

## **Coronavirus State and Local Fiscal Recovery Funds**

### **Final Rule: Frequently Asked Questions**

This document contains answers to frequently asked questions regarding the Final Rule of the Coronavirus State and Local Fiscal Recovery Funds (SLFRF, or Fiscal Recovery Funds). The final rule is effective on April 1, 2022. Treasury intends to update this document periodically in response to questions received from stakeholders. Recipients and stakeholders should consult the [final rule](#) for additional information, as this document does not describe all relevant requirements that apply to the SLFRF program. Recipients also may find helpful the [Overview of the Final Rule](#), which provides a summary of major provisions of the final rule for informational purposes.

- For overall information about the program, including information on requesting funding, please see <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments>
- For general questions about SLFRF, please email [SLFRF@treasury.gov](mailto:SLFRF@treasury.gov).

Answers to frequently asked questions on distribution of funds to non-entitlement units of local government (NEUs) can be found in this [FAQ supplement](#).

Answers to frequently asked questions on the taxability and reporting of payments from SLFRF can be found in this [FAQ issued by the IRS](#).

The FAQs in this document are applicable to the final rule, although readers will notice that many have been incorporated from the FAQs that were available in connection with the interim final rule, because they remain applicable. Answers to frequently asked questions that are unique to the interim final rule remain available at [Interim Final Rule: Frequently Asked Questions](#). A categorization is provided on the following page to assist in identifying the FAQs that remain largely the same as in the FAQ document associated with the interim final rule and the FAQs that are new or have been updated in conformity with the final rule.

Throughout these FAQs, Treasury may refer readers to relevant sections of the Overview of the Final Rule. The Overview of the Final Rule provides a summary of major provisions of the final rule for informational purposes and is intended as a brief, simplified user guide to the final rule provisions. The descriptions provided in the Overview summarize key provisions of the final rule but are non-exhaustive, do not describe all terms and conditions associated with the use of SLFRF funds, and do not describe all requirements that may apply to this funding. Any SLFRF funds received are also subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which incorporate the provisions of the final rule and the guidance that implements this program.

**FAQ Categorization**

<b>Category</b>	<b>FAQ #</b>
FAQs retained with slight modifications from the <a href="#">Interim Final Rule: Frequently Asked Questions</a> document (please note that FAQ numbering has changed between the two documents)	#1.1 – #1.2, #1.4 – 1.7, #2.10, #2.12 – #2.13, #3.8 – #3.13, #4.3, #4.5, #6.10 – #6.11, #6.14, #8.1, #8.3, #10.1 – #10.2, #11.1 – 11.3, #11.6 – 11.12, #12.1 – 12.2
New or Substantially Updated FAQs	#1.3, #1.8, #2.1 – #2.9, #2.11, #2.14 – #2.24, #3.1 – 3.7, #3.14, #4.1 – #4.2, #4.4, #4.6, #4.7 – #4.10, #5.1 – #5.4, #6.1 – #6.9, #6.12 – #6.13, #6.15 – #6.16, #8.2, #11.4 – #11.5, Section 13

# **1. Eligibility and Allocations**

## **1.1. Which governments are eligible for funds?**

The following governments are eligible:

- States and the District of Columbia
- Territories
- Tribal governments
- Counties
- Metropolitan cities
- Non-entitlement units, or smaller local governments

## **1.2. Which governments receive funds directly from Treasury?**

Treasury distributes funds directly to each eligible state, territory, metropolitan city, county, or Tribal government. Smaller local governments that are classified as non-entitlement units receive funds through their applicable state government.

## **1.3. Are special-purpose units of government eligible to receive funds?**

Special-purpose units of local government are not eligible to receive an award as a recipient under the SLFRF program; however, a state, territory, local, or Tribal government may transfer funds to a special-purpose unit of government to carry out a program or project on its behalf as a subrecipient. Special-purpose districts perform specific functions in the community, such as fire, water, sewer or mosquito abatement districts. A recipient can also provide funds to an entity that is special-purpose government for the purpose of directly benefitting the entity as a result of the entity experiencing a public health impact or negative economic impact of the pandemic.

## **1.4. How are funds being allocated to Tribal governments, and how will Tribal governments find out their allocation amounts?**

\$20 billion of Fiscal Recovery Funds was reserved for Tribal governments. The American Rescue Plan Act specified that \$1 billion would be allocated evenly to all eligible Tribal governments. The remaining \$19 billion was to be distributed using an allocation methodology determined by Treasury, which was based on enrollment and employment.

There were two payments to Tribal governments. Each Tribal government's first payment included (i) an amount in respect of the \$1 billion allocation that was to be divided equally among eligible Tribal governments and (ii) each Tribal government's pro rata share of the Enrollment Allocation. Tribal governments were notified of their allocation amount and delivery of payment 4-5 days after completing request for funds in the Treasury Submission Portal. The deadline to make the initial request for funds was June 21, 2021.

The second payment included a Tribal government's pro rata share of the Employment Allocation. There was a \$1,000,000 minimum employment allocation for Tribal governments. In late June 2021, Tribal governments received an email notification to re-enter the Treasury Submission Portal to confirm or amend their 2019 employment numbers that were submitted to Treasury for the CARES Act's Coronavirus Relief Fund. To receive an Employment Allocation, including the minimum employment allocation, Tribal governments must have confirmed employment numbers by July 23, 2021. Treasury calculated employment allocations for those Tribal governments that confirmed or submitted amended employment numbers by the deadline. In August, Treasury communicated to Tribal governments the amount of their portion of the Employment Allocation and the anticipated date for the second payment.

**1.5. My county is a unit of general local government with population under 50,000. Will my county receive funds directly from Treasury?**

Yes. All counties that are units of general local government receive funds directly from Treasury and should apply via the [online portal](#). The list of county allocations is available [here](#).

**1.6. My local government expected to be classified as a non-entitlement unit. Instead, it was classified as a metropolitan city. Why?**

The American Rescue Plan Act (ARPA) defines, for purposes of the Coronavirus Local Fiscal Recovery Fund (CLFRF), metropolitan cities to include those that are currently metropolitan cities under the Community Development Block Grant (CDBG) program but also those cities that relinquish or defer their status as a metropolitan city for purposes of the CDBG program. This would include, by way of example, cities that are principal cities of their metropolitan statistical area, even if their population is less than 50,000. In other words, a city that is eligible to be a metropolitan city under the CDBG program is eligible as a metropolitan city under the CLFRF, regardless of how that city has elected to participate in the CDBG program.

Unofficial allocation estimates produced by other organizations may have classified certain local governments as non-entitlement units of local government. However, based on the statutory definitions, some of these local governments should have been classified as metropolitan cities.

**1.7. In order to receive and use funds, must a recipient government maintain a declaration of emergency relating to COVID-19?**

No. Neither the statute establishing the SLFRF nor the final rule requires recipients to maintain a local declaration of emergency relating to COVID-19.

**1.8. Can nonprofit or private organizations receive funds? If so, how?**

Yes. Under section 602(c)(3) of the Social Security Act, a State, territory, or Tribal

government may transfer funds to a “private nonprofit organization . . . , a Tribal organization . . . , a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government.” Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations). The interim final rule clarified that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive, and the final rule clarified that recipients may transfer funds to any entity to carry out, as a subrecipient, an eligible activity on behalf of the SLFRF recipient (transferor), as long as they comply with the SLFRF Award Terms and Conditions and other applicable requirements. A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be considered a subrecipient and will be expected to comply with all subrecipient reporting requirements.

Additionally, a recipient can provide funds to an entity, including a nonprofit organization, for the purpose of directly benefitting the entity as a result of the entity experiencing a public health impact or negative economic impact of the pandemic. In this instance, these entities will be considered beneficiaries, not subrecipients, and will not be expected to comply with subrecipient reporting requirements. Beneficiary reporting requirements will apply.

The ARPA does not authorize Treasury to provide SLFRF funds directly to nonprofit or private organizations. Thus, a nonprofit or private organization should seek funds from SLFRF recipient(s) in their jurisdiction (e.g., a State, local, territorial, or Tribal government).

## **2. Eligible Uses – Responding to the Public Health Emergency / Negative Economic Impacts**

### **2.1. If a use of funds is not explicitly permitted in the final rule as a response to the public health emergency and its negative economic impacts, does that mean it is prohibited?**

No. The final rule provides a non-exhaustive list of enumerated uses that respond to pandemic impacts. The final rule also presumes that some populations experienced pandemic impacts and are eligible for responsive services. Recipients also have broad flexibility to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or “classes” of beneficiaries that experienced pandemic impacts and provide services to those classes.

### **2.2. What types of services are eligible as responses to the negative economic impacts of the pandemic?**

Eligible uses to respond to the negative economic impacts of the pandemic include assistance to households and communities; assistance to small businesses and nonprofits; aid to impacted industries; and uses to support public sector capacity and workforce. For

an overview of the eligible uses within each of these subcategories, please see pages 12-13 and 16-34 of the [Overview of the Final Rule](#). The eligible uses within this category include programs and services to respond to impacts of the pandemic on households and communities, such as:

- Cash assistance
- Food assistance (e.g., child nutrition programs, including school meals) & food banks
- Childcare and early learning services, home visiting programs, services for child welfare-involved families and foster youth & childcare facilities
- Programs or services to support long-term housing security, including development of affordable housing and permanent supportive housing

They also include uses to bolster public sector capacity and workforce, such as:

- Payroll and covered benefits for public safety, public health, health care, human services and similar employees of a recipient government, for the portion of the employee's time spent responding to COVID-19.
- Payroll and covered benefits for additional public sector workers up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring, support, and retention.

These tools can allow recipients not only to bring back laid-off workers, but to address critical shortages of teachers, instructional aides, transportation workers, behavioral health workers, and other key government personnel, by funding positions at competitive wages and improving job quality in these sectors (see FAQs [#2.15](#), [#2.16](#), [#2.17](#)).

Recipients also have broad flexibility to identify and respond to other pandemic impacts and serve other populations that experienced pandemic impacts, beyond the enumerated uses. For more information on identifying eligible uses beyond those enumerated, please see pages 32-34 of the Overview of the Final Rule.

### **2.3. What types of COVID-19 response, mitigation, and prevention activities are eligible?**

Please see pages 12-14 of the [Overview of the Final Rule](#) for a non-exhaustive list of enumerated eligible uses relating to COVID-19 mitigation and prevention, as well as information about how to design other responses that are not included in the list.

#### **2.4. May recipients use funds to respond to the public health emergency and its negative economic impacts by providing direct cash transfers to households?**

Yes. Cash transfers, like all eligible uses in the public health and negative economic impacts category, must respond to the negative economic impacts of the pandemic on a household or class of households. Recipients may presume that low- and moderate-income households (as defined in the final rule), as well as households that experienced unemployment, food insecurity, or housing insecurity, experienced a negative economic impact due to the pandemic. Recipients may also identify other households or classes of households that experienced a negative economic impact of the pandemic and provide cash assistance that is reasonably proportional to, and not grossly in excess of, the amount needed to address the negative economic impact. For example, in the ARPA, Congress authorized Economic Impact Payments to households at certain income levels, identifying and responding to a negative economic impact of the pandemic on these households.

Treasury has reiterated in the final rule that responses to negative economic impacts should be reasonably proportional to the impact that they are intended to address. Uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Reasonably proportional refers to the scale of the response compared to the scale of the harm. It also refers to the targeting of the response to beneficiaries compared to the amount of harm they experienced; for example, it may not be reasonably proportional for a cash assistance program to provide assistance in a very small amount to a group that experienced severe harm and in a much larger amount to a group that experienced relatively little harm. Please also see questions 7-10 from the [IRS-issued FAQ](#) on SLFRF relating to the taxability of cash transfers.

#### **2.5. May recipients use funds to respond to the public health emergency and its negative economic impacts by replenishing unemployment funds?**

Recipients may only use SLFRF funds for contributions to unemployment insurance trust funds and repayment of the principal amount due on advances received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. Additionally, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that balance and deposit more SLFRF funds, back up to the pre-pandemic balance. Through December 31, 2024, recipients that deposit SLFRF funds into an unemployment insurance trust fund, or use SLFRF funds to repay principal on Title XII advances, may not take action to reduce benefits available to unemployed workers by changing the computation method governing regular unemployment compensation in a way that results in a reduction of average weekly benefit amounts or the number of weeks of benefits

payable (i.e., maximum benefit entitlement).

**2.6. May funds be used to reimburse recipients for costs incurred by state, local and Tribal governments in responding to the public health emergency and its negative economic impacts prior to passage of the American Rescue Plan?**

Use of SLFRF is generally forward looking. The final rule permits funds to be used to cover costs incurred beginning on March 3, 2021.

