



Commonwealth of Massachusetts

Executive Office for Administration & Finance

Federal Funds Office (FFO)

Coronavirus State and Local Fiscal Recovery Fund: Summary of U.S. Treasury's Guidance

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Background



- On March 11, 2021, the American Rescue Plan Act was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds.
- On June 17, 2021, U.S. Treasury released “Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities,” providing additional detail and clarification for each recipient’s compliance and reporting responsibilities under the SLFRF program.
- The guidance should be read in concert with the Award Terms and Conditions, the authorizing statute, the SLFRF implementing regulation, and other regulatory and statutory requirements, including regulatory requirements under the Uniform Guidance.



Overview

- **Prime recipients** under the SLFRF program are eligible entities identified in the SLFRF statute that received a SLFRF award.
 - › In Massachusetts, the Commonwealth, some counties, and all municipalities are considered prime recipients of the SLFRF program.
 - › Prime recipients are accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, the SLFRF Award Terms and Conditions, Treasury's Interim Final Rule, and reporting requirements.
- **Subrecipients** under the SLFRF program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the SLFRF award on behalf of the recipient.



Key Principles

- Prime recipients and subrecipients are responsible for **ensuring the SLFRF award funds are not used for ineligible purposes**, and there is no fraud, waste, and abuse.
- Prime recipients must balance facilitating simple and rapid program access widely across the community and **maintaining a robust documentation and compliance regime**.
- SFLRF-funded projects should advance shared interests and **promote equitable delivery of government benefits and opportunities to underserved communities**.
- **Transparency and public accountability** of SLFRF award funds are critical to upholding public integrity and trust in all levels of government



Treasury's Rule



Eligible and Restricted Uses of SLFRF Funds

- The SLFRF statute enumerates **four eligible uses**:
 - › (1) To respond to the COVID-19 public health emergency or its negative economic impacts;
 - › (2) To respond to workers performing essential work during the public health emergency by providing premium pay to eligible workers or by providing grants to eligible employers;
 - › (3) For the provision of government services, to the extent to which the reduction of revenue is due to the public health emergency (relative to specific conditions about revenues collected in the most recent fiscal year); and
 - › (4) To make necessary investments in water, sewer or broadband infrastructure
- Prime recipients are responsible for determining a given **project's eligibility**, for determining **subrecipients' or beneficiaries' eligibility**, and for **monitoring** their use of award funds



Eligible and Restricted Uses of SLFRF Funds

- Treasury’s Interim Final Rule defines **frameworks** to use for determining eligibility, including:
 - › Framework for determining whether a project “responds to” a “negative economic impact” caused by the COVID-19 public health emergency;
 - › Definitions of “eligible employers”, “essential work,” “eligible workers”, and “premium pay” for cases where premium pay is an eligible use;
 - › Definition of “general revenue” and a formula for calculating revenue lost due to the COVID-19 public health emergency;
 - › Framework for eligible water and sewer infrastructure projects that aligns eligible uses with projects that are eligible under the Environmental Protection Agency’s Drinking Water and Clean Water State Revolving Funds; and
 - › Framework for eligible broadband projects designed to provide service to unserved or underserved households, or businesses at speeds sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and sufficiently robust to meet increasing household demands for bandwidth.



Eligible and Restricted Uses of SLFRF Funds

- Treasury’s Interim Final Rule outlines **restrictions** on use of SLFRF award funds:
 - › Recipients may not deposit funds into a pension fund
 - › Recipients that are States and territories may not use funds to offset a reduction in net tax revenue caused by the recipient’s change in law, regulation, or administrative interpretation
 - › Recipients may not use funds as non-Federal match where prohibited
 - › Recipients may not use funds directly to service debt
 - › Recipients may not use funds to satisfy a judgement or settlement
 - › Recipients may not use funds to contribute to a “rainy day fund”



Eligible Costs Timeframe

- SLFRF funds may be used to cover eligible costs incurred from **March 3, 2021** to **December 31, 2024**
 - › Funds must be obligated by December 31, 2024 and expended by December 31, 2026
 - › Costs for projects incurred by the recipient prior to March 3, 2021 are not eligible
- Any funds not obligated or expended for eligible uses by these timelines must be **returned to Treasury**, including any unobligated or unexpended funds that have been provided to subrecipients and contractors.



