

# **American Rescue Plan Act State & Local Fiscal Recovery Funds**

## **Eligibility Overview**

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**HORNE.COM**

# **American Rescue Plan Act (ARPA)**

**On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 (“ARPA”). The ARPA provides an estimated \$1.9 trillion in stimulus to aid in the COVID-19 pandemic.**

# **Coronavirus State and Local Fiscal Recovery Funds (CSLFRF or SLFRF)**

**The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program, a part of the American Rescue Plan, delivers \$350 billion to state, local, and Tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency.**

# Treasury's SLFRF Final Rule Overview



**Public Health**



**Negative Economic Impacts**



**Public Health – Negative Economic Impact: Public Sector Capacity**



**Premium Pay**



**Water & Sewer Infrastructure**



**Broadband Infrastructure**



**Lost Revenue**



**Capital Expenditures**



**Ineligible Expenditures**

# U.S. Treasury Final Rule Overview



# Final Rule: Overview



## **Recipients may use SLFRF funds to:**

- Replace lost public sector revenue, using this funding to provide government services up to the amount of revenue loss due to the pandemic.
- 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.

# Final Rule: Overview (Continued)



## **Recipients may use SLFRF funds to:**

- 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.
- 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.

# Final Rule: Overview



## **General Eligibility Test:**

- Identify a negative public health or economic impact or harmful consequence of the economic disruption resulting from or exacerbated by the COVID-19 public health emergency;
- The intended program, service, or other intervention would address and specifically responds to the harmful consequences.



# Final Rule: Overview



## Analysis

### STEP 1

- Can identify impact to a specific household, business or nonprofit or to a class of households, businesses, or nonprofits (i.e., group)
- Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class

### STEP 2

- Types of responses can include a program, service, or capital expenditure
- Response should be related and reasonably proportional to the harm
- Response should also be reasonably designed to benefit impacted individual or class

# Final Rule: Overview



## Simplifying Presumptions

### STEP 1

- Final Rule presumes certain populations and classes are impacted and disproportionately impacted

### STEP 2

- Final Rule provides non-exhaustive list of enumerated eligible uses that respond to pandemic impacts and disproportionate impacts

# U.S. Treasury Final Rule:

Responding to the  
Public Health  
Emergency



# Public Health – COVID Mitigation & Prevention



**Here are a few of the ways recipients may use these funds to support their COVID-19 public health response:**

- Vaccination programs, including vaccine incentives and vaccine sites
- Testing programs, equipment and sites
- Monitoring, contact tracing & public health surveillance (e.g., monitoring for variants)
- Public communication efforts
- COVID-19 prevention and treatment equipment, such as ventilators and ambulances
- Public telemedicine capabilities for COVID-19 related Treatment

# Public Health – Medical Expenses



**Funds may be used for expenses to households, medical providers, or others that incurred medical costs due to the pandemic, including:**

- Unreimbursed expenses for medical care for COVID-19 testing or treatment
- Paid family and medical leave for public employees to enable compliance with COVID-19 public health precautions
- Emergency medical response expenses
- Treatment of long-term symptoms or effects of COVID-19

# Public Health – Behavioral/Mental Health Services



**Behavioral health care, such as mental health treatment, substance use treatment, and other behavioral health services. Treasury recognizes that the pandemic has broadly impacted Americans' behavioral health and recipients can provide these services to the general public to respond. Enumerated eligible uses include:**

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- ✓ Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs, outreach to individuals not yet engaged in treatment, harm reduction & long-term recovery support
- ✓ Enhanced behavioral health services in schools
- ✓ Services for pregnant women or infants born with neonatal abstinence syndrome
- ✓ Support for equitable access to reduce disparities in access to high-quality treatment
- ✓ Peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services
- ✓ Expansion of access to evidence-based services for opioid use disorder prevention treatment, harm reduction, and recovery



**Recognizing that violence – and especially gun violence –has increased in some communities due to the pandemic, recipients may use funds to respond in these communities through:**

- Referrals to trauma recovery services for victims of crime
- Community violence intervention programs
- Enforcement efforts to reduce gun violence

# U.S. Treasury Final Rule:

Responding to Negative  
Economic Impacts





# Economic Impact– Assistance to Households



**Assistance to households or populations facing negative economic impacts due to COVID–19 is an eligible use. There are populations considered Impacted and populations considered Disproportionately Impacted by the pandemic.**

