Q1-3 from Metro	$	7,728,000.00
Funding Gap for Minimum Program Implementation	$	4,235,062.50

Q1-Q3 FY21-22 - Minimium Start-Up Budget

Pop A & B - Rent Assistance & Services		
Rent Assistance for 200	$	2,000,000.00
Barrier Busting for 50	$	250,000.00
Support Services	$	1,480,000.00
Outreach A & B	$	907,500.00
Navigation A & B	$	876,562.50
Total Pop A & B - Rent Asistance & Services	**$**	**5,514,062.50**
Continuation of Current Programs		
Hotel Model - 150 families for 9 months	$	4,050,000.00
Veterans Village	$	175,000.00
Serenity House - Corrections	$	113,000.00
Haven House - Corrections	$	144,000.00
Total Continuation of Current Programs	**$**	**4,482,000.00**
Other Program Expenses		
Program Operations	$	1,121,250.00
Capacity Building for Culturally Specific Providers	$	245,750.00
Administrative	$	600,000.00
Total Other Program Expenses	**$**	**1,967,000.00**
Total for Min. for SHS Program July 1, 2021- April 30, 2022	**$**	**11,963,062.50**

Klepper, Emily

Subject: FW: Maintaining Essential Services Cost Projection
Attachments: Essential Funding for SHS start 5.26.21.B.XLSX

Hello Elizabeth,

The information you requested by quarter is attached. This chart represents only current services that were anticipating SHS funding to keep people housed effective July 1 2021. One of the programs, Metro 300 has adequate funding through August 2021 and you will see that reflected in the lower first Quarter funding requirement.

This chart tracks expenses only and makes NO assumptions about SHS or any other funding source.

Staff is currently putting together a policy session staff report for the Board that will include both this information as well as potential funding sources for the Board to consider. That document will be submitted to the H3S Directors office for review by Tuesday June 1. We anticipate that policy session will take place on June 8th.

If you have questions please coordinate through Rod and Ed as I'm leaving for vacation in the morning. Thanks so much for your help identifying a temporary solution, we know this funding is coming and it has the potential to improve the lives of so many folks I'm trying to keep that in mind as we identify solutions.

Jill

Jill C. Smith
Director of Housing and Housing Services
Health, Housing and Human Services, (H3S)
Clackamas County
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Health, Housing & Human Services
CLACKAMAS COUNTY

Our office is open Monday through Thursday from 7 am to 6 pm, closed on Fridays

Essential Services Budget FY21-22 - SHS Funding

Budget to keep the following programs operational for FY21-22	Yearly	Monthly Per HH/Bed	Q1	Q2	Q3	Q4
ESG Rapid Rehousing Program for 50 HH	$ 1,302,600.00	$ 2,171.00	$ 325,650.00	$ 325,650.00	$ 325,650.00	$ 325,650.00
Metro 300* for 104 HH	$ 2,440,540.00	$ 2,346.67	$ 244,054.00	$ 732,162.00	$ 732,162.00	$ 732,162.00
Hotel Model for 143 HH	$ 6,184,400.00	$ 3,603.96	$ 1,546,100.00	$ 1,546,100.00	$ 1,546,100.00	$ 1,546,100.00
Serenity House & Haven House - Corrections Program for 19 Beds	$ 347,064.00	$ 1,522.21	$ 86,766.00	$ 86,766.00	$ 86,766.00	$ 86,766.00
Veterans Village 19 Beds	$ 315,895.00	$ 1,385.50	$ 78,973.75	$ 78,973.75	$ 78,973.75	$ 78,973.75
Total Minimum Essential Programs	**$ 10,590,499.00**		$ 2,281,543.75	$ 2,769,651.75	$ 2,769,651.75	$ 2,769,651.75

*Metro 300 vouchers & services will end August 31, 2021.