**2.7. May recipients use funds for general economic development?**

Generally, no. General economic development – activities that do not respond to negative economic impacts of the pandemic but rather seek to more generally enhance the jurisdiction’s business climate – would generally not be eligible under this eligible use category.

To identify an eligible use of funds under the public health and negative economic impacts category, a recipient must identify a beneficiary or class of beneficiaries that experienced a harm or impact due to the pandemic, and eligible uses of funds must be reasonably designed to respond to the harm, benefit the beneficiaries that experienced it, and be related and reasonably proportional to that harm or impact. For example, job training and other supports – like childcare, transportation, and subsidized employment – for unemployed workers may be used to address negative economic impacts of the public health emergency and be eligible.

**2.8. How can recipients use funds to assist the travel, tourism, and hospitality industries? May recipients use funds to assist impacted industries other than travel, tourism, and hospitality?**

Please see pages 24-25 of the [Overview of the Final Rule](#).

**2.9. How does the final rule help address the disparate impact of COVID-19 on certain populations and geographies?**

In recognition of the long-standing disparities in health and economic outcomes in underserved communities that have amplified and exacerbated the impacts of the pandemic, the final rule identifies certain populations as “disproportionately impacted” by the pandemic and enumerates a broad range of services and programs to address health disparities, to build stronger communities through investments in neighborhoods, to address educational disparities, to provide rental assistance vouchers or assistance relocating to areas of greater economic opportunity, and other eligible uses to respond to negative economic impacts in disproportionately impacted communities.

Specifically, Treasury will presume that certain populations were disproportionately impacted by the pandemic and therefore automatically eligible to receive responsive services. See page 19 of the [Overview of the Final Rule](#) for a full list of the



populations presumed disproportionately impacted by the pandemic. Recipients may also provide responsive services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, recipients should be able to support their determination for how the pandemic disproportionately impacted the populations, households, or geographic areas to be served.

Treasury has provided a non-exhaustive list of eligible responses to serve disproportionately impacted communities on page 20 of the [Overview of the Final Rule](#). Note that these are an enhanced set of responses available in addition to responses available to respond to impacts of the pandemic on households and communities (including those listed on page 18 of the Overview).

**2.10. May recipients use funds to pay for vaccine incentive programs (e.g., cash or in-kind transfers, lottery programs, or other incentives for individuals who get vaccinated)?**

Yes. Under the final rule, recipients may use SLFRF funds to respond to the COVID-19 public health emergency, including expenses related to COVID-19 vaccination programs.

Programs that provide incentives reasonably expected to increase the number of people who choose to get vaccinated, or that motivate people to get vaccinated sooner than they otherwise would have, are an allowable use of funds so long as such costs are reasonably proportional to the expected public health benefit.

**2.11. How can recipients use funds to support workers returning to work?**

Under the final rule, recipients may use SLFRF funds under the public health and negative economic impacts eligible use category to provide assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, cash and other incentives for newly employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses, and development of job and workforce training centers.

**2.12. What staff are included in “public safety, public health, health care, human services, and similar employees”? Would this include, for example, 911 operators, morgue staff, medical examiner staff, or EMS staff?**

As discussed in the final rule, funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, for the portion of the employee’s time that is dedicated to responding to the COVID-19 public health emergency.

Public safety employees would include police officers (including state police officers),

sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (e.g., laboratory technicians, medical examiner or morgue staff) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel. Note that this category encompasses both public health and health care employees; both are treated as public health employees for the purposes of this eligible use category. Human services staff include employees providing or administering social services; public benefits; child welfare services; and child, elder, or family care, as well as others.

### **2.13. May recipients use funds to establish a public jobs program?**

Yes. Under the public health and negative economic impacts eligible use category, the final rule permits a broad range of services to unemployed or underemployed workers and other individuals that suffered negative economic impacts from the pandemic. That can include public jobs programs, subsidized employment, combined education and on-the-job training programs, or job training to accelerate rehiring or address negative economic or public health impacts experienced due to a worker's occupation or level of training. The broad range of permitted services can also include other employment supports, such as childcare assistance or assistance with transportation to and from a jobsite or interview.

### **2.14. Can funds be used for investments in affordable housing?**

Yes. Under the final rule, "Development, repair, and operation of affordable housing and services or programs to increase long-term housing security" is an enumerated eligible use to respond to impacts of the pandemic on households and communities.

Affordable housing projects must be responsive and proportional to the harm identified. This test may be met by affordable housing development projects—which may involve large expenditures and capital investments—if the developments increase the supply of long-term affordable housing for low-income households. While there may be less costly (or non-capital) alternatives to affordable housing development, a comprehensive response to the widespread housing challenges underscored by the pandemic will require the production of additional affordable homes, and targeted affordable housing development is a cost-effective and proportional response to this need.

For purposes of this test, Treasury will presume that any projects that would be eligible for funding under either the National Housing Trust Fund (HTF) or the Home Investment Partnerships Program (HOME) are eligible uses of SLFRF funds. Note that these programs use different income limits than the definitions of low- and moderate-income adopted by Treasury. Given the severity of the affordable housing shortage, and the ways in which the pandemic has exacerbated the need for affordable, high-quality dwelling units, Treasury has determined that the households served by these federal housing programs have been

impacted by the pandemic and its negative economic impacts and that development of affordable housing consistent with these programs is a related and reasonably proportional response to those impacts. Additionally, affordable housing projects provided by a Tribal government are eligible uses of SLFRF funds if they would be eligible for funding under the Indian Housing Block Grant program, the Indian Community Development Block Grant program, or the Bureau of Indian Affairs Housing Improvement Program.

Note that other affordable housing projects, beyond those eligible under HOME and HTF, may also be eligible uses of SLFRF funds, as discussed in the final rule.

To further support sustainable and durable homeownership, recipients may consider offering down payment assistance, such as through contributions to a homeowner's equity at origination or that establish a post-closing, mortgage reserve account on behalf of the borrower that may be utilized to make a missed or partial mortgage payment at any point during the life of the loan (e.g., if the borrower faces financial stress). Homeownership assistance that would be eligible under the Community Development Block Grant (at 24 CFR 507.201(n)) is also an eligible use of SLFRF funds.

### **2.15. Can I use funds to raise public sector wages and hire public sector workers?**

Yes. Under the increased flexibility of the final rule, SLFRF funding may be used to support a broader set of uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, including reasonable increases in compensation, and paying for ancillary administrative costs related to hiring, support, and retention.

Under the set of eligible uses for public-sector rehiring, recipients may fill vacancies and add additional employees using SLFRF funds (see pages 4385-4387 of the final rule and pages 27-28 of the [Overview of the Final Rule](#)). Recipients have two options to restore pre-pandemic employment, depending on the recipient's needs. First, if the recipient simply wants to hire back employees for pre-pandemic positions, recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021. Recipients may use SLFRF funds to cover payroll and covered benefits for such positions through the period of performance.

Second, if the recipient wants to hire above the pre-pandemic baseline and/or would like to have flexibility in positions, recipients may use SLFRF funds to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted FTEs up to 7.5 percent above its pre-pandemic baseline. Filling these roles may require recipients to increase wages and improve benefits above and beyond what they currently offer, especially in roles with historically low wages and acute staffing needs. This compensation would be an eligible use of SLFRF funds.

SLFRF funds also may be used to provide worker retention incentives, including

reasonable increases in compensation to persuade employees to remain with the employer as compared to other employment options. Retention incentives must be entirely additive to an employee's regular compensation, narrowly tailored to need, and should not exceed incentives traditionally offered by the recipient or compensation that alternative employers may offer to compete for the employees. Treasury presumes that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as other requirements are met.

## **2.16. How can funds be used to improve job quality and address labor supply challenges in the education and childcare sectors?**

SLFRF funds can pay for the full salary and benefits of many school and childcare staff, including increased wages needed to recruit and retain excellent staff, and to fund premium pay, bonuses, training, and other worker supports. Some examples of potential uses of funds related to supporting the education and childcare sectors are provided below:

- Under the public health and negative economic impacts eligible use category, SLFRF funds can be used broadly for re-hiring public sector staff, such as school staff, to restore the public sector, including payroll and covered benefits for new or re-hired public employees (see [FAQ #2.15](#))
  - Even where the recipient, such as the municipality, does not have budgetary authority over a school district, it may choose to sub-award SLFRF funds to districts and other government entities for these purposes (see [FAQ #2.17](#)).
- SLFRF can fund premium pay for essential workers, including school personnel and childcare providers working in person in both the public and private sector, to compensate them for their service during the pandemic (see pages 35-36 of the [Overview of the Final Rule](#) and [section 5 of the FAQs](#)).
- Under the public health and negative economic impacts eligible use category, SLFRF can fund supports for unemployed and underemployed workers, including hiring bonuses, training, and other labor supports, regardless of sector (see [FAQ #2.11](#)).
  - Under this provision, recipients can help childcare providers and school districts by strengthening pipelines into these sectors, including by using SLFRF funds to train potential workers to fill in-demand roles in childcare and education, including as school bus drivers, school nutrition staff, paraprofessionals, and other staff.
- Childcare subsidies and other supports for childcare programs – public or private – that serve low- and moderate-income families, are broadly eligible uses of SLFRF funding under the public health and negative economic impacts eligible use category (see [FAQ](#)

[#2.25](#)). These subsidies can support improvements to wages and job quality that make childcare employment an attractive career.

- Recipients can also provide assistance to small businesses under the public health and negative economic impacts eligible use category – which many state and local governments can use to help childcare small businesses expand their business, raise wages for workers, and complete training and other technical assistance to support high-quality care, given the impacts these businesses have faced over the course of the pandemic (see pages 21-22 of the [Overview](#)).

### **2.17. How can recipients use funds to invest in their public sector workforce when the recipient government is not the direct employer, as is the case with some transit agencies and local educational agencies?**

Under the increased flexibility of the final rule, SLFRF funds may be used to support a broader set of uses to restore and support public sector employment as a response to the pandemic and its negative economic impacts (see [FAQ #2.15](#)).

Treasury acknowledges that funding models for public sector workers vary drastically across jurisdictions, and the direct employer of a public sector worker may be an entity separate from the SLFRF recipient government, like an independent transit agency or local educational agency (LEA), rather than the recipient government itself. Recipients may still use SLFRF funds to hire workers in these sectors under such circumstances.

Using the calculation detailed on page 4386 of the final rule and pages 27-28 of the [Overview of the Final Rule](#), a recipient may calculate at an entity level the actual number of FTEs for the entity and the adjusted pre-pandemic baseline for the entity. The difference between the actual number of FTEs and the adjusted pre-pandemic baseline represents the number of FTEs that can be hired using SLFRF funds.

A recipient may then transfer funds to the entity, which would act as a subrecipient and cover payroll, covered benefits, and other costs associated with hiring up to this number of FTEs. A recipient may, in addition, “transfer” the FTEs it may hire based on its own calculation to the entity. A recipient may not, however, perform the calculation on the behalf of an entity, and then “transfer” to itself, or to any other entity, any of the FTEs able to be hired by the entity.

As an illustrative example, consider a recipient county government that would like to fund the salary and benefits costs for hiring teachers in a school district.

The school district has 2000 budgeted FTEs on January 27, 2020. The school district’s pre-pandemic baseline is 2000 FTEs; its adjusted pre-pandemic baseline is  $2000 * 1.075 = 2150$  FTEs. The county’s pre-pandemic baseline is 1000 FTEs; its adjusted pre-pandemic baseline is  $1000 * 1.075 = 1075$  FTEs. Now, assume that on March 3, 2021, the school district had 1800 budgeted FTEs in total, and the county had 1000 budgeted FTEs.

The county would be able to transfer funds to the school district to hire up to 350 FTEs with SLFRF funds (that is,  $2150 - 1800 = 350$  FTEs), and additionally, “transfer” up to 75 FTEs to the school district (that is,  $1075 - 1000 = 75$  FTEs). If the county decided to “transfer” all of its 75 FTEs to the school district, then the school district could hire up to  $350 + 75 = 425$  FTEs using funds from the county. However, the county may not directly hire any more than 75 FTEs under this public sector hiring provision, and may not use any of the funds for the 350 FTEs able to be hired by the school district to fund any of the county’s FTE positions.

This public sector rehiring provision is a powerful tool for addressing staffing needs and shortages across government.