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- ✓ Low-or-moderate households or communities
- ✓ Households that experienced unemployment
- ✓ Households that experienced increased food or housing insecurity
- ✓ Households that qualify for the Children’s Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, or Medicaid
- ✓ When providing affordable housing programs: households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
- ✓ When providing services to address lost instructional time in K-12 schools; any student that lost access to in-person instruction for a significant period of time

# Economic Impact– Assistance to Households



**Treasury, in the Final Rule, includes the following uses of funds to impacted households:**

- Food Assistance
- Emergency Housing Assistance
- Assistance to unemployed/underemployed individuals
- Health Insurance coverage expansion and paid sick and family leave
- Financial services for unbanked and underbanked
- Affordable housing development and permanent supportive housing
- Childcare, early learning, and addressing learning loss for K-12 students
- Improvements to vacant and abandoned property

# Economic Impact– Assistance to Households



**Who are considered Disproportionately impacted households? Treasury presumes the following households and communities are disproportionately impacted by the pandemic:**

- Low-income households and communities
- Households residing in Qualified Census Tracts
- Households that qualify for certain federal benefits
- Households receiving services provided by Tribal governments
- Households residing in the U.S. territories or receiving services from these governments

# Economic Impact– Assistance to Households



## **Treasury, in the Final Rule, includes the following uses of funds to disproportionately impacted households:**

- Pay for community health workers to help households access health & social services
- Remediation of lead paint or other lead hazards
- Primary care clinics and other facilities/investments to address health disparities
- Housing vouchers
- Investments in neighborhoods to improve health outcomes
- Improvements to vacant properties
- Services to address education disparities
- Schools and other educational equipment and facilities
- Responses available to respond to “impacted” households and communities

# Economic Impact– Assistance to Small Businesses



**Final Rule includes the following criteria to assess which small businesses were impacted:**

- Increased costs
- Decreased revenue or Gross receipts
- Challenges covering payroll, rent or mortgage, and other operating costs
- Financial insecurity
- Capacity to weather financial hardship

# Economic Impact– Assistance to Small Businesses



## Eligible uses for Small Businesses include:

- Loans or grants to mitigate financial hardship, such as supporting payroll, and benefits, costs to retain employees and other operating costs
- Technical assistance, counseling or other services to support business planning





# Economic Impact– Assistance to Small Businesses



**Final Rule includes the following criteria to assess which small businesses were disproportionately impacted:**

- Small businesses operating in Qualified Census Tracts
- Small businesses operated by Tribal Governments or on Tribal lands
- Small business operating in the U.S. territories



# Economic Impact– Assistance to Small Businesses



## **Eligible uses for disproportionately impacted small businesses include:**

- Rehabilitation of commercial properties, storefront and façade improvements
- Technical assistance, business incubators and grants for start-up or expansions
- Support for microbusinesses (e.g., childcare, transportation)





# Economic Impact– Assistance to Nonprofits



## **To assess which nonprofits were impacted, recipients may consider:**

- Increased costs (e.g., uncompensated increases in service need)
- Decreased revenue
- Financial insecurity
- Capacity to weather financial hardship
- Challenges covering payroll, rent or mortgage, or other operating costs



# Economic Impact– Assistance to Nonprofits



## **Eligible assistance to impacted nonprofits includes:**

- Loans or grants to mitigate financial hardship
- Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic



# Economic Impact– Assistance to Nonprofits



**To assess which non-profits were disproportionately impacted, recipients may consider:**

- Non-profits operating in Qualified Census Tracts
- Non-profits operated by Tribal Governments or on Tribal lands
- Non-profits operating in the U.S. territories
- Recipients may identify appropriate responses that are related and reasonably proportional to addressing these disproportionate impacts

# Economic Impact– Aid to Impacted Industries



- | Recipients may use SLFRF funding to provide aid to industries impacted by the COVID-19 pandemic.
- | Designating an impacted industry. There are two main ways an industry can be designated as “impacted.”
- | If the industry is in the tourism, travel or hospitality sectors (including Tribal development districts), the industry is impacted.

