

Summary of U.S. Department of Treasury Interim Final Rule Coronavirus State and Local Fiscal Recovery Funds (SLFRF, a.k.a. ARPA)

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Overview

This summary is based on a review of the Interim Final Rule of the Coronavirus State and Local Fiscal Recovery Funds (SLFRF, a.k.a. ARPA) and guidance provided by the U.S. Department of Treasury (Treasury). The Interim Final Rule was published in the Federal Register, Vol. 88, No. 181, dated Wednesday, September 20, 2023 (hereinafter, “2023 Interim Rule”).

The 2023 Interim Rule expands eligible uses of SLFRF to include emergency relief from natural disasters and additional infrastructure projects, including projects eligible under certain Department of Transportation programs (Surface Transportation Projects) and projects eligible under Title I of the Housing and Community Development Act of 1974 (Title I Projects). SLFRF funds used for Surface Transportation and Title I Projects must supplement, not supplant, other Federal, state, territorial, Tribal, and local government funds.

Recipients may only use the greater of 30% of their SLFRF award and \$10 million, not to exceed a recipient’s allocation, for all Surface Transportation projects and Title I projects taken together. More information about eligible uses is provided below.

Key Dates:

- **Effective Date:** September 20, 2023
- **Public Comment Period:** Comments must be received on or before November 20, 2023
- **Obligation Deadline for Surface Transportation and Title I Projects:** December 31, 2024
- **Obligation Deadline for other eligible uses:** December 31, 2024
- **Expenditure Deadline for Surface Transportation and Title I Projects:** September 30, 2026
- **Expenditure Deadline for other eligible uses:** December 31, 2026
- **Notices of Intent (NOIs)** related to Surface Transportation Projects in Pathway Two are due to NOI-SLFRF@Treasury.gov by: December 20, 2023.

Background:

The American Rescue Plan Act of 2021 (ARPA) established the SLFRF in March 2021 “to provide state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects” (2023 Interim Rule).

On May 10, 2021, Treasury implemented the SLFRF program within the 2021 Interim Final Rule. To respond to public comments, Treasury issued the 2022 Final Rule on January 6, 2022. The clarifications and changes within the 2022 Final Rule were made to simplify the SLFRF program and provide broader flexibility.

On December 29, 2022, the President executed the Consolidated Appropriations Act, 2023 (2023 CAA), which amended two sections of the Social Security Act giving state, local and Tribal governments more

flexibility to use SLFRF funds to provide emergency relief from natural disasters, build critical infrastructure, and support community development.

Eligible Uses

Below is an overview of new eligible uses, based on a review of the 2023 Interim Rule on September 27, 2023, with greater focus on Surface Transportation Projects. All eligible uses described in the 2022 Final Rule remain available for recipients.

I. Emergency Relief from Natural Disasters

- This eligible use category for providing emergency relief from natural disasters or the negative economic impacts of natural disasters covers a range of eligible uses of funds including:
 1. Temporary emergency housing,
 2. Food assistance,
 3. Financial assistance for lost wages,
 4. Other immediate needs, and
 5. Mitigation activities.
- Treasury enumerated eligible uses of SLFRF funds.
- Treasury provides a framework to identify a natural disasters and the emergency relief that responds to the physical or negative economic impacts of a natural disaster.

II. Surface Transportation Projects

- State, local, and Tribal governments may now fund surface transportation infrastructure projects, subject to limitations, eligible under certain programs administered by the U.S. Department of Transportation (DOT). The following is a list of program references; however, a list of DOT programs applicable to CRCOG is contained in the “Pathway One...” section below:
 1. A project eligible under [Title 23 of the U.S. Code](#) sections [117](#), [119](#), [124](#), [133](#), [148](#), [149](#), [151\(f\)](#), [165](#), [167](#), [173](#), [175](#), [176](#), [202](#), [203](#), and [204](#) (Highways; Federal Lands);
 2. An activity to carry out 23 U.S. Code [section 134](#) (Metropolitan Transportation Planning);
 3. A project eligible under the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program;
 4. A project eligible for credit assistance under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program under [chapter 6 of title 23 of the U.S. Code \(Infrastructure Finance\)](#);
 5. A project eligible under [49 U.S. Code](#) sections [5307](#), [5309](#), [5311](#), [5337](#), [5339](#) ([Public Transportation](#)), and [6703](#) ([National Culvert Removal, Replacement, and Restoration Grant Program](#)); or
 6. A project eligible under specific headings of the bridge replacement, rehabilitation, preservation, protection, and construction program within Infrastructure Investment and Jobs Act (IIJA) Division I, Title VIII, paragraph (1).
- SLFRF funds may be used to **satisfy a non-Federal share requirement** for a project eligible under the following:
 1. section 117 of title 23 of the U.S. Code ([Nationally Significant Multimodal Freight and Highway Projects](#), such as Mega and INFRA);
 2. 49 U.S. Code [section 5309 \(Fixed Guideway Capital Investment Grants\)](#) or [section 6701 \(National Infrastructure Project Assistance\)](#); or