### **2.18. Can I use SLFRF funds to provide childcare to households?**

Yes. Childcare and early learning services, home visiting programs, services for child welfare involved families and foster youth are an enumerated use eligible to respond to impacts of the pandemic on households and communities. These eligible uses can include new or expanded services, increasing access to services, efforts to bolster, support, or preserve existing providers and services, and similar activities. Further, improvements to or new construction of childcare, daycare, and early learning facilities are eligible capital expenditures, subject to the other eligibility standards for capital expenditures.

### **2.19. How can funds be used for “installation and improvement of ventilation systems in congregate settings, health care settings, or other public facilities” like commercial buildings, office buildings, schools, nursing homes, multi-family residential buildings, and restaurants?**

As a general matter, ventilation improvements, including updates to HVAC systems, improved air filtration, and increased outdoor air flow, can help reduce the concentration and risk of exposure to aerosols, and thus infection with COVID-19.<sup>1</sup> The [National COVID-19 Preparedness Plan](#) specifies that improving ventilation and air filtration is a key component of keeping schools and businesses safely open. Although improvements to ventilation and air cleaning cannot on their own eliminate the risk of airborne transmission of the SARS-CoV-2 virus, the Environmental Protection Agency (EPA) has recommended taking steps to improve [indoor air quality](#) (IAQ) including optimizing fresh air ventilation, enhancing air filtration and cleaning, and managing the way air flows as components of a larger approach that may include individual actions and layered prevention strategies.

Under the SLFRF program, funds for installation and improvement of ventilation systems can be used for projects that respond to the pandemic’s public health impacts and provide longer-term benefits, including the inspection, testing, commissioning, maintenance, repair, replacement, and upgrading of HVAC systems to improve indoor air quality in

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<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html>;  
<https://www.epa.gov/coronavirus/indoor-air-and-coronavirus-covid-19>.

facilities. Projects can include assessing current HVAC systems, updating HVAC systems, updating air filters, installing functional windows for improved ventilation, repairing windows and doors, installing in-room air cleaning devices, and other projects for improving indoor air quality. For a more extensive guide of how to effectively use funds for ventilation improvements, Treasury recommends reviewing EPA’s [Clean Air in Buildings Challenge](#), a call to action and a set of guiding principles and best practices to assist building owners and operators with improving IAQ in buildings, as well as EPA’s resource page on “[Ventilation and Coronavirus \(COVID-19\)](#).” For a guide on federal programs and resources to support school infrastructure, including ventilation improvements, Treasury recommends consulting the “[White House Toolkit: Federal Resources for Addressing School Infrastructure Needs](#).” Further, Treasury recommends that recipients engage with public health and infection prevention professionals to develop and support an effective COVID-19 mitigation strategy. Finally, Treasury recommends that recipients ensure that the inspection, testing, commissioning, maintenance, repair, replacement, and upgrading of ventilation systems is performed by a skilled, trained, and certified workforce.

Recipients that undertake ventilation system investments under the public health and negative economic impacts eligible use category should review capital expenditure requirements in the final rule and note that capital expenditures must be related and reasonably proportional to the pandemic impact identified.

## **2.20. In what types of buildings can recipients use funds to install and improve of ventilation systems?**

In addition to directly installing and improving ventilation systems in congregate settings, health care settings, or other public facilities, recipients may grant or loan funds to businesses, non-profits, and other entities that may benefit from COVID-19 mitigation measures.

In making these investments, Treasury recommends that recipients consult with public health and infection prevention professionals and that recipients ensure work is performed by a workforce that is skilled, trained, and certified in ventilation systems work. Many buildings would benefit from ventilation improvements, including settings where risk of infection is higher, such as when people are indoors for prolonged periods of time, are in crowded environments, or are performing activities that increase emission of respiratory fluids (such as speaking loudly, singing, or exercising).<sup>2</sup> This includes commercial buildings, office buildings, dense worksites, schools, nursing homes and other long-term care facilities, multi-family residential buildings, restaurants, correctional facilities, transportation hubs, and public transit vehicles, among other locations. Recipients are encouraged to consider congregate settings and other key locations as priorities for installation and improvement of ventilation systems. Please note that use of funds is not limited to government-owned public facilities and funds may be distributed by recipients to private businesses, non-profits, and others for COVID-19 mitigation and prevention, as

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<sup>2</sup> <https://www.epa.gov/coronavirus/indoor-air-and-coronavirus-covid-19>.

the final rule clarifies that recipients may identify the general public as the impacted population for COVID-19 prevention and mitigation services. Recipients should review capital expenditure requirements for the public health and negative economic impacts eligible use category in the final rule before undertaking investments in ventilation systems.

For more information on ventilation system upgrades for school settings, Treasury recommends consulting:

- Creating Healthy Indoor Air Quality in Schools: <https://www.epa.gov/iaq-schools>
- Efficient and Healthy Schools campaign: <https://efficienthealthyschools.lbl.gov/>
- Efficient and Healthy Schools website: <https://www.energy.gov/eere/buildings/efficient-and-healthy-schools>

For more information on ventilation system upgrades for office and other commercial building settings, Treasury recommends consulting:

- Enhancing Health with Indoor Air: <https://sftool.gov/learn/about/626/enhancing-health-indoor-air>
- Sustainable Response to COVID-19: <https://sftool.gov/learn/about/625/sustainable-response-covid-19>
- Better Buildings Resource Center: Building Operations during COVID-19 <https://betterbuildingssolutioncenter.energy.gov/covid19>

For more information on ventilation system upgrades for residential settings, Treasury recommends consulting:

- Improving Ventilation in Your Home: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/Improving-Ventilation-Home.html>
- Ventilation in Buildings: <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html>

### **2.21. Can SLFRF funds be used to support public school facility improvements, upgrades, and new construction – such as those that make buildings more energy efficient, increase their use of renewable energy, address capacity constraints, and respond to health and safety concerns?**

Yes. There are numerous ways in which SLFRF funds may be used to support public school facility improvements and upgrades.

First, as part of the public health and negative economic impacts (PH-NEI) eligible use category, SLFRF funds may be used address educational disparities in disproportionately impacted communities,<sup>3</sup> which may include funding improvements or new construction of schools and other educational facilities or equipment. Recipients may consider energy

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<sup>3</sup> Please see FAQ 2.9 for more on disproportionately impacted communities, and the [Overview of the Final Rule](#) (p.19) for a list of presumed disproportionately impacted communities. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.



efficiency improvements as part of their facility investments, and may also use funds for pre-project development costs, such as assessment of building conditions, energy audits, feasibility studies, HVAC commissioning and testing, and lead testing, that are tied to or reasonably expected to lead to an eligible investment in school facilities to address educational disparities in disproportionately impacted communities. Recipients should review and comply with the requirements applicable to capital expenditures under the public health and negative economic impacts eligible use category as outlined in the final rule.<sup>4</sup>

Second, as part of the PH-NEI eligible use category, recipients may use funds for adaptations to schools for the purpose of mitigating the spread of COVID-19, including for ventilation improvements. Similar to the above, recipients should ensure compliance with the capital expenditure requirements for the eligible use category.

Third, as part of the water and sewer infrastructure eligible use category, recipients may invest in certain projects to support lead remediation, including replacement of internal plumbing and faucets and fixtures in schools and childcare facilities. Recipients can also invest in certain green water infrastructure projects. Eligible water and sewer projects are generally aligned with those allowable under the EPA's Drinking Water and Clean Water State Revolving Funds, and Treasury has added additional eligible projects as part of the final rule. Recipients should review and comply with the specific requirements provided for in the water and sewer infrastructure eligible use category as outlined in the final rule.

Fourth, as part of the revenue loss eligible use category, which is the broadest eligible use category that is capped by either the \$10 million standard allowance (up to a recipient's award size) or a recipient's calculated revenue loss, recipients may use SLFRF funds on government services. These government services include any service traditionally provided by a government unless Treasury has stated otherwise. Eligible government services that may be covered under the revenue loss eligible use category include maintenance, improvement, or new construction of public school facilities, including those that address over-crowding and capacity constraints, support energy efficiency, and respond to health and safety concerns, among other purposes.

Under the SLFRF program, recipients must obligate all funds by December 31, 2024 and expend funds by December 31, 2026. Recipients may transfer funds to other entities, including local educational agencies, to carry out as a subrecipient an eligible use of funds by the recipient, as long as they comply with program requirements. Recipients should note that the Davis-Bacon Act requirements (prevailing wage rates) do not apply to projects funded solely with award funds from the SLFRF program, except for certain SLFRF-funded construction projects undertaken by the District of Columbia. The National Environmental Policy Act (NEPA) does not apply to Treasury's administration of the SLFRF program, although projects supported with SLFRF funds may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

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<sup>4</sup> Please see the [Overview of the Final Rule](#) (p. 30-31) for a summary of capital expenditure requirements for the public health and negative economic impacts eligible use category.

**2.22. Would investments in improving outdoor spaces (e.g., parks) be an eligible use of funds as a response to the public health emergency and/or its negative economic impacts?**

There are multiple ways that investments in improving outdoor spaces could qualify as eligible uses; several are highlighted below, though there may be other ways that a specific investment in outdoor spaces would meet eligible use criteria.

First, in recognition of the disproportionate negative economic impacts on certain communities and populations, the final rule includes enumerated eligible uses in disproportionately impacted communities for developing neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks, projects that increase access to healthy foods, streetlights, neighborhood cleanup, and other projects to revitalize public spaces.

Second, recipients may provide assistance to disproportionately impacted small businesses. The final rule included rehabilitation of commercial properties, storefront improvements, and façade improvements as enumerated eligible assistance to these small businesses.

Third, recipients can assist small businesses, nonprofits, or other entities to create or enhance outdoor spaces to mitigate the spread of COVID-19 (e.g., restaurant patios).

Recipients pursuing many of these uses should also note the eligibility standards for capital expenditures in the final rule, which are summarized on pages 30-31 of the [Overview of the Final Rule](#).

**2.23. Would expenses to address a COVID-related backlog in court cases be an eligible use of funds as a response to the public health emergency?**

Yes. The final rule maintains that SLFRF funds may be used to address administrative needs of recipient governments that were caused or exacerbated by the pandemic. Please see pages 4388-4389 of the final rule. During the COVID-19 public health emergency, many courts were unable to operate safely during the pandemic and, as a result, now face significant backlogs. Court backlogs resulting from the inability of courts to safely operate during the COVID-19 pandemic decreased the government's ability to administer services. Therefore, steps to reduce these backlogs, such as implementing COVID-19 safety measures to facilitate court operations, hiring additional court staff or attorneys to increase speed of case resolution, and other expenses to expedite case resolution are eligible uses.

## **2.24. Can funds be used for eviction prevention efforts or housing stability services?**

Yes. Treasury provided a non-exhaustive list of eligible services in the final rule: Rent, rental arrears, utility costs or arrears (e.g., electricity, gas, water and sewer, trash removal, and energy costs, such as fuel oil), reasonable accrued late fees (if not included in rental or utility arrears), mortgage payment assistance, financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing-related costs related to a period of forbearance, delinquency, or default, mortgage principal reduction, facilitating mortgage interest rate reductions, counseling to prevent foreclosure or displacement, relocation expenses following eviction or foreclosure (e.g., rental security deposits, application or screening fees).

Treasury also clarified that assistance to households for delinquent property taxes, for example to prevent tax foreclosures on homes, was permissible under the interim final rule and continues to be so under the final rule. In addition, Treasury also clarified that recipients may administer utility assistance or address arrears on behalf of households through direct or bulk payments to utility providers to facilitate utility assistance to multiple consumers at once, so long as the payments offset customer balances and therefore provide assistance to households. The public health and negative economic impacts eligible use category also includes emergency assistance for individuals experiencing homelessness, either individual-level assistance (e.g., rapid rehousing services) or assistance for groups of individuals (e.g., master leases of hotels, motels, or similar facilities to expand available shelter). Please see page 4360 of the final rule for further relevant clarifications.

## **3. Eligible Uses – Revenue Loss**

### **3.1. Does a recipient need to calculate or provide proof of its revenue loss to use funds for government services?**

Recipients may elect a “standard allowance” of up to \$10 million to spend on government services through the period of performance. The standard allowance is available to all recipients and offers a simple, convenient way to determine revenue loss, instead of using the full formula specified in the final rule. Recipients must make a one-time, irrevocable election to either take the standard allowance or calculate revenue loss. Recipients must indicate this choice in their Project and Expenditure Reports due April 30, 2022. Recipients who elect the standard allowance do not have to produce any further demonstration or calculation of revenue loss.