Klepper, Emily

Subject: FW: Supportive Housing Services Funds

From: Brian Kennedy <Brian.Kennedy@oregonmetro.gov>
Sent: Tuesday, May 25, 2021 4:55 PM
To: Smith, Jill <JSmith6@clackamas.us>; Comfort, Elizabeth <EComfort@clackamas.us>; Johnson, Ed <ejohnson@clackamas.us>; Kirkpatrick, Jason <JKirkpatrick@clackamas.us>
Cc: Patricia Rojas <Patricia.Rojas@oregonmetro.gov>; Rachael Lembo <Rachael.Lembo@oregonmetro.gov>
Subject: Supportive Housing Services Funds

Jill, Elizabeth, Ed and Jason,

As we discussed earlier today, Metro can advance Clackamas County up to $5 million on July 1st, 2021 or when the IGA between the County and Metro is fully executed, whichever is later. Metro would make these funds available through an internal interfund loan and will assess interest at the Local Government Investment Pool rate (currently 0.6%) until sufficient tax revenues are collected to reimburse Metro or June 30, 2022, whichever comes first. Interest costs will be withheld from the County's final payment in FY2022. These terms will need to be included in the IGA. Please let me know if you have any questions.

Alternatively, we are happy to provide technical assistance to your staff and advise Clackamas County on how to structure its own interfund loan for supportive housing services as Multnomah and Washington County have recently done for the same purpose.

Brian Kennedy
Chief Financial Officer
Metro Finance and Regulatory Services

My gender pronouns: he, him, his.
Why include this?

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Klepper, Emily

From: Madkour, Stephen
Sent: Wednesday, May 26, 2021 10:51 AM
To: Schmidt, Gary; Fischer, Sonya; Savas, Paul; Schrader, Martha; Shull, Mark; Smith, Tootie
Cc: Naylor, Andrew
Subject: HACC Bridge Funding

Commissioners, you have asked about the availability of different funding sources to potentially serve as a short-term funding mechanism for the Housing Authority to staff positions in anticipation of receiving the County's share of Metro's SHS revenues.

1. Emergency rental assistance grant

You asked if the emergency rental assistance grant could potentially be used to provide funds for a HACC bridge loan until Metro SHS tax revenue is received. The short answer is no, I don't think those funds could be used for this purpose.

The funds were awarded under Section 501 of Division N, Title V, Subtitle A (Emergency Rental Assistance or "ERA") of the consolidated appropriations act of 2021, pub. L. no. 116-260. These funds are for purposes of paying rent and utilities to households unable to pay due to COVID.

The legislation limits what the funds can be used for. See p. 891 of the following: file:///C:/Users/anaylor/Downloads/BILLS-116hr133enr.pdf

It provides that not less than 90% of the funds must be used to provide financial assistance to eligible households to pay rent, rent arrears, utility/energy costs, utility arrears, and other expenses.

No more than 10% of funds may be used to pay for household case management and other services intended to keep a household stably housed.

No more than 10% of the funds may be used for administrative costs "attributable to providing financial assistance and housing stability services" under the act. The legislation lists data collection and reporting requirements as appropriate administrative costs.

To the immediate question, there does not appear to be any basis to use of Oregon ERA funds for a bridge loan as a direct expense. The Oregon ERA funds are for COVID-impacted households, and direct use of funds are for payment of rents, utilities, household management services, etc. A bridge loan to HACC is purely an internal financial/administrative matter of the County and HACC, even if HACC intends the funds to be used to pay for staff or other programs that have a housing connection. Moreover, the Oregon ERA program is tied directly to the COVID pandemic, while HACC's SHS program is much broader.

As a result, direct use of the Oregon ERA funds seems inappropriate for a HACC bridge loan.

One nuance is whether the County's allocation of Oregon ERA funds for administrative expenses could be used as a bridge loan. The State published guidance on use of the funds, and describes administrative expenses at p. 23 of their Oregon ERA manual: https://www.oregon.gov/ohcs/for-providers/Documents/manuals/OERAP-Program-Guidance.pdf. Administrative direct and indirect costs are also set forth in federal regulations at 2 CFR 200.413 and .414. Generally direct admin costs are those that can be directly assigned to the activity. A bridge loan to HACC would not be a direct administrative cost given its separation from the ERA program.