Eligible Costs Timeframe

- In the “Compliance and Reporting Responsibilities” guidance, **Treasury clarifies ability to use award funds for costs incurred prior to March 3, 2021:**
 - › Public Health/Negative Economic Impacts: Recipients may use funds to provide assistance to households (e.g., rent, mortgage, utility assistance) for costs incurred by the household prior to March 3, 2021, provided that the recipient did not incur the cost of assistance prior to March 3, 2021.
 - › Premium Pay: Recipients may provide premium pay retrospectively for work performed since the start of the COVID-19 public health emergency if pay is “in addition to” wages and remuneration already received and the obligation was not incurred by the recipient prior to March 3, 2021.
 - › Revenue Loss: Treasury’s Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. 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 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.



Uniform Administrative Requirements



Application of the Uniform Guidance

- SLFRF awards are generally subject to the requirements set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200 (“Uniform Guidance”)
- Recipients should review the **Uniform Guidance** requirements applicable to use of SLFRF funds and determine how and whether certain aspects of the guidance apply
- In the “Compliance and Reporting Responsibilities” guidance, Treasury **outlines a summary of recipients’ compliance responsibilities under applicable statutes and regulations:**
 - Allowable Activities
 - Allowable Costs
 - Cash Management
 - Eligibility
 - Equipment and Real Property Management
 - Matchmaking, Level of Effort, Earmarking
 - Period of Performance
 - Procurement, Suspension & Debarment
 - Program Income
 - Reporting
 - Subrecipient Monitoring



Application of the Uniform Guidance

Allowable Activities

- Recipients must review all program requirements to determine and record eligible use of funds
- Develop and implement effective internal controls to ensure that funding decisions under the award constitutes eligible uses of funds, and document determinations (*2 CFR 200.303*)
- Internal controls best practices include:
 - › Formal documentation of recipient policies and procedures
 - › Formal statement of mission, values, principles, and professional standards
 - › Pre-payment validations conducted according to an assessed level of risk
 - › Ongoing validations conducted according to level of risk
 - › Creation and storage of financial and non-financial records

Impact

- *Review Interim Final Rule and Award Terms and Conditions for program requirements*
- *Review and update internal controls plan as needed*
- *Ensure robust documentation and recordkeeping process is in place*



Application of the Uniform Guidance

Allowable Costs / Cost Principles

- Allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds (*2 CFR 200, Subpart E*)
 - › Must be consistent with the program objectives and terms and conditions of the award
- Recipients must implement robust internal controls and effective monitoring to ensure compliance with Cost Principles to build trust and accountability
- Funds may be, but are not required to be, used along with other funding sources for a project. Funds may not be used for non-Federal cost share or match where prohibited by other Federal programs (e.g., State share of Medicaid)

Impact

- *Review Subpart E of Uniform Guidance to ensure compliance with Cost Principles*
- *Select authorized person to certify all costs are true and accurate*



Application of the Uniform Guidance

Allowable Costs / Cost Principles

- Treasury's Interim Final Rule and the Uniform Guidance outline types of costs that are allowable, including certain audit costs
- Administrative Costs: Costs must be reasonable and allocable
 - › Funds may be used for consultants for management and oversight
 - › Recipients may charge direct and indirect costs to SLFRF award as administrative costs
 - › Each category of cost should be treated consistently as direct or indirect, and recipients may not charge same costs to both direct and indirect cost categories, or to other programs
 - › Recipients should use either their current Negotiated Indirect Costs Rate Agreement (NICRA) or the de minimis rate of 10 percent of the modified total direct costs (*2 CFR 200.414(f)*)
- Salaries and Expenses: In general, certain employees' wages, salaries, and covered benefits are an eligible use of funds