Electing the standard allowance does not increase or decrease a recipient’s total allocation. For example, a recipient with an allocation of \$6 million would be allowed to claim no more than \$6 million as revenue loss to use for government services, and a recipient with an allocation of \$12 million would be allowed to claim the full \$10 million standard allowance and use the remaining allocation towards other eligible use categories. Recipients who elect to calculate revenue loss by formula must do so as articulated in the

final rule and described in the [Overview of the Final Rule](#) and [FAQ #3.6](#).

### **3.2. Can revenue loss funds be used for a purpose that is not explicitly listed as an example of a government service in the Overview of the Final Rule or Final Rule?**

Yes. Government services generally include any service traditionally provided by a government, unless Treasury has stated otherwise. Common examples are listed on page 11 of the [Overview of the Final Rule](#) and page 4408 of the final rule, but these lists are not exhaustive. In addition to the common examples described in the final rule, many recipients and stakeholders have asked if using funds for activities like payroll for specific public sector staff, renovations to particular government facilities, and equipment to facilitate and improve government services such as health services, waste disposal, road building and maintenance, and water and sewer services would be eligible as government services. Treasury is clarifying here that under the final rule, payroll for government employees, contracts, grants, supplies and equipment, rent, and the many other costs that governments typically bear to provide services are costs that could comprise the costs of government services, and are eligible uses of funds.

Revenue loss is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements. Recipients should be mindful that certain restrictions, which are detailed further in the Restrictions on Use section in the Overview of the Final Rule and Final Rule and apply to all eligible use categories, apply to government services as well. Note also that every use that is eligible under other eligible use categories is also eligible under revenue loss, because those eligible uses are also services provided by recipient governments, and Treasury encourages recipients to use their funds for investments that serve the needs of their communities and build a stronger and more equitable recovery.

### **3.3. Can revenue loss funds be used for a project eligible under other eligible use categories, such as addressing the public health and negative economic impacts of the pandemic, providing premium pay, or investing in water, sewer, or broadband infrastructure?**

Yes. The revenue loss eligible use category allows recipients to expend funds with flexibility and streamlined reporting requirements, including on expenditures that would not be eligible under other eligible use categories, like general infrastructure repairs. Recipients may also use revenue loss funds to carry out investments that would be eligible under other eligible use categories, because those eligible uses are also services provided by recipient governments. Treasury encourages the use of government services funds on uses enumerated in these categories, including but not limited to affordable housing, childcare investments, supporting public sector workers, job training and workforce development, and investments in public health.

### **3.4. How is revenue defined for the purpose of the revenue loss calculation formula?**

The final rule adopts a definition of “General Revenue” that is based on, but not identical,

to the Census Bureau’s concept of “General Revenue from Own Sources” in the Annual Survey of State and Local Government Finances.

General Revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions and proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General Revenue also includes revenue from liquor stores that are owned and operated by state and local governments. General Revenue does not include revenues from utilities, except recipients may choose to include revenue from utilities that are part of their own government as General Revenue provided the recipient does so consistently over the remainder of the period of performance. Revenue from Tribal business enterprises must be included in General Revenue.

Please see the appendix for a diagram of the final rule’s definition of General Revenue within the Census Bureau’s revenue classification structure.

### **3.5. Will revenue be calculated on an entity-wide basis or on a source-by-source basis (e.g. property tax, income tax, sales tax, etc.)?**

Recipients should calculate revenue on an entity-wide basis. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the net impact of the COVID-19 public health emergency on a recipient’s revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregate revenue by purpose rather than by source.

Recipients should classify revenue sources as they would if responding to the U.S. Census Bureau’s Annual Survey of State and Local Government Finances. According to the Census Bureau’s [Government Finance and Employment Classification manual](#), the following is an example of current charges that would be included in a state or local government’s General Revenue from own sources: “Gross revenue of facilities operated by a government (swimming pools, recreational marinas and piers, golf courses, skating rinks, museums, zoos, etc.); auxiliary facilities in public recreation areas (camping areas, refreshment stands, gift shops, etc.); lease or use fees from stadiums, auditoriums, and community and convention centers; and rentals from concessions at such facilities.”

Please refer to the appendix for further details on the definition of General Revenue.

### **3.6. For recipients not electing the \$10 million standard allowance, what is the formula for calculating the reduction in revenue?**

Recipients calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Under the flexibility provided in the final rule, recipients can

choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. To calculate revenue loss at each of these dates, recipients must follow a four-step process:

- a. Calculate revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the base year revenue.
- b. Estimate counterfactual revenue, which is equal to the following formula, where  $n$  is the number of months elapsed since the end of the base year to the calculation date:

$$\text{base year revenue} \times (1 + \text{growth adjustment})^{n/12}$$

The *growth adjustment* is the greater of either a standard growth rate—5.2 percent—or the recipient’s average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency.

- c. Identify actual general revenue, which equals revenues collected over the twelve months immediately preceding the calculation date. Under the final rule, recipients must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after the date of adoption of the final rule (January 6, 2022). Specifically, the estimated fiscal impact of tax cuts and tax increases adopted after January 6, 2022, must be added to or subtracted from the calculation of actual revenue for purposes of calculation dates that occur on or after April 1, 2022. Recipients may subtract from their calculation of actual revenue the effect of tax increases enacted prior to the adoption of the final rule. Note that recipients that elect to remove the effect of tax increases enacted before the adoption of the final rule must also remove the effect of tax decreases enacted before the adoption of the final rule, such that they are accurately removing the effect of tax policy changes on revenue.

- d. Revenue loss for the calculation date is equal to counterfactual revenue minus actual revenue (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period. Revenue loss for the period of performance is the sum of the revenue loss for each calculation date.

The supplementary information in the final rule provides an example of this calculation, which recipients may find helpful, in the Revenue Loss section. Recipients should see the final rule for the full description of the requirements to reflect the effect of tax cuts and tax increases on actual revenue.

### **3.7. Are recipients expected to demonstrate that reduction in revenue is due to the COVID-19 public health emergency?**

Under the final rule, any diminution in actual revenue calculated using the formula above would be presumed to have been “due to” the COVID-19 public health emergency, in the

case of both the standard allowance and the formula, which, as discussed above adjusts for certain tax policy changes.

**3.8. May recipients use pre-pandemic projections as a basis to estimate the reduction in revenue?**

No. Treasury is disallowing the use of projections to ensure consistency and comparability across recipients and to streamline verification. However, in estimating the revenue shortfall using the formula above, recipients may incorporate their average annual revenue growth rate in the three full fiscal years prior to the public health emergency.

**3.9. In calculating revenue loss, are recipients required to use audited financials?**

Where audited data is not available, recipients are not required to obtain audited data. Treasury expects all information submitted to be complete and accurate.

**3.10. In calculating revenue loss, should recipients use their own data, or Census data?**

Recipients should use their own data sources to calculate General Revenue, and do not need to rely on published revenue data from the Census Bureau. Treasury acknowledges that due to differences in timing, data sources, and definitions, recipients' self-reported General Revenue figures may differ somewhat from those published by the Census Bureau.

**3.11. Should recipients calculate revenue loss on a cash basis or an accrual basis?**

Recipients may calculate revenue loss on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology for all inputs of the revenue loss calculation throughout the period of performance and until reporting is no longer required.

**3.12. In identifying intergovernmental revenue for the purpose of calculating General Revenue, should recipients exclude all federal funding, or just federal funding related to the COVID-19 response? How should local governments treat federal funds that are passed through states or other entities, or federal funds that are intermingled with other funds?**

In calculating General Revenue, recipients should exclude all intergovernmental transfers from the federal government. This includes, but is not limited to, federal transfers made via a state to a locality pursuant to the Coronavirus Relief Fund or Fiscal Recovery Funds. To the extent federal funds are passed through states or other entities or intermingled with other funds, recipients should attempt to identify and exclude the federal portion of those funds from the calculation of General Revenue on a best-efforts

basis.

### **3.13. What entities constitute a government for the purpose of calculating revenue loss?**

In determining whether a particular entity is part of a recipient's government for purposes of measuring a recipient's General Revenue, recipients should identify all the entities included in their government and the General Revenue attributable to these entities on a best-efforts basis. Recipients are encouraged to consider how their administrative structure is organized under state and local statutes. In cases in which the autonomy of certain authorities, commissions, boards, districts, or other entities is not readily distinguishable from the recipient's government, recipients may adopt the Census Bureau's criteria for judging whether an entity is independent from, or a constituent of, a given government. Recipients may not include independent entities in calculating General Revenue. For an entity to be independent, it generally meets all four of the following conditions:

- The entity is an organized entity and possesses corporate powers, such as perpetual succession, the right to sue and be sued, having a name, the ability to make contracts, and the ability to acquire and dispose of property.
- The entity has governmental character, meaning that it provides public services, or wields authority through a popularly elected governing body or officers appointed by public officials. A high degree of responsibility to the public, demonstrated by public reporting requirements or by accessibility of records for public inspection, also evidences governmental character.
- The entity has substantial fiscal independence, meaning it can determine its budget without review and modification by other governments. For instance, the entity can determine its own taxes, charges, and debt issuance without another government's supervision.
- The entity has substantial administrative independence, meaning it has a popularly elected governing body, or has a governing body representing two or more governments, or, in the event its governing body is appointed by another government, the entity performs functions that are essentially different from those of, and are not subject to specification by, its creating government.

If an entity does not meet all four of these conditions, a recipient may classify the entity as part of the recipient's government and include the portion of General Revenue that corresponds to the entity.

To further assist recipients in applying the foregoing criteria, recipients may refer to the Census Bureau's [\*Individual State Descriptions: 2017 Census of Governments\*](#) publication, which lists specific entities and classes of entities classified as either independent (defined by Census as "special purpose governments") or constituent



(defined by Census as “dependent agencies”) on a state-by-state basis. Recipients should note that the Census Bureau’s lists are not exhaustive and that Census classifications are based on an analysis of state and local statutes as of 2017 and subject to the Census Bureau’s judgment. Though not included in the Census Bureau’s publication, state colleges and universities are generally classified as dependent agencies of state governments by the Census Bureau.

If an entity is determined to be part of the recipient’s government, the recipient must also determine whether the entity’s revenue is covered by the final rule’s definition of General Revenue. For example, some cash flows may be outside the definition of General Revenue. In addition, note that the definition of general revenue includes Tribal enterprises in the case of Tribal governments. Refer to [FAQ #3.4](#) and the Appendix for the components included in General Revenue.

### **3.14. How should recipients that receive multiple allocations (e.g., a city and a county consolidated government) calculate their revenue loss?**

If a government entity receives a combined award (e.g., in its capacity both as an NEU and as a Unit of General Local Government (UGLG) within a non-UGLG county), it must determine its revenue loss only once as the combined entity. The government entity may not, for example, elect the standard allowance once as an NEU and once as an UGLG (i.e., it would only be able to claim up to a total of \$10 million standard allowance against all of its awards). Similarly, if the government entity elects to calculate its revenue according to the formula set out in the final rule, it must do so on a combined basis.

In the case of an award to an UGLG within a non-UGLG county under section 603(b)(3)(B)(ii) of the Social Security Act, the UGLG is considered the prime recipient of this award. Therefore, the prime recipient in this circumstance may treat these transferred funds as its own award for purposes of the revenue loss determination.

For example, if an NEU receives \$2 million in its NEU distribution, and then receives an additional \$13 million as an UGLG within a non-UGLG county, and the NEU elects the standard allowance of \$10 million in revenue loss, the NEU would be able to spend up to a total of \$10 million on government services under revenue loss against its awards, and would be able to spend the remaining \$5 million in other expenditure categories.

## **4. Eligible Uses – General**

### **4.1. How do I know if a specific use is eligible?**

The best way to begin evaluation of whether a specific use is an eligible use of SLFRF funds is to consider which of the four eligible use categories the use may fall into.

As a reminder, there are four eligible use categories, ordered below from the broadest and most flexible to the most specific. The [Overview of the Final Rule](#) serves as a summary of the major provisions of each category.

- Replace lost public sector revenue, using this funding to provide government services up to the amount of revenue loss due to the pandemic. (pages 9-11 of the Overview)
- Support the COVID-19 public health and economic response by addressing COVID-19 and its impact on public health as well as addressing economic harms to households, small businesses, nonprofits, impacted industries, and the public sector. (pages 12-34 of the Overview)
- Provide premium pay for eligible workers performing essential work, offering additional support to those who have and will bear the greatest health risks because of their service in critical sectors. (pages 35-36 of the Overview)
- Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, to support vital wastewater and stormwater infrastructure, and to expand affordable access to broadband internet. (pages 37-40 of the Overview)

The SLFRF program provides substantial flexibility for each jurisdiction to meet local needs within these eligible use categories. In general, recipients should think about what services they are trying to provide, and for which groups or populations, and assess whether this use of funds would fit within the parameters of the eligible use category as outlined in the Overview and the final rule. Recipients also should be mindful that various forms of assistance have been made available during the pandemic (e.g., Economic Injury Disaster Loans through the U.S. Small Business Administration), and certain restrictions on duplications of benefits may apply.