3. a project eligible for credit assistance under the TIFIA program, [chapter 6 of 23 U.S. Code \(Infrastructure Finance\)](#).
- Recipients may also use SLFRF funds to **repay a loan provided through the TIFIA program**.
 - SLFRF funds may only be used to **supplement, and not supplant**, other Federal, state, territorial, Tribal and local government funds otherwise available for the eligible project.
 1. “Other...funds” refers to:
 - For non-Federal funds, these are non-SLFRF funds that have been obligated for specific uses that are eligible under the Surface Transportation projects eligible use category;
 - Where obligation is defined as “an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.”
 - For Federal funds, these are funds that a Federal agency has committed to a particular project pursuant to an award agreement or otherwise.
 2. Recipients may not de-obligate funds and use previously obligated funds with SLFRF funds under this eligible use category.
 3. Recipients may not use SLFRF to replace Federal or non-Federal funds identified in a Federal commitment, such as in an award agreement.
 4. Recipients may use SLFRF to provide additional funding to a project, like to fund additional activities, expand project scope, or cover unexpected costs.
 - **Treasury identifies three pathways for use of SLFRF for Surface Transportation Projects:**
 1. **Pathway One, Surface Transportation Projects Receiving Funding from DOT:**
 - In the case of existing eligible projects that receive funding from DOT, funds may be used to expand the project or to cover additional unexpected costs associated with the project.
 - In the case of eligible projects that have not yet received but will receive funding from DOT prior to December 31, 2024 (the obligation deadline), funds may be used to expand the scope of the project, to cover additional unexpected costs, or in other ways that supplement DOT funding.
 - This option may allow greater flexibility to contribute SLFRF funds for purposes beyond expanding scope or covering additional unexpected costs associated with the project, such as using SLFRF funds for the initial planning phase of a project, or other in-kind match permitted by the program.
 - Recipients must be prepared to work with DOT to determine whether the use of SLFRF funds is permitted.
 - Recipients will not be required to provide cost sharing or matching funds in order to use SLFRF funds (2023 Interim Rule, p. 65005).
 - Some DOT programs cap the amount of Federal funds that may be used in a project. **Recipients can contribute SLFRF funds up to the maximum Federal funds limit without an accompanying increase in non-Federal share. However, once that maximum is reached, the statutory cost share applicable to the project will apply to the**

SLFRF funds. Recipients must consult with DOT to determine non-Federal cost share requirements (2023 Interim Rule, p. 65005).

- **List of DOT programs** applicable in CRCOG (excludes programs pertaining to Tribal governments, Territories, Federal Lands, and the Appalachian Region) under which recipients may direct SLFRF funds towards eligible projects (2023 Interim Rule, p. 6500-65003):
 - [INFRA Grants](#) (also known as Nationally Significant Multimodal Freight & Highway Projects) – competitive grants;
 - [National Highway Performance Program \(NHPP\)](#) – formula funding;
 - [Bridge Investment Program \(BIP\)](#) – competitive discretionary grants;
 - [Surface Transportation Block Grant Program \(STBG\)](#) – flexible funding;
 - [Highway Safety Improvement Program \(HSIP\)](#) – formula funding;
 - [Congestion Mitigation and Air Quality Improvement Program \(CMAQ\)](#) – flexible funding;
 - [Charging and Fueling Infrastructure Discretionary Grant Program \(CFI\)](#) – competitive grants;
 - [National Highway Freight Program \(NHFP\)](#);
 - [Rural Surface Transportation Grant Program](#) – competitive grants;
 - [Carbon Reduction Program \(CRP\)](#) – formula funding;
 - [Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation \(PROTECT\)](#) – both formula funding and competitive grants;
 - [Rebuilding American Infrastructure with Sustainability and Equity \(RAISE\)](#) – competitive grants, DOT approval required to add Federal funds, including SLFRF funds to existing projects;
 - [Transportation Infrastructure Finance and Innovation Act \(TIFIA\)](#) – Federal credit assistance in the form of direct loans, loan guarantees, and standby lines of credit;
 - [Urbanized Area Formula Grants](#) – formula funding;
 - [Fixed Guideway Capital Investment Grants](#) – discretionary grants;
 - [Formula Grants for Rural Areas](#), includes the Rural Transportation Assistance Program;
 - [State of Good Repair Grants](#);
 - [Grants for Buses and Bus Facilities](#);
 - [National Culvert Removal, Replacement, and Restoration Grant Program \(Culvert AOP Program\)](#) – competitive grants;
 - [Bridge Replacement, Rehabilitation, Preservation, Protection, and Construction Program \(Bridge Formula Program or BFP\)](#) – formula funding; and
 - Activities to carry out metropolitan transportation planning.