Indirect costs, discussed at 2 CFR 200.416, are those originating in each department or agency of a governmental unit carrying out the federal award. It is questionable that a bridge loan to HACC for SHS programs would qualify since they aren't necessarily carrying out the rent assistance purposes of the ERA for COVID-impacted families. There might be some overlap of who is being served, but HACC's administration of the SHS program isn't directly related to the Oregon ERA program. Further, even assuming there was some kind of connection between the two, I'm not sure how, as a practical matter, the County or HACC could differentiate use of funds in a bridge loan context so that we ensure the funds are only used for administrative expenses incurred in responding to COVID-impacted households.

Last, we reached out to social services (who administers the Oregon ERA grant), and they indicated they would need the administrative cost allocation to actually run the program. Given that, there is likely no administrative costs available to support a bridge loan. As such, even if somehow we could consider a HACC bridge loan as being an indirect administrative expense, doing so would directly impact social services' administration of the Oregon ERA program since they are intending to use those funds.

2. ARP funds

You also asked about potentially using ARP funds for a bridge loan. In reviewing the guidance that was recently published (https://drive.google.com/file/d/1N_07Fu3ML0ySYE2VYu2DbB8rynoQYtye/view), we are of the opinion that it is unlikely that a HACC bridge loan qualifies as an eligible use of the funds. The guidance provides that the funds can be used for the following:

- Support public health expenditures in responding to COVID;
- Addressing negative economic impacts caused by COVID (referring to economic harms to workers, households, small businesses, impacted industries, and the public sector);
- Replacing lost public sector income due to reduction in revenue from the pandemic;
- Providing premium pay to essential workers;
- Investing in water, sewer, and broadband infrastructure.

The problem is use of the funds (other than the infrastructure ones) all require some COVID-19 impact. HACC's situation lacks the COVID-impact connection. Given that, I'm not seeing how a bridge loan would fall into any of these categories. Perhaps if we could get some clarification from whichever federal contact we may have to receive these funds, or additional information from HACC on how the bridge loan might fall into these categories, the analysis would change. However, based on the information contained in the guidance, these funds do not appear to be available for a bridge loan.

3. Metro Loan/Advance

We could ask Metro for a loan or advance on SHS revenue to fund our start-up operation costs. We are reluctant to recommend this, as it would require additional negotiation of terms and conditions with Metro. This would add yet another layer to the ongoing negotiations, and there's no guarantee Metro would loan funds on terms acceptable to the County.

4. Metro SHS IGA

If the County decides to provide its own bridge funding to HACC out of the County's general fund, then we recommend that we include language within both the interim IGA and the permanent IGA stating that Metro stipulates that County-funded bridge funding is a reimbursable expense of the SHS tax revenues and that any loan made by the County to fund such start-up operations will not be counted against the County's current contribution of allocations to funding homeless services.

Please let me know if you have additional questions. Thanks

Stephen L. Madkour | County Counsel
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Klepper, Emily

From:	Naylor, Andrew
Sent:	Wednesday, May 26, 2021 10:57 AM
To:	Smith, Tootie; Fischer, Sonya; Schrader, Martha; Savas, Paul; Shull, Mark
Cc:	Schmidt, Gary; Madkour, Stephen
Subject:	Metro Validation Action Summary
Attachments:	Metro Validation Action Petition SHS filed 20201230 20CV46617.pdf; 2021-01-27 PBA Response to Metro's Validation Petition.pdf; Metro Validation Summary Judgment 2-23-21 (FINAL).pdf; PBA OR - 2021-03-15 Respondents' Motion for Summary Judgment.pdf; Metro Reply iso MSJ and Response to Respondents' MSJ (Final 3-25-21).pdf; 2021-04-01 Respondents' Reply ISO Motion for Summary Judgment.pdf; Unweirding Portland's Target Tax Regime.pdf

Commissioners,

The following is a brief summary of the Metro validation action that was discussed at Monday's hearing. In very general terms, Metro filed an action seeking to validate its tax-implementation ordinance. The underlying tax itself is not at issue, only how it is collected.

Generally, new income taxes are required to be implemented consistent with state law. ORS 268.505(4). Metro argues that it did not impose the supportive housing services tax (SHS Tax) pursuant to that statute. Instead, Metro implemented the SHS Tax under its home rule authority. Because Metro imposed the SHS Tax under its home rule authority, and not ORS Chapter 268, Metro argues that it isn't subject to the requirement that the SHS Tax be implemented consistent with State law. Respondents, a coalition of local businesses, disagree and dispute Metro's authority to deviate from State law with respect to collection of the SHS Tax.