Impact

- *Review Interim Final Rule and Uniform Guidance for allowable costs*
- *Develop and implement policies and procedures for defining and recording direct and indirect costs*



Application of the Uniform Guidance

Cash Management

- SLFRF payments are not subject to the requirements of the Cash Management Improvement Act
 - › Recipients can place funds in interest-bearing accounts
 - › Recipients do not need to remit interest to Treasury
 - › Recipients are not limited to using that interest for eligible uses under the award

Impact

- *Upon receipt of funds, place in an interest-bearing account*



Application of the Uniform Guidance

Eligibility

- Recipients are responsible for ensuring funds are used for eligible purposes
- Recipients must develop and implement policies and procedures to determine the eligibility of beneficiaries and/or subrecipients
 - › Recipients must also develop policies and procedures regarding record retention
 - › Recipients should implement risk-based due diligence for eligibility determinations
- Recipients and subrecipients must maintain procedures for obtaining information evidencing a given beneficiary, subrecipient, or contractor's eligibility including a valid SAM.gov registration

Impact

- *Develop and implement policies and procedures to determine eligibility of beneficiary and/or subrecipient*
- *Develop and implement policies and procedures for evidencing eligibility of beneficiary, subrecipient, or contractor*



Application of the Uniform Guidance

Equipment and Real Property Management

- Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance (*2 CFR 200, Subpart D*)
- Equipment and real property must be used for the originally authorized purpose
- Any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity
- Any acquisition and maintenance of equipment or real property must be compliant with relevant laws and regulations (*2 CFR 200.311, 200.313*)

Impact

- *Review 2 CFR 200, Subpart D to ensure robust understanding of compliance obligations for equipment and real property management*



Application of the Uniform Guidance

Matchmaking, Level of Effort, Earmarking

- No matching, level of effort, or earmarking compliance responsibilities associated with the award
- SLFRF funds may only be used for non-Federal match in other program where costs are eligible under both SLFRF and the other program, and use of such funds is not prohibited by the other program

Impact

- *Develop and implement policies and procedures for using SLFRF funds in conjunction with other funding sources*



Application of the Uniform Guidance

Period of Performance

- Recipient should develop and implement internal controls related to activities occurring outside the period of performance
 - › Recipients should articulate each project's policy on allowability of costs incurred prior to award or start of the period of performance
- All funds remain subject to statutory requirements that they must be used for costs incurred by the recipient during the period from March 3, 2021 to December 31, 2024, and that award funds must be expended by December 31, 2026
- Any funds not used must be returned to Treasury

Impact

- *Develop and implement internal controls for activities occurring outside the period of performance*



Application of the Uniform Guidance

Procurement, Suspension, and Debarment

- Recipients must adhere to all applicable local, State, and federal procurement laws and regulations
- Recipients are responsible for ensuring any procurement using SLFRF funds are consistent with the procurement standards in the Uniform Guidance (*2 CFR 200.317-327*)
 - › All procurement transactions for property or services must be conducted in a manner providing full and open competition
 - › Non-competitive procurements are only allowable when: item is below the micro-purchase threshold, item is only available from single source, public exigency or emergency will not permit delay from publicizing a competitive solicitation, or after solicitation of sources competition is deemed inaccurate
- Recipients must have documented procurement procedures and an infrastructure for competitive bidding and contractor oversight

Impact

- *Review procurement procedures in the Uniform Guidance*
- *Ensure procurement procedures are clearly documented and used*
- *Maintain written standards of conduct and prohibitions on dealing with suspended or debarred parties*
- *Review FFO's SLFRF procurement deck*



Application of the Uniform Guidance

Program Income

- Program income includes, but is not limited to, income from fees for services performed, use or rental of real or personal property acquired under Federal awards, and the principal and interest earned on advances of Federal award funds
 - › Does not include interest earned on advances of Federal funds, rebates, credits, discounts, or interest on rebates, credits, or discounts
- Recipients should calculate, document, and record organization's program income (*2 CFR 200.307*)
- Recipients should implement additional written procedures that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records

Impact

- *Develop and implement additional written procedures for calculating, documenting, and recording program income*