2. Pathway Two, Surface Transportation Projects not Receiving Funding from DOT:

- Offers a **streamlined framework** for recipients to use **up to \$10 million in SLFRF funds per project** on Surface Transportation projects that do not include DOT funding but meet certain parameters.
- Consultation with DOT is not required, instead projects will be administered and overseen by Treasury.

- Applications are not required, but recipients must submit a Notice of Intent (NOI) to Treasury. Treasury will use the NOI to evaluate projects and design and implement the streamlined framework; however, Treasury is already determined to adopt a streamlined approach for projects with lower risk that qualify for the **RAISE grant program**.
 - The RAISE grant program was selected because projects eligible under RAISE substantially overlap with projects available under other surface transportation programs (2023 Interim Rule, p. 65007).
- If a recipient has more than \$10 million available for Surface Transportation and Title I projects, then it could fund multiple \$10 million projects under Pathway Two, or use remaining funds available under the cap for Title I projects, or spend remaining funds in another eligible use category that does not cap funds.
- The **streamlined framework** refers to projects that meet three criteria:
 - 1) eligible under the RAISE grant program, as described in the 2023 Notice of Funding Opportunity (NOFO);
 - 2) contribute SLFRF funds no greater than \$10 million; and
 - 3) are determined low risk, as demonstrated by project scope with action and activities that meet DOT criteria for categorical exclusions for significant environmental impacts, and unusual circumstances, per 23 CFR 771.
- A review of past projects funded by RAISE, and earlier similar programs like TIGER and BUILD programs from 2012 through 2022 revealed a wide range of projects, generally focused on maintenance or upgrades of existing infrastructure and include: road repairs, sidewalk installment and replacement, bike and pedestrian trails, pedestrian bridges, replacement of existing vehicle bridges, intermodal or transit-oriented infrastructure buildouts, marine facility investments, and railway repairs and expansion.
- **For projects that do not meet the criteria of the streamlined framework outlined above, recipients must submit NOIs by December 20, 2023.** Email NOIs to NOI-SLFRR@Treasury.gov , providing the following information:
 - Project description;
 - Dollar value of SLFRF-financed portion of the project, including confirmation this will not exceed the greater of \$10 million or 30% of recipient's' total SLFRF award;
 - Total expected project cost;
 - Other Federal funding;
 - Status of NEPA review;
 - Plan to source the project in accordance with Buy America requirements;
 - Brief assessment of project readiness and the ability to obligate and expend funds by deadlines; and
 - Brief assessment of recipient's institutional, managerial , and financial capability to ensure proper planning, management, and completion of the project.
- When submitting requests to use SLFRF funds for use, recipients are not subject to grant size requirements set by DOT programs, and instead are subject to the limitations set with this rule.

- Recipients using SLFRF funds under this pathway are not required to contribute cost-sharing or matching funds alongside those SLFRF funds.
- Recipients using SLFRF funds under this pathway may not be required to include the project in local planning documents, such as Statewide Transportation Improvement Program (STIP) or Transportation Improvement Program (TIP).
- Projects that meet the streamlined criteria for this pathway are not subject to Buy America requirements; however, projects that do not meet these criteria are subject to Buy America requirements.