#### *Revenue loss eligible use category*

If a use does not appear to be eligible under the water, sewer, and broadband infrastructure, premium pay, or public health and negative economic impacts eligible use categories, then recipients should consider using funds under the revenue loss eligible use category. The revenue loss eligible use category provides recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue due to the pandemic.

All recipients may elect a “standard allowance” of up to \$10 million to spend on government services through the period of performance (see [FAQ #3.1](#)), or elect to calculate their revenue loss under the formula provided in the final rule. Under this eligible use category, government services generally include any service traditionally provided by a government, unless Treasury has stated otherwise (see [FAQ #3.2](#)). While recipients can refer to common examples on page 11 of the Overview of the Final Rule and page 4408 of the final rule, these lists are not exhaustive. Every use that is eligible under other eligible use categories is also eligible under revenue loss.

### *Public health and negative economic impacts eligible use category*

To assess the eligibility of a use under the public health and negative economic impacts eligible use category, recipients may refer initially to the non-exhaustive lists of enumerated uses that respond to pandemic impacts, and the lists of populations presumed to have experienced pandemic impacts and be eligible for responsive services. These lists appear in the Overview and the final rule organized by sub-categories around the types of assistance a recipient may provide. Recipients should first determine the sub-category where their use of funds may fit (e.g., public health, assistance to households, assistance to small businesses), based on the entity that experienced the health or economic impact. Then, recipients should refer to the relevant section for more details on each sub-category of eligible responses.

If a recipient intends to provide enumerated uses of funds to populations presumed eligible, then the use of funds is clearly consistent with the final rule. However, if the intended expenditure does not match an enumerated use serving a presumed eligible population, that does not necessarily mean it is ineligible. Recipients can consider using the broad flexibility available in this eligible use category to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or “classes” of beneficiaries that experienced pandemic impacts and provide services to those classes.

### *Premium pay eligible use category*

To assess whether a use falls under the premium pay eligible use category, recipients can follow the steps outlined on p. 35-36 of the Overview, and refer to the FAQs in [section 5](#).

### *Water, sewer, and broadband infrastructure eligible use category*

To assess whether a use falls under the water, sewer, and broadband infrastructure category, recipients can consult p. 37-40 of the Overview, and refer to the FAQs in [section 6](#).

Recipients should also note the restrictions on use, which are applicable across all eligible use categories, and summarized on p. 41-42 of the Overview.

When assessing whether a specific use is eligible, recipients are not required to submit planned expenditures for prior approval by Treasury, and Treasury is not pre-approving proposed expenditures or calculations of revenue loss. Recipients should review the final rule and the Overview of the Final Rule, and consult with counsel as needed, to evaluate whether a particular expenditure is an eligible use of funds.

#### **4.2. May recipients use funds to invest in traditional infrastructure projects other than water, sewer, and broadband projects (e.g. roads, bridges)?**

As discussed in [FAQ #3.2](#), recipients have broad flexibility to use revenue loss funds to provide government services, which generally include any service traditionally provided by a government. These services may include, but are not limited to, maintenance of infrastructure or pay-go spending for building of new infrastructure, including roads.

Under the public health and negative economic impacts eligible use category, a general infrastructure project typically would not be considered an eligible response unless the project responds to a specific pandemic-related public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact of the pandemic (e.g., affordable housing).

#### **4.3. May recipients use funds to pay interest or principal on outstanding debt?**

No. The final rule maintains the restriction on the use of funds for debt service for the reasons described on page 4430 of the final rule and clarifies that this restriction applies to all eligible use categories.

This applies to paying interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or paying fees or issuance costs associated with the issuance of new debt.

#### **4.4. Are governments required to submit proposed expenditures to Treasury for approval?**

No. Recipients are not required to submit planned expenditures for prior approval by Treasury. Recipients are subject to the requirements and guidelines for eligible uses contained in the final rule. For more information on compliance and reporting, please see the SLFRF Compliance and Reporting Guidance.

#### **4.5. Do restrictions on using funds to cover costs incurred beginning on March 3, 2021 apply to costs incurred by the recipient (e.g., a State, local, territorial, or Tribal government) or to costs incurred by households, businesses, and individuals benefiting from assistance provided using funds?**

The final rule permits funds to be used to cover costs incurred beginning on March 3, 2021. This limitation applies to costs incurred by the recipient (i.e., the state, local, territorial, or Tribal government receiving funds). Recipients may use SLFRF funds to provide assistance to households, businesses, and individuals within the eligible use categories described in the final rule for economic harms experienced by those households, businesses, and individuals prior to March 3, 2021. For example,

- Public Health/Negative Economic Impacts – Recipients may use SLFRF funds to

provide assistance to households – such as rent, mortgage, or utility assistance – for economic harms experienced or costs incurred by the household prior to March 3, 2021 (e.g., rental arrears from preceding months), provided that the cost of providing assistance to the household was not incurred by the recipient prior to March 3, 2021.

- Premium Pay – As discussed further in [FAQ #5.2](#), recipients may provide premium pay retrospectively for work performed at any time since the start of the COVID-19 public health emergency. Such premium pay must be “in addition to” wages and remuneration already received and the obligation to provide such pay must not have been incurred by the recipient prior to March 3, 2021. Employers may not simply reimburse themselves for pay already received by the employee.
- Revenue Loss – The final rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue due to the pandemic. If the recipient has elected to calculate lost revenue, the calculation begins with the recipient’s revenue in the last full fiscal year prior to the COVID-19 public health emergency. However, use of funds for government services must be forward looking for costs incurred by the recipient after March 3, 2021.
- Investments in Water, Sewer, and Broadband – Recipients may use SLFRF funds to make necessary investments in water, sewer, and broadband. See [FAQ Section 6](#). Recipients may use funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021, provided that the project costs covered by the funds were incurred after March 3, 2021.

#### **4.6. May recipients use funds to satisfy non-federal matching requirements?**

Generally, yes, if using funds available under the revenue loss eligible use category, and no, if using funds under any other eligible use category, except as discussed further below.

Funds available under the revenue loss eligible use category (sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act) generally may be used to meet the non-federal cost-share or matching requirements of other federal programs. However, note that SLFRF funds may not be used as the non-federal share for purposes of a state’s Medicaid and Children’s Health Insurance Programs (CHIP) because the Office of Management and Budget has approved a waiver as requested by the Centers for Medicare & Medicaid Services pursuant to 2 CFR 200.102 of the Uniform Guidance and related regulations.

If a recipient seeks to use SLFRF funds to satisfy match or cost-share requirements for a federal grant program, it should first confirm with the relevant awarding agency that no waiver has been granted for that program, that no other circumstances enumerated under 2 CFR 200.306(b) would limit the use of SLFRF funds to meet the match or cost-share requirement, and that there is no other statutory or regulatory impediment to using the SLFRF funds for the match or cost-share requirement.

SLFRF funds beyond those that are available under the revenue loss eligible use category

may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute. As an example, the Infrastructure Investment and Jobs Act provides that SLFRF funds may be used to meet the non-federal match requirements of authorized Bureau of Reclamation projects and certain broadband deployment projects. Recipients should consult the final rule for further details if they seek to utilize SLFRF funds as a match for these projects.

#### **4.7. May recipients pool funds for regional projects?**

Yes, provided that the project is itself an eligible use of SLFRF funds for each recipient that is contributing to the pool of funds and that recipients are able to track the use of funds in line with the reporting and compliance requirements of the SLFRF. In general, when pooling funds for regional projects, recipients may expend funds directly on the project or transfer funds to another government or other entity that is undertaking the project on behalf of multiple recipients. To the extent recipients undertake regional projects via transfer to another organization or government, recipients would need to comply with the rules on transfers specified in the final rule supplementary information. A recipient may transfer funds to a government outside its boundaries (e.g., county transfers to a neighboring county, or an NEU transferring its funds to a County), provided that the transferor can document that the transfer constitutes an eligible expense of the transferor government and that its jurisdiction receives a benefit proportionate to the amount transferred.

#### **4.8. May recipients fund a project with both ARPA funds and other sources of funding (e.g., blending, braiding, or other pairing funding sources), including in conjunction with financing provided through a debt issuance?**

Generally, yes, provided that the costs are eligible costs under each source program and are compliant with all other related statutory and regulatory requirements and policies, including restrictions on use of funds.

The recipient must comply with applicable reporting requirements for all sources of funds supporting the SLFRF projects.

Recipients may source funding for a project in multiple ways, including, but not limited to, the following:

- Using funds available under the revenue loss eligible use category for non-federal match (see [FAQ #4.6](#))
- Pooling funds for a joint project with another SLFRF recipient (see [FAQ #4.7](#))
- Transferring funds to a subrecipient to finance a project that also uses other sources of funding

- Blending or braiding SLFRF funds with other sources of government funding, including debt issuance, to pursue a project

Localities may also transfer their funds to the state through section 603(c)(4) of the Social Security Act, which will decrease the locality's award and increase the state award amounts.

Note that using a recipient blending and braiding funds in conjunction with other sources of funding is distinct from using funds for non-federal match. In the case of non-federal match, the recipient would be using SLFRF funds to satisfy cost-sharing or matching requirements in order to qualify for another source of federal funding, while blending and braiding refers to using multiple sources of funding for complementary purposes.

If the entirety of a project is funded with SLFRF funds, then the entire project must be an eligible use. The use of funds would be subject to the deadline on obligating funds no later than December 31, 2024 and expending funds no later than December 31, 2026. If a project is only partially funded with SLFRF funds, then the portion of the project funded must be an eligible use and the SLFRF funds must also be obligated by December 31, 2024 and expended by December 31, 2026. In either case, recipients must be able to, at a minimum, determine and report to Treasury on the amount of SLFRF funds obligated and expended and when such funds were obligated and expended.

SLFRF funds may not be used to fund the entirety of a project that is partially, although not entirely, an eligible use under Treasury's final rule. However, SLFRF funds may be used for a smaller component project that does constitute an eligible use, while using other funds for the remaining portions of the larger planned project that does not constitute an eligible use. In this case, the "project" for SLFRF purposes under this program would be only the eligible use component of the larger project. For example, a recipient government may use SLFRF funds to subsidize the production of affordable housing units as a response to the pandemic and its negative economic impacts and use other funds to build other parts of a larger development that contains these affordable units.

#### **4.9. May funds be used to make loans or other extensions of credit ("loans") to support an eligible use?**

Yes. SLFRF funds may be used to make loans, provided that the loan supports an activity that is an eligible use of funds, the SLFRF funds used to make the loan are obligated by December 31, 2024 and expended by December 31, 2026, and the cost of the loan is tracked and reported in accordance with the points below. For example, a recipient may, consistent with the requirements of the interim final rule and final rule, use funds to finance the construction of affordable housing, or to finance a necessary investment in water, sewer or broadband.

Funds must be used to cover "costs incurred" by the recipient between March 3, 2021, and December 31, 2024, and funds must be expended by December 31, 2026. Accordingly, recipients must be able to determine the amount of funds used to make a loan.

- For loans that mature or are forgiven on or before December 31, 2026, the recipient must account for the use of funds on a cash flow basis, consistent with the approach to loans taken in the Coronavirus Relief Fund.

- Recipients may use SLFRF funds to fund the principal of the loan and in that case must track repayment of principal and interest (i.e., “program income,” as defined under 2 CFR 200).

- When the loan is made, recipients must report the principal of the loan as an expense.

- Repayment of principal may be re-used only for eligible uses and subject to restrictions on timing of use of funds. Interest payments received prior to the end of the period of performance will be considered an addition to the total award and may be used for any purpose that is an eligible use of funds. Recipients are not subject to restrictions under 2 CFR 200.307(e)(1) with respect to such payments.

- For loans with maturities longer than December 31, 2026, the recipient may use funds for only the projected cost of the loan.

