



← Home ← Insights ← Industries ← Nonprofit & Education

ARTICLE

January 12, 2022

BY:

**David Clark**

Managing Director, Industry Specialty Services

**Corey Eide**

Director, Community Resilience Practice

**Nic Nunn-Faron**

Manager, Community Resilience Practice

# Dept of Treasury Releases the Final Rule for Coronavirus State & Local Fiscal Recovery Funds

On January 6, 2022, the U.S. Department of the Treasury released the Final Rule for the Coronavirus State and Local Fiscal Recovery Fund (SLFRF), providing increased guidance to state,

local, and Tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency. The Final Rule builds on the successful implementation of the Interim Final Rule released in May 2021 and incorporates feedback from the stakeholders on the programmatic rules and eligible uses of funds.

While the final rule's formal effective date isn't until April 1, 2022, state, local, and Tribal governments are provided with the flexibility to either continue following the guidance from the interim final rule or take advantage of the final rule's additional flexibilities and simplifications now, even ahead of the effective date. These expanded provisions can additionally be applied to those eligible expenditures incurred beginning March 3, 2021.

## Expansion of Eligible Expenditures

With the release of the Final Rule, the Department of Treasury aimed to provide local governments with added flexibility in the implementation of the SLFRF's intended purposes of increasing resilience against the ongoing threats of the pandemic, supporting families and businesses struggling with its public health and economic impacts, maintaining and sustaining vital public services, and facilitating a sustainable, equitable recovery through investments building long-term growth and opportunity. With the increased applicability of funds, communities may now use the grant to:

- ▶ Fund the building of schools, hospitals, public safety, public health, affordable housing, and childcare facilities.
- ▶ Provide vital services to an expanded definition of community members deemed "disproportionately impacted" by the pandemic.
- ▶ Increase access to affordable housing, childcare, early learning, and community development services.
- ▶ Provide premium pay for an increased swath of workers, focused on lower-income and frontline workers providing essential services.
- ▶ Invest in a broader range of water, sewer, and broadband infrastructure developments, including stormwater and lead remediation efforts.

# Update to Revenue Loss Calculation

Under the guidance provided by the Interim Final Rule, local governments were granted the opportunity to utilize SLFRF funds to replace revenue losses introduced due to the onset of COVID-19. These funds carry the greatest level of flexibility under the program, with their intended purpose to pay for general “government services”. To calculate the quantity of lost revenue, Treasury provided recipients with a 4-phase computation methodology, identifying the difference between the locality’s projected counterfactual revenue and its actualized revenue for each year of the grant’s performance period. However, to reduce the burden on those recipients with limited administrative resources, Treasury released the following provision:

- ▶ Recipients may now elect a “standard allowance”, and claim any amount up to \$10 million to spend on government services
- ▶ Those recipients with total grant allocations less than \$10 million may claim up to the full amount of their distribution as lost revenue replacement

# Easing of Reporting Requirements

In addition to updates to expenditure eligibility and discretion of spending, the SLFRF Final Rule additionally provides revised guidance to recipients for the reporting responsibilities each must undertake. For each locality, a series of three reporting requirements were established within the Interim Final Rule, to ensure that the utilized funds are expended in a manner consistent with Uniform Federal Guidance 2 CFR 200, as well as the SLFRF program-specific guidance. Collected through April 30, 2027, these three reporting requirements include: an Interim Report due August 31, 2021, providing a summary of all expenditures from the date of award through June 30, 2021; Project and Expenditure Reports due quarterly through the term of the program, detailing project eligibility, status, and associated expenditures; and Recovery Plan Performance Reports due annually through the term of the program, detailing project overviews, eligibility, intended outcomes, and status of progress towards completion. To ease the administrative burden on recipients, the Final Rule adopts the less restrictive requirements provided in [Version 2.1 of the SLFRF Compliance and Reporting Guidance](#). Additionally, the Final Rule adds the following revisions to the justification and reporting of capital expenditures:

- ▶ Capital expenditures of less than \$1 million, no written justification is required as part of

regular reporting.

- ▶ Capital expenditures greater than \$1 million but less than \$10 million, written justification is required. However, for those enumerated capital expenditures, specifically focused on providing services to those populations disproportionately impacted by COVID-19, this justification is not required to be included as part of regular reporting.
- ▶ Capital expenditures greater than \$10 million, written justification is required and must be submitted as part of regular reporting.

To facilitate the reporting process for capital expenditures over \$1 million, Treasury has defined the components necessary for a satisfactorily written justification. Each project profile should include:

- ▶ Description of the harm or need to be addressed
- ▶ Explanation of why a capital expenditure is appropriate
- ▶ Comparison of proposed capital project against at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior

## State, Local, and Tribal Governments Still at Risk for Claw-Backs

While the SLFRF Final Rule does serve to ease the administrative burden placed upon recipients through the expansion of eligible expenditures and reduction of reporting requirements, localities must resist taking on the mindset that the funds can now be utilized for any desired application. The guidance on ineligible use of funds remains consistent with what was provided within the Interim Final Rule. Among a variety of ineligible expenditures, the following utilization of funds continue to be disallowed:

- ▶ Deposits into pensions funds.
- ▶ Funding of salaries not specifically focused on the response to COVID-19.
- ▶ Offset direct or indirect reductions in net tax revenue due to a change in law after March 3, 2021.

- ▶ State and territories utilization of funds to offset net tax revenue.
- ▶ Transportation and general infrastructure projects.
- ▶ All other costs not otherwise outlined as eligible within the Final Rule.

Although the reporting burden placed on recipients has been decreased, state, local, and Tribal governments are still placed under the highest level of scrutiny. Treasury has stated that it recognizes money is fungible by nature and is taking all efforts to ensure the funds are not utilized in a manner to offset the costs of ineligible expenditures. The federal government has already shown its commitment to clawing back money not spent in accordance with the programmatic guidance, as it is currently in court with multiple states over their use of funds.

## How BDO Can Help

BDO understands the historic moment communities are navigating as they manage their recovery from COVID-19. As a state, local, and Tribal governments work to navigate the requirements and intricacies of the SLFRF, our team is providing subject matter expert support to our clients to ensure their plans are funded in a strategic, sustainable manner. BDO guides clients in selecting investments through the SLFRF that provide long-term ROI and better position communities for the next disruption. We continue to support states, local governments, hospitals, and public housing authorities manage capital received through the Coronavirus Relief Fund, the American Rescue Plan Act, FEMA Public Assistance for COVID-19, and are now supporting clients in preparation for the Infrastructure Investment and Jobs Act. BDO's team of experts in grants management, forensic audit, fraud prevention, and disaster recovery are positioned to support you in this historic moment.

---

[Have Questions? Contact Us](#)