3. Pathway Three, Non-Federal Share Requirements for Certain Surface Transportation Requirements:

- Use of SLFRF funds to repay a TIFIA loan or to satisfy a non-Federal share requirement for projects under four Surface Transportation programs:
 - INFRA Grants,
 - Fixed Guideway Capital Investment Grants,
 - Mega Grants,
 - Projects eligible for credit assistance under the TIFIA program, or to repay a loan provided under the TIFIA program.
- Recipients should consult with DOT before pursuing this pathway.
- Recipients may use SLFRF funds for projects that have, or will by the obligation deadline, receive funding from DOT under one of the above programs.
- Cost-share requirements of titles 23, 40, and 49 of the U.S. Code still apply to the use of SLFRF for Surface Transportation projects. However, **under this pathway, SLFRF funds may be used to satisfy the non-Federal share requirements for projects eligible under one of the programs listed above, and DOT will not treat the SLFRF funds as Federal funds for this limited purpose and will credit SLFRF toward applicable cost-share or non-Federal match requirements.**

III. Title I of the Housing and Community Development Act of 1974 (Title I Projects), (2023 Interim Rule, p. 65011-65020)

- Federal assistance programs focused on community development are consolidated into a flexible block of funds distributed through a formula allocation known as the Community Development Block Grant (CDBG) administered by the U.S. Department of Housing and Urban Development (HUD).
- Annual allocations through the CDBG program are based on population and a variety of other measures including poverty, age of housing, and housing overcrowding.
- The 2023 Interim Rule expands the eligible use categories for SLFRF established in the 2022 Final Rule. Existing eligible use categories of SLFRF under the public health and negative economic impacts include the following:
 1. Homeownership assistance;
 2. Investing in affordable housing preservation and repairs, and;
 3. Rehabilitation or demolition of blighted or abandoned properties.

- Recipients may only use the greater of 30% of their ward and \$10 million for Surface Transportation projects and Title I projects, taken together.
- SLFRF funds may only be used to **supplement, and not supplant**, other Federal, state, territorial, Tribal and local government funds otherwise available for such uses.
 1. “Other...funds” refers to:
 - For non-Federal funds, these are non-SLFRF funds that have been obligated for specific uses that are eligible under the Title I eligible use category;
 - Where obligation is defined as “an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.”
 - For Federal funds, these are funds that a Federal agency has committed to a particular project pursuant to an award agreement or otherwise.
- Recipients may not de-obligate funds and use previously obligated funds with SLFRF funds under this eligible use category.
- Recipients may not use SLFRF to replace Federal or non-Federal funds identified in a Federal commitment, such as in an award agreement.
 1. This does not apply to HUD funds provided to a CDBG grantee for activities included in its annual action plan, since the purpose of the annual action plan is to allow grantees flexibility to amend and adjust planned spending throughout the year.
- Recipients may use SLFRF to provide additional funding to a project, like to fund additional activities, expand project scope, or undertake a project for which funds have not been previously obligated or identified in a Federal commitment, such as an award agreement.
- Since CDBG grantees cannot have more than 1.5 times their annual allocation sitting in their line of credit at Treasury, SLFRF recipients that are also CDBG grantees are encouraged to spend their funds in accordance with this.
- Recipients may use SLFRF funds for any activities listed in section 105(a) of the HCDA (42 U.S. Code 5305(a):
 1. Acquisition of certain real property for a public purpose, subject to certain limitations;
 2. Disposition of certain property, subject to certain limitations and rules;
 3. Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, clearance and remediation activities;
 4. Public services, subject to limitations;
 5. Interim assistance where immediate action is required for certain activities such as street repair, and costs to complete an urban renewal project under Title I;
 6. Relocation payments for relocated families, businesses, nonprofit organizations, and farm operations, under certain conditions;
 7. Payments to housing owners for loss of certain rental income;
 8. Certain housing services;
 9. Acquisition, construction, reconstructions, rehabilitation, or installation of privately owned utilities;
 10. Rehabilitation and reconstruction of housing, conversion of structures to housing, or construction of certain housing;

11. Homeownership assistance;
12. Technical assistance to entities to increase capacity to carry out CDBG-eligible projects;
13. Assistance to certain institutions of higher education to carry out eligible activities;
14. Administration activities including general management, oversight, and coordination costs, fair housing activities, indirect costs, and submission of applications for Federal programs;
15. Planning activities including the development of plans and studies, policy planning, and management and capacity building activities; and
16. Satisfying the non-Federal share requirements of a Federal financial assistance program in support of activities that would be eligible under the CDBG and ICDBG programs.

Additional Resources

Guidance related to SLFRF is available here: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>. This webpage includes links to:

- [2023 Interim Rule](#)
- [Overview of 2023 Interim Rule](#)

Treasury hosted a webinar about the 2023 Interim Rule, which is available on YouTube here: <https://www.youtube.com/watch?v=lwDH6yOq4X8>