# Economic Impact– Aid to Impacted Industries



**Criteria to determine if an industry other than tourism, travel, and hospitality was impacted by the pandemic, including:**

- Experienced at least an 8 percent employment loss from pre-pandemic levels, **or**
- Is experiencing comparable or worse economic impacts as the national travel, tourism, and hospitality sectors as of the date of the Final Rule and the impacts resulted from the COVID-19 public health emergency

# Economic Impact– Aid to Impacted Industries



**Treasury recognizes the enumerated projects below as eligible responses to impacted industries:**

- Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
- Technical assistance, counseling, or other services to support business planning
- COVID-19 mitigation and infection prevention measures (see section Public Health)



# **U.S. Treasury Final Rule:**

**Public Health – Negative  
Economic Impact: Public  
Sector Capacity**



# Economic Impact– Public Sector Capacity



**There are three main categories of eligible uses to bolster public sector capacity and workforce:**

- Public Safety, Public Health, and Human Services Staff
- Government Employment and Rehiring Public Sector Staff
- Effective Service Delivery





# Economic Impact– Public Sector Capacity

## Public Safety, Public Health, & Human Services Staff

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- Funding can be used for 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.
- Recipients can use a variety of methods to assess the share of an employees' time spent responding to COVID-19, including using reasonable estimates—such as estimating the share of time based on discussions with staff and applying that share to all employees in that position.
- SLFRF funding may be used for payroll and covered benefits for the portion of the employees' time spent on COVID-19 response, as calculated above, through the period of performance.

## Government Employment & Rehiring Public Sector Staff

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### 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,
- Paying for ancillary administrative costs related to hiring, support, and retention.

## Effective Service Delivery

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**SLFRF funding may be used to improve the efficacy of public health and economic programs through tools like program evaluation, data, and outreach including:**

- Program evaluation and evidence resources
- Data analysis resources to gather, assess, share, and use data
- Technology infrastructure to improve access to and the user experience of government IT systems, as well as technology improvements to increase public access and delivery of government programs and services
- Community outreach and engagement activities
- Capacity building resources to support using data and evidence, including hiring staff, consultants, or technical assistance support



## Effective Service Delivery

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### **Addressing administrative needs caused or exacerbated by the pandemic, including:**

- Administrative costs for programs responding to the public health emergency and its economic impacts, including non-SLFRF and non-federally funded programs
- Address administrative needs caused or exacerbated by the pandemic, including addressing backlogs caused by shutdowns, increased repair or maintenance needs, and technology infrastructure to adapt government operations to the pandemic (e.g., video-conferencing software, data and case management systems)

# U.S. Treasury Final Rule: Premium Pay



# Premium Pay



- The Coronavirus State and Local Fiscal Recovery Funds may be used to provide premium pay to eligible workers performing essential work during the pandemic.
- 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



**Recipients should undergo the following steps to provide premium pay to eligible workers:**

- Identify an “eligible” worker. Eligible workers include workers “needed to maintain continuity of operations of essential critical infrastructure sectors.”
- Verify that the eligible worker performs “essential work,”
- Confirm that the premium pay “responds to” workers performing essential work during the COVID-19 public health emergency.



# Premium Pay



**Identify an “eligible” worker. Eligible workers include workers “needed to maintain continuity of operations of essential critical infrastructure sectors.”**

**These sectors and occupations are eligible:**

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- ✓ Health care
  - ✓ Emergency response
  - ✓ Sanitation, disinfection & cleaning
  - ✓ Maintenance
  - ✓ Grocery stores, restaurants, food production, and food delivery
  - ✓ Pharmacy
  - ✓ Biomedical research
  - ✓ Behavioral health
  - ✓ Medical testing and diagnostics
  - ✓ Home and community-based health care or assistance with activities of daily living
  - ✓ Family or child-care
  - ✓ Social services
  - ✓ Public health
  - ✓ Mortuary
  - ✓ Critical clinical research, development, and testing necessary for COVID-19 response
  - ✓ Critical clinical research, development, and testing necessary for COVID-19 response
  - ✓ State, local, or Tribal government workforce
  - ✓ Workers providing vital services to Tribes
  - ✓ Educational, school nutrition, and other work required to operate a school facility
  - ✓ Laundry
  - ✓ Elections and more



# Premium Pay



**Verify that the eligible worker performs “essential work.” Meaning work that is not performed while teleworking from a residence and involves either:**

- Regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or
- Regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work.

# Premium Pay



**Confirm that the premium pay “responds to” workers performing essential work during the COVID-19 public health emergency. Under the final rule, recipients may meet this requirement in one of three ways:**

- Eligible worker receiving premium pay is earning (with the premium included) at or below 150 percent of their residing state or county’s average annual wage for all occupations, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, whichever is higher, on an annual basis; **or**
- Eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions; **or**
- If a worker does not meet either of the above requirements, the recipient must submit written justification to Treasury detailing how the premium pay is otherwise responsive to workers performing essential work during the public health emergency.