This matters because Metro modeled its implementation of the SHS Tax after Multnomah County's business income tax rules and procedures (versus the State's approach).

The most significant difference is how income is "sourced," and how "pass through" business entities (like partnerships or LLCs) are taxed.

On sourcing, Metro's ordinances use a "cost of performance" sourcing rule to determine what portion of a business's income is taxable. This focuses on the location of the business, versus a market-based rule, potentially burdening local businesses more than others. The difference is primarily with respect to the sale of non-tangible goods, which under Metro's ordinance are deemed to be subject to the tax if the income-producing activity occurs within Metro's boundaries. The State's approach would look instead to whether the non-tangible goods are marketed for sale within Metro boundaries.

On the pass through issue, Metro imposes the tax directly on pass-through entities not currently subject to tax under state law, which is perceived as creating compliance burdens on the owners of these entities. The State does not tax the entity and instead taxes the individual on the share of income received from the entity.

It is unclear how the differences in collection would ultimately impact the dollars received from the SHS Tax. However, it seems safe to assume that shifting to the State's model could significantly alter the number of persons who pay the tax. Whether that means less or more taxpayers, we aren't sure. As a practical matter, it is unlikely respondents would litigate this issue if adopting the State's model resulted in more taxes, so it seems likely that a decision against Metro would mean less SHS dollars received.

Oral argument on the motions for summary judgment was held last Friday. An opinion should be forthcoming any day.

We've attached the summary judgment pleadings that were argued last week. However, their focus is on the legal issues and not necessarily the real-world impact of one tax collection approach over another. We've also attached an article published by the respondents' attorney, Nikki Dobay, which goes into the impact issue in a little more detail.

If there are any additional questions, please let us know.

Best regards.

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Health, Housing
& Human Services
CLACKAMAS COUNTY

Jill Smith, *Executive Director*
Housing Authority of Clackamas County

EQUAL HOUSING OPPORTUNITY

May 27, 2021

To: Gary Schmidt, Clackamas County Administrator

From: Rod Cook, Interim Director, H3S
Jason Kirkpatrick, Deputy Director-Finance, HACC

Re: Supportive Housing Services (SHS) Funding of Essential Services

At your request, staff prepared this memo to address the essential services to continue while the funding from the Metro SHS is better understood. As presented, there are five programs that can continue beyond their original funding source with SHS funds. The overall total of these amounts was reduced to $10M in light of the motion to reduce the budgeted amount of SHS funds.

Essential Services Budget FY21-22 - SHS Funding

Budget to keep the following programs operational for FY21-22	Yearly	Q1	Q2	Q3	Q4
ESG Rapid Rehousing Program for 50 HH	$ 1,202,600.00	$ 300,650.00	$ 300,650.00	$ 300,650.00	$ 300,650.00
Metro 300* for 104 HH	$ 2,240,540.00	$ 244,054.00	$ 732,162.00	$ 732,162.00	$ 732,162.00
Hotel Model for 143 HH	$ 5,893,901.00	$ 1,473,475.25	$ 1,473,475.25	$ 1,473,475.25	$ 1,473,475.25
Serenity House & Haven House - Corrections Program for 19 Beds	$ 347,064.00	$ 86,766.00	$ 86,766.00	$ 86,766.00	$ 86,766.00
Veterans Village for 19 Beds	$ 315,895.00	$ 78,973.75	$ 78,973.75	$ 78,973.75	$ 78,973.75
Total Minimum Essential Programs	**$ 10,000,000.00**	$ 2,183,919.00	$ 2,672,027.00	$ 2,672,027.00	$ 2,672,027.00

*Metro 300 vouchers & services will end August 31, 2021.

The total budgeted expense for the first two quarters of FY22 to maintain these programs is $4,855,946.

Metro's offer to loan/advance up to $5M (at the LGIP interest rate) to be paid back by subsequent tax collection from Measure 26-210 would allow these programs to continue for the first two quarters of the fiscal year. This loan would allow more time to evaluate actual collections and distributions from Metro while continuing essential services to our most vulnerable citizens.