- Recipients can project the cost of the loan by estimating the subsidy cost. The subsidy cost is the estimated present value of the cash flows from the recipient (excluding administrative expenses) less the estimated present value of the cash flows to the recipient resulting from a loan, discounted at the recipient’s cost of funding and discounted to the time when the loan is disbursed. The cash flows are the contractual cash flows adjusted for expected deviations from the contract terms (delinquencies, defaults, prepayments, and other factors). A recipient’s cost of funding can be determined based on the interest rates of securities with a similar maturity to the cash flow being discounted that were either (i) recently issued by the recipient or (ii) recently issued by a unit of state, local, or Tribal government similar to the recipient.

- Recipients may also treat the cost of the loan as equal to the expected credit losses over the life of the loan based on the Current Expected Credit Loss (CECL) standard. Recipients may measure projected losses either once, at the time the loan is extended, or annually over the period of performance.

- Under either approach for measuring the amount of funds used to make loans with maturities longer than December 31, 2026, recipients would not be subject to restrictions under 2 CFR 200.307(e)(1) and need not separately track repayment of principal or interest.

- Additionally, recipients may use funds for eligible administrative expenses



incurred in the period of performance, which include the reasonable administrative expenses associated with a loan made in whole, or in part, with funds. See section IV.E of the final rule.

- Contributions to Revolving Loan Funds. A recipient may contribute funds to a revolving loan fund if the loaned SLFRF funds are restricted to financing eligible uses under the public health emergency/negative economic impacts, premium pay, and necessary water, sewer and broadband categories (or under the government services category if the contribution to the revolving fund is made using revenue loss funds). The funds contributed using SLFRF funds must be limited to the projected cost of loans made over the life of the revolving loan fund, following the approach described above for loans with maturities longer than December 31, 2026.

- Loans funded with SLFRF funds under the revenue loss eligible use category. Notwithstanding the above, if a recipient uses revenue loss funds to fund a loan, whether or not the maturity of the loan is after December 31, 2026, the loaned funds may be considered to be expended at the point of disbursement to the borrower, and repayments on such loans are not subject to program income rules. Similarly, any contribution of revenue loss funds to a revolving loan fund may also follow the approach of loans funded under the revenue loss eligible use category.

#### **4.10. May funds be used for outreach to increase uptake of federal assistance like the Child Tax Credit or federal programs like SNAP?**

Yes. Eligible uses to address negative economic impacts include “assistance accessing or applying for public benefits or services.” This can include benefits navigators or marketing efforts to increase consumer uptake of federal tax credits, benefits, or assistance programs that respond to negative economic impacts of the pandemic.” Of note, per the final rule, allowable uses of funds for evaluations may also include other types of program evaluations focused on program improvement and evidence building.

## **5. Eligible Uses – Premium Pay**

### **5.1. What criteria should recipients use in identifying workers to receive premium pay?**

SLFRF may be used to provide premium pay to eligible workers performing essential work during the pandemic or to provide grants to eligible employers that have eligible workers who perform essential work. Premium pay may be awarded to eligible workers up to \$13 per hour. Premium pay must be in addition to wages or remuneration (i.e., compensation) the eligible worker otherwise receives. Premium pay may not exceed \$25,000 for any single worker during the program.

Premium pay must be responsive to eligible workers performing essential work during the pandemic, and like the interim final rule, the final rule emphasizes the need for recipients to prioritize premium pay for lower-income workers. Premium pay that would go to a worker whose total pay is above 150% of the greater of the state or county average annual wage for all occupations (with or without the premium) requires specific justification for how it responds to the needs of these workers unless that worker is not exempt from the Fair Labor Standards Act overtime provisions.

For a detailed description of what constitutes an eligible worker and essential work as well other premium pay requirements, please see pages 35-36 of the [Overview of the Final Rule](#).

### **5.2. May recipients provide premium pay retroactively for work already performed?**

Yes. Treasury encourages recipients to consider providing premium pay retroactively for work performed during the pandemic, recognizing that many essential workers have not yet received additional compensation for their service during the pandemic. SLFRF funds may not be used to reimburse a recipient or eligible employer grantee for premium pay or hazard pay already received by the employee. To make retroactive premium payments funded with SLFRF funds, a recipient or eligible employer grantee must make a new cash outlay for the premium payments and the payments must be in addition to any wages or remuneration the eligible worker already received.

### **5.3. Can SLFRF be used to pay for benefits and taxes associated with premium pay wages?**

Premium pay is taxable as wage income, and therefore, employers are encouraged to treat the premium pay earned by the employee just as they would other wage income and withhold from the additional pay any required taxes. For further guidance, please see the [FAQ published by the IRS on SLFRF](#).

### **5.4. Does non-base compensation, such as overtime, count toward the 150% pay threshold? Is the 150% threshold calculated based off of income only from the awarding employer or from an employee's total yearly compensation?**

Yes, non-base compensation, including overtime and bonuses, counts toward the 150% pay threshold; however, the 150% pay threshold does *not* take into account other sources of income earned by an employee (e.g., income from a second job). For an hourly employee, or an employee that does not have a year's worth of earnings, an employer should extrapolate the hourly wage at an annual rate by multiplying the hourly rate by forty hours per week and then by fifty-two weeks per year.

## **6. Eligible Uses – Water, Sewer, and Broadband Infrastructure**

### **6.1. What types of water and sewer projects are eligible uses of funds?**

Eligible water and sewer projects are outlined on pages 37-38 of the [Overview of the Final Rule](#). Under the interim final rule, SLFRF funds could be used to fund projects that would be eligible under EPA’s Clean Water State Revolving Fund or Drinking Water State Revolving Fund. With broadened eligibility under the final rule, SLFRF funds may also be used to fund additional types of projects — such as additional stormwater infrastructure, residential wells, lead remediation, and certain rehabilitations of dams and reservoirs — beyond the CWSRF and DWSRF, if they are found to be “necessary” according to the definition provided in the final rule and outlined on page 38 of the Overview.

### **6.2. May recipients use funds as a non-federal match for the Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF)?**

Per [FAQ #4.6](#), SLFRF funds available for the provision of government services, up to the amount of the recipient’s reduction in revenue due to the public health emergency (the revenue loss eligible use category), may be used to meet the non-federal cost-share or matching requirements of other federal programs, including the CWSRF and DWSRF programs administered by the EPA. Per [FAQ #4.9](#), loans funded under the revenue loss eligible use category may be deemed expended at the point of disbursement. Thus, recipients using SLFRF funds available under revenue loss for non-federal matching requirements for the DWSRF or CWSRF may consider funds expended at the point the recipient makes the deposit into the State Revolving Funds. Recipients using SLFRF funds available under revenue loss should log projects under expenditure category 6.2.

As further noted in [FAQ #4.6](#), SLFRF funds beyond those that are available under the revenue loss eligible use category may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute. Recipients using funds under the eligible use category for water and sewer infrastructure may not use funds as a state match for the CWSRF and DWSRF.

### **6.3. Does the National Environmental Policy Act (NEPA) apply to projects funded with SLFRF funds?**

NEPA does not apply to Treasury’s administration of the funds, including funds expended under the revenue loss, public health and negative economic impacts, and water, sewer, and broadband infrastructure eligible use categories. Projects supported with payments from the funds may still be subject to NEPA review if they are also funded by other federal financial assistance programs or have certain federal licensing or registration requirements.

### **6.4. What types of broadband projects are eligible uses of funds?**

Recipients are required to design projects that, upon completion, reliably meet or exceed

symmetrical 100 Mbps download and upload speeds where practicable. More details on eligible broadband projects, including eligible areas for investment and the affordability requirement, are outlined on pages 39-40 of the [Overview of the Final Rule](#).

**6.5. For broadband investments, may recipients use funds for related programs such as cybersecurity or digital literacy training?**

Yes. In the final rule, Treasury maintained the enumerated eligible use for assistance to households for internet access and digital literacy programs. Recipients may use funds to provide assistance to households facing negative economic impacts due to the pandemic, including digital literacy training and other programs that promote access to the Internet.

SLFRF may be used for modernization of cybersecurity for existing and new broadband infrastructure, regardless of their speed delivery standards. This includes modernization of hardware and software. Under the final rule, recipients may also invest in general cybersecurity upgrades, unrelated to broadband infrastructure, under the revenue loss eligible use category.

**6.6. Do I need pre-approval for my water, sewer, or broadband project?**

See [FAQ #4.4](#). Generally, recipients are not required to submit planned expenditures for prior approval by Treasury and recipients are subject to the requirements and guidelines for eligible uses contained in the final rule.

While recipients must ensure that water and sewer infrastructure projects pursued are eligible under the final rule, recipients are not required to obtain project pre-approval from Treasury or any other federal agency when using SLFRF funds for necessary water and sewer infrastructure projects unless otherwise required by federal law. For projects that are being pursued under the eligibility categories provided through the DWSRF or CWSRF programs, project eligibilities are based on federal project categories and definitions for the programs and not on each state's eligibility or definitions. While reference in the final rule to the DWSRF, CWSRF, or other federal water programs is provided to assist recipients in understanding the types of water and sewer infrastructure projects eligible to be funded with SLFRF, recipients do not need to apply for funding from the applicable state programs or through any federal water program. Similarly, besides eligible project categories, the final rule does not incorporate other program requirements or guidance that attach to the DWSRF, CWSRF, or other federal water programs. However, as noted above, recipients should be aware of other federal or state laws or regulations that may apply to construction projects or water and sewer projects, independent of SLFRF funding conditions, and that may require preapproval from another federal or state agency.

**6.7. For broadband infrastructure investments, what are eligible areas of investment?**

Recipients are encouraged to prioritize projects that are designed to serve locations without access to reliable wireline 100/20 Mbps broadband service, but are broadly able to invest in projects designed to provide service to locations with an identified need for additional

broadband investment. For more details, see page 39 of the [Overview of the Final Rule](#).

**6.8. May recipients use payments from the SLFRF for “middle mile” broadband projects?**

Yes. Under the final rule, recipients may use payments from the SLFRF for “middle-mile projects,” but Treasury encourages recipients to focus on projects that will achieve last-mile connections—whether by focusing on funding last-mile projects or by ensuring that funded middle-mile projects have potential or partnered last-mile networks that could or would leverage the middle-mile network.

**6.9. For broadband infrastructure investments, what does the requirement to “reliably” meet or exceed a broadband speed threshold mean?**

See page 39 of the [Overview of the Final Rule](#), as well as pages 4419-4420 of the final rule.

**6.10. May recipients use funds for pre-project development for eligible water, sewer, and broadband projects?**

Yes. To determine whether funds can be used on pre-project development for an eligible water or sewer project, recipients should consult whether the pre-project development use or cost is eligible under the Drinking Water and Clean Water State Revolving Funds (DWSRF and CWSRF, respectively). Generally, the CWSRF and DWSRF often allow for pre-project development costs that are tied to an eligible project, as well as those that are reasonably expected to lead to a project. For example, the DWSRF [allows](#) for planning and evaluations uses, as well as numerous pre-project development costs, including costs associated with obtaining project authorization, planning and design, and project start-up like training and warranty for equipment. Likewise, the CWSRF [allows](#) for broad pre-project development, including planning and assessment activities, such as cost and effectiveness analyses, water/energy audits and conservation plans, and capital improvement plans.

Similarly, pre-project development uses and costs for broadband projects should be tied to an eligible broadband project or reasonably expected to lead to such a project. For example, pre-project costs associated with planning and engineering for an eligible broadband infrastructure build-out is considered an eligible use of funds, as well as technical assistance and evaluations that would reasonably be expected to lead to commencement of an eligible project (e.g., broadband mapping for the purposes of finding an eligible area for investment).

All funds must be obligated by recipients within the statutory period between March 3, 2021 and December 31, 2024, and expended to cover such obligations by December 31, 2026.

**6.11. May funds be used to support energy or electrification infrastructure that would be used to power new water treatment plants and wastewater systems?**

The EPA’s [Overview of Clean Water State Revolving Fund Eligibilities](#) describes eligible energy-related projects. This includes a “[p]ro rata share of capital costs of offsite clean energy facilities that provide power to a treatment works.” Thus, SLFRF funds may be used to finance the generation and delivery of clean power to a wastewater system or a water treatment plant on a pro-rata basis. If the wastewater system or water treatment plant is the sole user of the clean energy, the full cost would be considered an eligible use of funds. If the clean energy provider provides power to other entities, only the proportionate share used by the water treatment plant or wastewater system would be an eligible use of funds.

**6.12. How should states and local governments assess whether a stormwater management project, such as a culvert replacement, is an eligible project?**

Pages 37-38 of the [Overview of the Final Rule](#) describe the overall approach that recipients must take to evaluate the eligibility of water or sewer projects. With broadened eligibility under the final rule, a wide range of culvert repair, resizing, and removal, replacement of storm sewers, and additional types of stormwater infrastructure are eligible projects, as outlined further in the final rule.