# U.S. Treasury Final Rule:

## Water & Sewer Infrastructure



# Water & Sewer Infrastructure – Eligible Uses



**The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in water and sewer infrastructure. Recipients may undertake projects eligible under:**

- EPA's Clean Water State Revolving Fund (CWSRF)
- EPA's Drinking Water State Revolving Fund (DWSRF)
- Lead remediation projects eligible under EPA's Water Infrastructure Improvements for the Nation Act (WIIN)



# Water & Sewer Infrastructure – Eligible Uses



**Final Rule expands the list of eligible water and sewer infrastructure projects to include a broader set of project types if they are found to be “necessary” according to the definition provided, examples consist of:**

- Certain dam and reservoir rehabilitation projects
- Private/residential well projects
- Additional stormwater infrastructure including culvert repair, resizing, and removing

# Water & Sewer Infrastructure – Eligible Uses



## A “necessary” investment in infrastructure must be:

1. Responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise,
2. A cost-effective means for meeting that need, considering available alternatives, **and**
3. For investments in infrastructure that supply drinking water in order to meet projected population growth, projected to be sustainable over its estimated useful life.

# Water & Sewer Infrastructure – Eligible Uses



Treasury will require that recipients engage in a cost-effectiveness analysis when engaging in projects for the creation of:

- New drinking water systems
- Dam and reservoir rehabilitation projects
- Projects for the extension of drinking water service to meet population growth needs

Other types of eligible water and sewer projects will not be subject to the cost-effectiveness test, including lead line replacement and lead remediation.



# **U.S. Treasury Final Rule: Broadband Infrastructure**



# Broadband Infrastructure



The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in broadband infrastructure.

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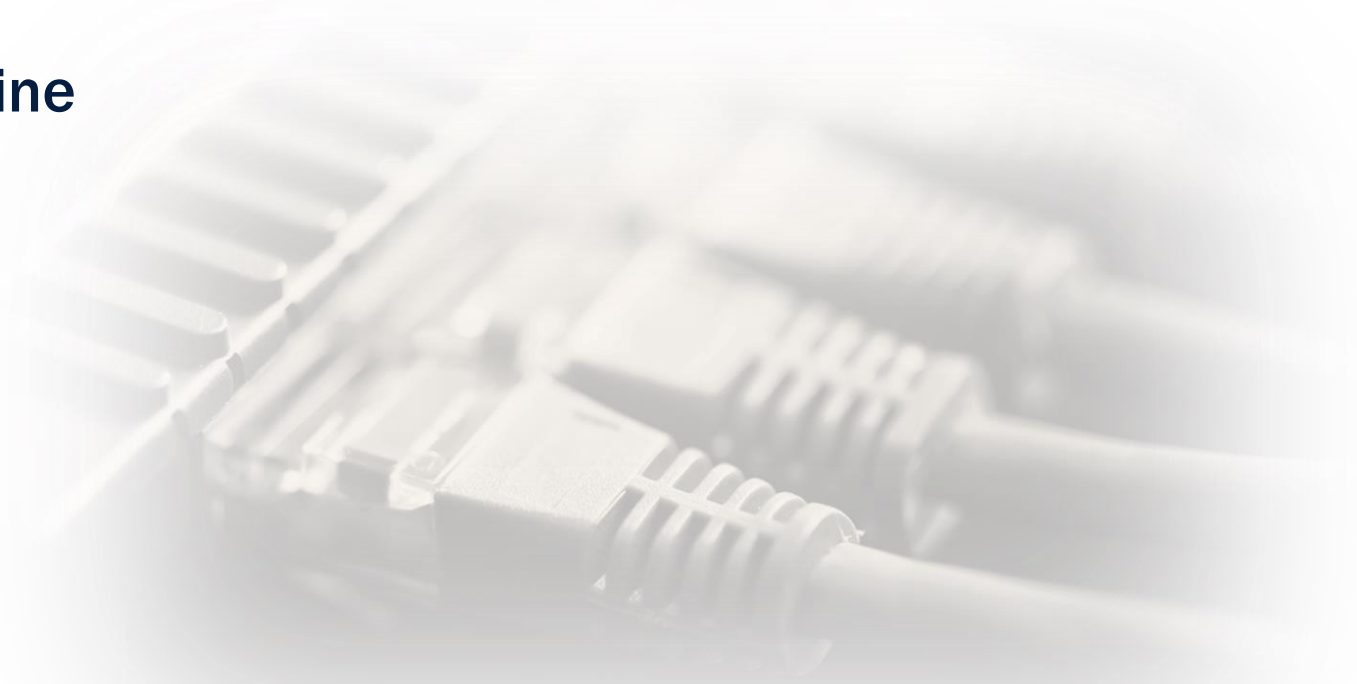
Recipients are encouraged to prioritize projects that are designed to serve locations without access to reliable broadband service.