Application of the Uniform Guidance

Reporting

- Recipients of federal funds must complete financial, performance, and compliance reporting
 - › Expenditures must be reported on a cash or accrual basis
(2 CFR 200.1)
- Recipients should appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with appropriate accounting standards and principles
- Recipients should establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting

Impact

- *Review reporting portion of “Compliance and Reporting Responsibilities” guidance*
- *Review FFO’s SLFRF reporting deck*



Application of the Uniform Guidance

Subrecipient Monitoring

- When transferring federal funds to a third party with discretion over decision making with those funds, Prime Recipients are considered pass-through entities under 2 CFR 200.1
 - › Pass-through entities must manage and monitor their subrecipients to ensure compliance with award requirements
- Recipients must clearly identify to the subrecipient (1) the award is a subaward of SLFRF funds; (2) compliance requirements for use of SLFRF funds; and (3) reporting requirements for expenditures of SLFRF funds.
- Recipients should then evaluate each subrecipient's risk of noncompliance based on a common set of factors (e.g., previous audits, prior experience in managing Federal funds)

Impact

- *Review pass-through entities and subrecipient monitoring requirements in the Uniform Guidance*
- *Review FFO's SLFRF subrecipients deck*



Application of the Uniform Guidance

Subrecipient Monitoring

- Ongoing monitoring should reflect assessed risk and must include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation
- Recipients should develop written policies and procedures for subrecipient monitoring and risk and maintain records of all award agreements identifying subrecipients' compliance obligations

Impact

- *Build subrecipient determination and monitoring plan, including frameworks for determining subrecipients, assessing risk, forming grant agreements, and conducting ongoing monitoring*
- *Ensure robust documentation and recordkeeping process is in place*



Award Terms and Conditions



Application of the Award Terms and Conditions

- Award Terms and Conditions of the SLFRF financial assistance agreement sets forth the compliance obligations for recipients pursuant to the SLFRF statute, the Uniform Guidance, and Treasury's Interim Final Rule
- In addition to the compliance obligations outlined above for the Uniform Guidance, recipients are also subject to the following requirements:
 - SAM.gov Requirements
 - Recordkeeping Requirements
 - Single Audit Requirements
 - Civil Rights Compliance



Application of the Award Terms and Conditions

SAM.gov Requirements

- All eligible recipients must have an active registration with the System for Award Management (SAM)

Recordkeeping Requirements

- Recipients must retain records and financial documents for five years after funds have been expended or returned
 - › Treasury may request transfer of records of long-term value
- Recipients must agree to provide records upon request to Treasury and any authorized oversight body
- Wherever practicable, records should be collected, transmitted, and stored in open and machine-readable formats

Impact

- *Ensure all eligible recipients have an active registration in SAM.gov before providing funding*
- *Ensure robust documentation and recordkeeping process is in place*



Application of the Award Terms and Conditions

Single Audit Requirements

- Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act (*2 CFR 200, Subpart F*)

Civil Rights Compliance

- Entities cannot deny benefits or services or otherwise discriminate on the basis of race, color, national origin, disability, age, or sex (*in accordance with authorities to the right*)
- To carry out enforcement responsibilities under Title VI of the Civil Rights Act of 1964, Treasury will collect and review information from recipients to ascertain compliance with requirements before and after providing assistance
 - › Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status

Impact

- *Review Single Audit requirements in Uniform Guidance*
- *Review nondiscrimination authorities, outlined below*

Nondiscrimination Authorities

- Title VI of the Civil Rights Act of 1964 Public Law 88-352, 42 U.S.C. 2000d-1 et seq., implementing regulations, 31 CFR part 22
- Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794
- Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., implementing regulations, 31 CFR part 28
- Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., implementing regulations, 31 CFR part 23



Supplemental Resources



Supplemental Resources

- [Interim Final Rule](#)
- [Treasury's Compliance and Reporting Guidance](#)
- [Uniform Guidance](#)
- [SFRF Award Terms and Conditions](#)
- [LFRF Award Terms and Conditions](#)