**6.13. May recipients use funds for road repairs and upgrades that occur in connection with an eligible water or sewer project?**

Yes, recipients may use SLFRF funds for road repairs and upgrades directly related to an eligible water or sewer project. For example, a recipient could use funds to repair or repave a road following eligible sewer repair work beneath it. However, use of funds for general infrastructure projects is subject to the limitations described in [FAQ #8.1](#). Water and sewer infrastructure projects are often a single component of a broader transportation infrastructure project, for example, the implementation of stormwater infrastructure to meet Clean Water Act established water quality standards. In this example, the components of the infrastructure project that interact directly with the stormwater infrastructure project may be funded by SLFRF funds.

**6.14. May funds be used to build or upgrade broadband connections to schools or libraries?**

As outlined in the final rule, recipients may use SLFRF funds to invest in broadband infrastructure that, where practicable, is designed to deliver service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps to households or businesses with an identified need for additional broadband investment. “Businesses” in this context refers broadly to include non-residential users of broadband, including private businesses and institutions that serve the public, such as schools, libraries, healthcare facilities, and public safety organizations.

**6.15. Are eligible water, sewer, and broadband infrastructure projects, eligible capital expenditures under the public health and negative economic impacts eligible use category, and eligible projects under the revenue loss eligible use category subject to the Davis-Bacon Act?**

The Davis-Bacon Act requirements (prevailing wage rates) do not apply to projects funded solely with award funds from the SLFRF program, except for SLFRF-funded construction projects undertaken by the District of Columbia. The Davis-Bacon Act specifically applies to the District of Columbia when it uses federal funds (SLFRF funds or otherwise) to enter into contracts over \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Recipients may be otherwise subject to the requirements of the Davis-Bacon Act when SLFRF award funds are used on a construction project in conjunction with funds from another federal program that requires enforcement of the Davis-Bacon Act. Additionally, corollary state prevailing-wage-in-construction laws (commonly known as “baby Davis-Bacon Acts”) may apply to projects. Please refer to [FAQ #4.8](#) concerning projects funded with both SLFRF funds and other sources of funding.

Treasury has indicated in its final rule that it is important that capital expenditure projects and necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality results, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to ensure that capital expenditure projects and water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality projects, but also to support the economic recovery through strong employment opportunities for workers. Using these practices in projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

Treasury has also indicated in its reporting guidance that recipients will need to provide documentation of wages and labor standards for capital expenditure projects and infrastructure projects over \$10 million, and that that these requirements can be met with certifications that the project is in compliance with the Davis-Bacon Act (or related state laws, commonly known as “baby Davis-Bacon Acts”) and subject to a project labor agreement. Please refer to the Reporting and Compliance Guidance for more detailed information on the reporting requirement.

**6.16. What is the difference between using funds for eligible water and sewer projects and using funds under revenue loss for non-federal match for the Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF)?**

As noted in [FAQ #6.1](#) and the Overview of the Final Rule, eligible projects that a recipient may fund under the water and sewer infrastructure eligible use category of SLFRF include eligible projects under EPA’s CWSRF and EPA’s DWSRF. Recipients may also fund

certain additional projects, including a wide set of lead remediation, stormwater infrastructure, and aid for private wells and septic units. Per [FAQ #6.6](#), recipients spending SLFRF funds under the water and sewer eligible use category are not required to obtain project pre-approval from Treasury or any other federal agency unless otherwise required by federal law.

Projects that recipients undertake with SLFRF funds under the water and sewer eligible use category are separate and distinct from projects that a recipient manages through their CWSRF and DWSRF. As noted in [FAQ #4.6](#) and [FAQ #6.2](#), recipients may use funds under the revenue loss eligible use category for non-federal matching requirements, including for EPA's Clean Water State Revolving Fund and EPA's Drinking Water State Revolving Fund. By contrast, funds spent under the water and sewer infrastructure eligible use category may not be used to meet non-federal matching requirements.

## **7. Non-Entitlement Units (NEUs)**

Answers to frequently asked questions on distribution of funds to NEUs can be found in this [FAQ supplement](#).

## **8. Ineligible Uses**

### **8.1. May recipients use funds to replenish a budget stabilization fund, rainy day fund, or similar reserve account?**

No. Funds made available to respond to the public health emergency and its negative economic impacts are intended to help meet pandemic response needs and provide immediate stabilization for households and businesses. Contributions to rainy day funds and similar reserve funds would not address these needs or respond to the COVID-19 public health emergency, but would rather be savings for future spending needs. Similarly, funds made available for the provision of governmental services (to the extent of reduction in revenue) are intended to support direct provision of services to citizens. Contributions to rainy day funds are not considered provision of government services, since such expenses do not directly relate to the provision of government services.

### **8.2. What is meant by a pension “deposit”? Can governments use funds for routine pension contributions for employees whose payroll and covered benefits are eligible expenses?**

In the context of the restriction on deposits into pension funds, “deposit” means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.



In general, if an employee's wages and salaries are an eligible use of SLFRF funds, recipients may treat the employee's covered benefits as an eligible use of funds.

### **8.3. May recipients use Fiscal Recovery Funds to fund Other Post-Employment Benefits (OPEB)?**

OPEB refers to benefits other than pensions (see, e.g., [Governmental Accounting Standards Board, "Other Post-Employment Benefits"](#)). Treasury has determined that Sections 602(c)(2)(B) and 603(c)(2) of the Social Security Act, which refer only to deposits to pensions funds, do not prohibit SLFRF recipients from funding OPEB. Recipients may use funds for eligible uses, and a recipient seeking to use SLFRF funds for OPEB contributions would need to justify those contributions under one of the four eligible use categories.

## **9. Reporting**

Recipients should consult the Recipient Compliance and Reporting Responsibilities [page on Treasury's website](#) to access the latest Compliance and Reporting Guidance. Recipients should consult this guidance for additional detail and clarification on recipients' compliance and reporting responsibilities. User guides, which also contain FAQs pertaining to reporting, are provided for additional information.

## **10. Miscellaneous**

### **10.1. Are recipients required to remit interest earned on SLFRF payments made by Treasury?**

No. SLFRF payments made by Treasury to states, territories, and the District of Columbia are not subject to the requirement of the Cash Management Improvement Act and Treasury's implementing regulations at 31 CFR Part 205 to remit interest to Treasury. SLFRF payments made by Treasury to local governments and Tribes are not subject to the requirements of 2 CFR 200.305(b)(8) and(9) to maintain SLFRF award funds in an interest-bearing account and remit interest earned above \$500 on such payments to Treasury. Moreover, interest earned on SLFRF award funds is not subject to program restrictions. Finally, states may retain interest on payments made by Treasury to the state for distribution to NEUs that is earned before funds are distributed to NEUs, provided that the state adheres to the statutory requirements and Treasury's guidance regarding the distribution of funds to NEUs. Such interest is also not subject to program restrictions.

Among other things, states and other recipients may use earned income to defray the administrative expenses of the program, including with respect to NEUs.

## **10.2. May recipients use funds to cover the costs of consultants to assist with managing and administering the funds?**

Yes. Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements.

## **11. Operations**

### **11.1. How do I know if my entity is eligible?**

The American Rescue Plan Act of 2021 set forth the jurisdictions eligible to receive funds under the SLFRF program, which are:

- States and the District of Columbia
- Territories
- Tribal governments
- Counties
- Metropolitan cities (typically, but not always, those with populations over 50,000)
- Non-entitlement units of local government, or smaller local governments (typically, but not always, those with populations under 50,000)

### **11.2. How does an eligible entity request payment?**

Eligible entities (other than non-entitlement units) must submit their information to the [Treasury Submission Portal](#). Please visit the [Coronavirus State and Local Fiscal Recovery Fund website](#) for more information on the submission process.

### **11.3. I cannot log into the Treasury Submission Portal or am having trouble navigating it. Who can help me?**

If you have questions about the Treasury Submission Portal or for technical support, please email [covidreliefitsupport@treasury.gov](mailto:covidreliefitsupport@treasury.gov).

### **11.4. What do I need to do to receive my payment?**

All eligible payees are required to have a Unique Entity ID (UEI) as part of registration in addition to maintaining an active registration in the System for Award Management (SAM) (<https://www.sam.gov>).

Eligible payees must have a bank account enabled for Automated Clearing House (ACH) direct deposit. Payees with a Wire account are encouraged to provide that information as well.

More information on these and all program pre-submission requirements can be found on the [SLFRF website](#).

### **11.5. Why is Treasury employing ID.me for the Treasury Submission Portal?**

ID.me is only required for submitting applications for funding in the Treasury Portal. ID.me is not required for users accessing the Treasury portal to complete reporting.

ID.me provides secure digital identity verification to those government agencies and healthcare providers to validate the individual entity – and block fraudulent attempts to access online services. All personally identifiable information provided to ID.me is encrypted and disclosed only with the express consent of the user. Please refer to ID.me Contact Support for assistance with your ID.me account. Their support website is <https://help.id.me>.

### **11.6. Why is an entity not on the list of eligible entities in the Treasury Submission Portal?**

The ARPA lays out which governments are eligible for payments. The list of entities within the Treasury Submission Portal includes entities eligible to receive a direct payment of funds from Treasury, which include states (defined to include the District of Columbia), territories, Tribal governments, counties, and metropolitan cities.

Eligible non-entitlement units of local government will receive a distribution of funds from their respective state government and should not submit information to the Treasury Submission Portal.

If you believe an entity has been mistakenly left off the eligible entity list, please email [SLFRF@treasury.gov](mailto:SLFRF@treasury.gov).

### **11.7. What is an Authorized Representative?**

An Authorized Representative is an individual with legal authority to bind the government entity (e.g., the Chief Executive Officer of the government entity). An Authorized Representative must sign the Acceptance of Award terms for it to be valid.

### **11.8. How do I know the status of my request for funds (submission)?**

Entities can check the status of their submission at any time by logging into the [Treasury Submission Portal](#).

**11.9. My Treasury Submission Portal submission requires additional information/correction. What is the process for that?**

If your Authorized Representative has not yet signed the award terms, you can edit your submission within the [Treasury Submission Portal](#). If your Authorized Representative has signed the award terms, please email [SLFRF@treasury.gov](mailto:SLFRF@treasury.gov) to request assistance with updating your information.

**11.10. My request for funds was denied. How do I find out why it was denied or appeal the decision?**

Please check to ensure that no one else from your entity has applied, causing a duplicate submission. Please also review the list of all eligible entities on the [Coronavirus State and Local Fiscal Recovery Fund website](#).

If you still have questions regarding your submission, please email [SLFRF@treasury.gov](mailto:SLFRF@treasury.gov).

**11.11. When will entities get their money?**

Before Treasury is able to execute a payment, a representative of an eligible government must submit the government's information for verification through the [Treasury Submission Portal](#). The verification process takes approximately four business days. If any errors are identified, the designated point of contact for the government will be contacted via email to correct the information before the payment can proceed. Once verification is complete, the designated point of contact of the eligible government will receive an email notifying them that their submission has been verified. Payments are generally scheduled for the next business day after this verification email, though funds may not be available immediately due to processing time of their financial institution.

**11.12. How does a local government entity provide Treasury with a notice of transfer of funds to its State?**

For more information on how to provide Treasury with notice of transfer to a state, please email [SLRedirectFunds@treasury.gov](mailto:SLRedirectFunds@treasury.gov).

**12. Tribal Governments**

**12.1. Do Treasury's pandemic recovery program awards terms and conditions impose civil rights laws on Tribes?**

The award terms and conditions for Treasury's pandemic recovery programs, including SLFRF, do not impose antidiscrimination requirements on Tribal governments beyond what would otherwise apply under federal law. Treasury has amended its reporting

requirements with respect to the SLFRF, Treasury's Emergency Rental Assistance Program, and Homeowner Assistance Fund to reflect this clarification.

## **12.2. How does a Tribal government determine its allocation?**

Tribal governments received information about their allocation when their submission to the Treasury Submission Portal was confirmed to be complete and accurate.

## **13. Uniform Guidance**

### **13.1. What provisions of the Uniform Guidance for grants apply to these funds? Will the Single Audit requirements apply?**

Most of the provisions of the Uniform Guidance (2 CFR Part 200) apply to this program, including the Cost Principles and Single Audit Act requirements. Recipients should refer to the Assistance Listing for detail on the specific provisions of the Uniform Guidance that do not apply to this program. The Assistance Listing will be available at <https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view>.

For information related to Single Audit requirements specifically, please refer to the [Compliance Supplement materials](#) released by the Office of Management and Budget.