# Broadband Infrastructure



Recipients have broad flexibility to define need in their community:

- Lack of access to a reliable high-speed broadband connection
- Lack of affordable broadband
- Lack of reliable service



# Broadband Infrastructure



**Must meet upload and download speed requirements outlined in the Final Rule:**

- 100 Mbps download and upload speeds
- If not practicable, then must meet 100 Mbps download and 20 Mbps upload speeds and be scalable to 100 Mbps download and upload speeds

Recipients may also invest in cybersecurity for broadband infrastructure regardless of service delivery standards



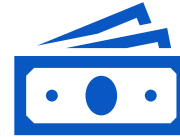
## Additional Requirement Under Final Rule

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**Providers must meet one of the following requirements:**

- Participate in the FCC's Affordable Connectivity Program (ACP) or;
- Provide access to a broad-based affordability program to low-income consumers that provides benefits commensurate to ACP.

# Broadband Infrastructure



Treasury encourages broadband services to also include at least one low-cost option offered without data usage caps at speeds sufficient for a household with multiple users to simultaneously telework and engage in remote learning.



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Recipients are also encouraged to consult with the community on affordability needs.

# U.S. Treasury Final Rule: Lost Revenue





# Lost Revenue



## Determine revenue loss, using one of two available options:

- Elect “standard allowance” of up to \$10 million to spend on government services through the life of the program, which greatly simplifies the program for small localities; **or**
- Calculate actual revenue loss according to Treasury formula.

# Lost Revenue



**Government services generally include any service traditionally provided by a government such as:**

- Construction of schools and hospitals
- Road building and maintenance
- Health and other services
- Environmental remediation
- Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)
- Water and sewer infrastructure

# U.S. Treasury Final Rule: Capital Expenditures



# Capital Expenditures



If a project has total capital expenditures of	And the use is enumerated by Treasury as eligible, then	And the use is beyond those enumerated by Treasury as eligible, then
Less than \$1 Million	No Written Justification required	No Written Justification required
Greater than or equal to \$1 million, but less than \$10 million	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury	Written Justification required and recipients must submit as part of regular reporting to Treasury
\$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury	

# Capital Expenditures



**Treasury requires a Written Justification (WJ) of capital expenditures greater than or equal to \$1 million and requires them as a part of regular reporting if \$10 million or more.**

- WJ requires recipients to explain why a capital expenditure is appropriate and why the proposed capital expenditure is superior to alternatives
- Depending on project size, recipients may be required to submit WJ with reporting; no pre-approval

# Capital Expenditures



## **Examples of ELIGIBLE capital expenditures:**

- Testing labs and equipment
- Emergency operations center and equipment
- Affordable housing
- Childcare facilities
- Schools for disproportionately impacted communities
- Primary care health clinics and hospitals for disproportionately impacted communities

## **Examples of INELIGIBLE capital expenditures:**

- Construction of new correctional facilities due to an increase in rate of crime
- Construction of new congregate facilities to decrease spread of COVID in facility
- Construction of convention centers, stadiums, or other large capital projects for general economic development or aid to impacted industries

# U.S. Treasury Final Rule: Ineligible Expenditures





# SLFRF Restrictions



## **Restrictions under ARPA:**

- Deposits into pension funds
- Debt service and replenishing reserves
- Settlements and judgments



# SLFRF Restrictions



## General restrictions:

- SLFRF funds may not be used for a project that conflicts with or contravenes the purpose of the American Rescue Plan Act statute and may not be used in violation of the Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance
- Other applicable laws and regulations, outside of SLFRF program requirements, may also apply (e.g., laws around procurement, contracting, conflicts-of-interest, environmental standards, or civil rights)

CLICK OR SCAN TO VIEW

## 1 Treasury's Website for State & Local Fiscal Recovery Funds

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

## 2 Treasury's Final Rule

<https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf>

## 3 Treasury's Final Rule Overview

<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Overview.pdf>

## 4 Final Rule FAQs

<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf>

## 5 Treasury's Compliance & Reporting Guidance

<https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf/>

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