### **13.2. Do federal procurement requirements apply to SLFRF?**

Yes. The procurement standards for federal financial assistance are located in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200.317 through 2 CFR 200.327 and apply to procurements using SLFRF funds. Pursuant to 2 CFR 200.317, recipients that are non-state entities, such as, metropolitan cities, counties, non-entitlement units of local government, and Tribes must comply with the procurement standards set forth in 2 CFR 200.318, through 2 CFR 200.327, when using their SLFRF award funds to procure goods and services to carry out the objectives of their SLFRF award. States, the District of Columbia, and U.S. Territories must follow their own procurement policies pursuant to 2 CFR 200.317, as well as comply with the procurement standards set forth at 2 CFR 200.321 through 2 CFR 200.323, and 2 CFR 200.327 when using their SLFRF award funds to procure goods and services to carry out the objectives of their SLFRF award. *See also* SLFRF Award Terms and Conditions.

Recipients are prohibited from using SLFRF funds to enter into subawards and contracts with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs. *See* [2 CFR 200.214](#).

Moreover, a contract made under emergency circumstances under the Coronavirus Relief Fund (CRF) cannot automatically be transferred over to SLFRF. These programs are subject to different treatment under the Uniform Guidance. Under the CRF program, recipients are permitted to use their own procurement policies to acquire goods and

services to implement the objectives of the CRF award. Under the SLFRF program, recipients are required to follow the procurement standards set out in 2 CFR Part 200 (Uniform Guidance) pursuant to the SLFRF Award Terms and Conditions executed by the recipients in connection with their SLFRF awards.

### **13.3. What is the threshold for competitive bidding for my government?**

As stated above, recipients are required to comply with the procurement standards set forth in 2 CFR 200.317 through 2 CFR 200.327 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Pursuant to 2 CFR 200.317, States, the District of Columbia, and U.S. Territories should refer to the competitive bidding thresholds described in their own procurement policies and procedures. Other non-federal entities, such as metropolitan cities, counties, non-entitlement units of local government, and Tribes must adhere to the competitive bidding thresholds set forth in 2 CFR 200.320 for the relevant procurement methods.

[2 CFR 200.320 describes methods of procurement based](#) on two procurement thresholds. There are two thresholds that recipients should keep in mind related to procurement requirements: the Micro purchase threshold (MPT) and the Simplified Acquisition Threshold (SAT).

Micro-purchase threshold (MPT) - 2 CFR 200.320(a)(1): Purchase of supplies and services for a price below the MPT, currently set at \$10,000, are not required to be solicited competitively. However, there are circumstances when a recipient may have a MPT that is greater than \$10,000. For example, all non-Federal entities may increase their MPT up to \$50,000 if they follow the protocols described in 200.320(a)(1)(iv). Additionally, non-federal entities such as metropolitan cities, counties, non-entitlement units of local government, and Tribes may use their own MPT if they follow the protocols described in 200.320(a)(1)(iv).

Simplified Acquisition Threshold (SAT) - 2 CFR 200.320(a)(2): Purchases of property and services at a price above the recipient's MPT and below the SAT, currently set at \$250,000, may be made following the small purchase procedures described in the definition of SAT in 2 CFR 200.1 and 2 CFR 200.320(a)(2). Procurement of property and services at a price above the SAT must follow the formal procurement methods outlined in 2 CFR 200.320(b).

### **13.4. Can a recipient prequalify firms for projects funded with SLFRF?**

The Uniform Guidance permits recipients to use prequalified lists of persons, firms, or products so long as a list is current and includes enough qualified sources to ensure maximum open and free competition. The Uniform Guidance does not specifically define the term "current" for purposes of 2 CFR 200.319(e), and Treasury has not adopted additional guidance regarding this requirement as it applies to the SLFRF. As such, recipients must determine when a prequalified list would be sufficiently current, and a recipient must not preclude potential bidders from qualifying during the solicitation period.

See 2 CFR 200.319(e). Furthermore, recipients may not utilize this provision to evade conducting their procurement transactions in a manner that provides for full and open competition.

Recipients should be mindful that other provisions of the Uniform Guidance inform the procurement requirements. For example, metropolitan cities, counties, non-entitlement units of local government, and Tribes must have and use documented procurement procedures, consistent with binding State, local, and Tribal laws and regulations. See 2 CFR 200.318(a).

### **13.5. Where can one find the most current information on assuring minority-owned businesses are included in the awards process?**

The most up-to-date information on assuring that minority-owned businesses are included in the procurement process is located in [2 CFR 200.321](#), *Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms*.

### **13.6. Is there certain language that needs to be included in a bidding package?**

Treasury does not require that there be specific language included in bidding packages, but SLFRF recipients must ensure all contracts made with SLFRF award funds contain the applicable contract provisions listed in 2 CFR Part 200, Appendix II.

### **13.7. Are recipients allowed to leverage existing contracts?**

Recipients may leverage existing contracts for SLFRF activities if the existing contracts conform to the procurement standards in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200 (Uniform Guidance). States, the District of Columbia, and U.S. Territories must follow their own procurement policies pursuant to 2 CFR 200.317 as well as comply with the procurement standards set forth at 2 CFR 200.321 through 2 CFR 200.323, and 2 CFR 200.327. All other recipients must follow 2 CFR 200.318, *General procurement standards*, through 200.327, *Contract provisions*.

### **13.8. Would an interlocal agreement—an agreement entered into between governments to effectuate an eligible use of the funds—or a cooperative purchase agreement need to be bid out?**

States, the District of Columbia, and U.S. Territories must follow their own procurement policies pursuant to 2 CFR 200.317 as well as comply with the procurement standards set forth at 2 CFR 200.321 through 2 CFR 200.323, and 2 CFR 200.327. All other recipients must follow 2 CFR 200.318, *General procurement standards*, through 200.327, *Contract provisions*.

Recipients should consult the applicable procurement standards or policies to determine whether a cooperative purchase agreement must be bid out. Information on when

competition is required and when exceptions to competition are permitted are located in 2 CFR 200.319, *Competition*, and 2 CFR 200.320, *Methods of procurement to be followed*.

It is permissible for recipients to use interlocal agreements but procurement standards set forth in the Uniform Guidance may still apply.

### **13.9. How is a “contract” different than a “subaward?”**

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200 (Uniform Guidance) provides definitions for “contract” and “subaward.” A *contract* is a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a federal award. A *subaward* is distinct from a contract in that a subaward is an award provided by a recipient of a federal award to a subrecipient to carry out part of a federal award on behalf of the recipient. Recipients may make subawards through any form of legal agreement, including an agreement that the recipient considers a contract. See 2 CFR 200.331 for more information on the differences between contracts and subawards.

### **13.10. What other background laws must recipients comply with?**

SLFRF recipients must comply with all laws outlined in the SLFRF Award Terms and Conditions that the recipients accepted in connection with their SLFRF award and all other applicable executive orders, federal statutes, and regulations in carrying out their SLFRF award. Recipients must also provide for such compliance by other parties in any agreements it enters into with other parties relating to the award. The award terms listed specific statutes and regulations that apply to the award, but the award terms made clear that these lists were not exclusive. Particularly in the case of the SLFRF, it’s not possible to enumerate the full list of federal statutes, regulations and executive orders that may be applicable to the award given that the range of eligible uses of funds is so broad, including the provision of government services.

### **13.11. How does Treasury treat program income?**

Per 2 CFR 200.307, Treasury is specifying here that recipients may add program income to the Federal award. Any program income generated from SLFRF funds must be used for the purposes and under the conditions of the Federal award.

Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Interest earned on advances of federal funds **is not** program income. For more information on what constitutes “Program Income” please see 2 CFR 200.1.



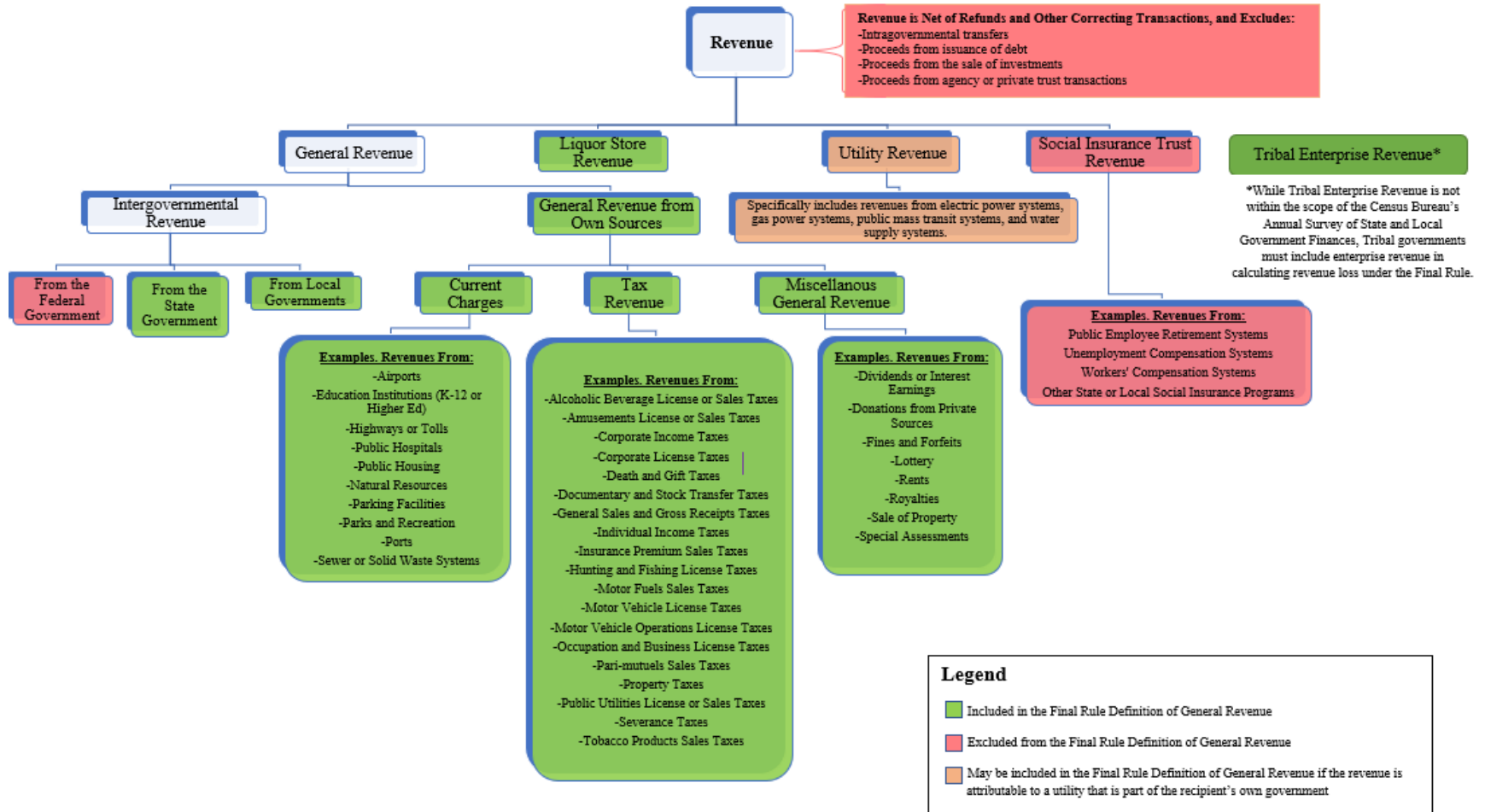
**13.12. Does COVID-19 and the national emergency qualify as "exigency" as a special circumstance under 2 CFR 200.320 (c) in which a noncompetitive procurement can be used? If so, may a contract utilizing this special circumstance have a term that extends beyond the national emergency? For example, may a County execute a contract (without going through a competitive solicitation) immediately with a contractor to provide services with a term through the end of 2024, relying upon this special circumstance?**

The COVID-19 public health emergency does not itself qualify as a “public exigency or emergency” under 2 CFR 200.320 (c). In other words, a recipient may not justify a noncompetitive procurement simply on the basis that the procurement is conducted during the public health emergency or that the project is in response to the public health emergency.

Instead, the recipient must make its own assessment as to whether in the case of a particular project there is a public exigency or emergency that “will not permit a delay resulting from publicizing a competitive solicitation.”

# Appendix

## Final Rule Definition of General Revenue Within the Census Bureau Classification Structure of Revenue



Source: [U.S. Bureau of the Census Government Finance and Employment Classification Manual, 2006; Annual Survey of State and Local Government Finances](#)