National Council of Nonprofits

Champions for the public good

State and Local Fiscal Recovery Funds

Frequently Asked Questions from Nonprofits

March 2024

Background

The $1.9 trillion American Rescue Plan Act included $350 billion for the State and Local Fiscal Recovery Funds (SLFRF) that have been distributed to state, territorial, metropolitan city, county, Tribal governments, and non-entitlement units. Under rules from the Treasury Department governments can use these funds to partner with 501(c)(3) charitable nonprofits in two ways: (1) give direct assistance to nonprofits as *beneficiaries* trying to recover from the COVID-19 pandemic's impact, and (2) hire nonprofits as *providers* of services to others on behalf of governments.

This nonprofit-specific FAQ on SLFRF refers to the following documents provided by the U.S. Department of the Treasury:

- **Treasury Final Rule**: State and Local Fiscal Recovery Funds Final Rule, U.S. Department of the Treasury, Jan. 27, 2022.
- **Treasury Overview**: State & Local Fiscal Recovery Funds: Overview of the Final Rule, U.S. Department of the Treasury Jan. 6, 2022.
- **Treasury FAQs**: State and Local Fiscal Recovery Funds Final Rule Frequently Asked Questions, U.S. Department of the Treasury, updated Mar. 29, 2024.

Eligibility

1. Are nonprofits eligible for State and Local Fiscal Recovery Funds?
    - YES – in two separate ways. The Final Rule Overview states that "Nonprofits eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "nonprofit" -- specifically those that are 501(c)(3) or 501(c)(19) tax-exempt organizations."(p. 23) Nonprofits are eligible as (1) *beneficiaries* trying to recover from the COVID-19 pandemic's impact, and (2) *providers* of services to others on behalf of governments.

2. What factors are governments considering when identifying nonprofits impacted by the COVID-19 pandemic?

- Governments can consider several factors, including decreased revenue (e.g., from donations and fees), financial insecurity, increased costs (e.g., uncompensated increases in service need), capacity to weather financial hardship, and challenges covering payroll, rent or mortgage, and other operating costs, among others. See Treasury Overview, page 23.

3. What is the difference between being a beneficiary of relief and a subrecipient that provides relief to others?
   - Treasury recognizes that many nonprofits play important roles in their communities, and some may have experienced public health or negative economic impacts during the pandemic. As such, under the interim final rule and the final rule, nonprofits may be impacted by the pandemic and receive assistance as a beneficiary, as described above, and/or be a subrecipient providing services on behalf of a recipient. Treasury Final Rule at page 43.

4. Are nonprofits that were recognized by the IRS after March 2020, and impacted by COVID-19, eligible for SLFRF?
   - **Nonprofits as beneficiaries**: Governments can use SLFRF resources to aid charitable nonprofits that experienced "economic harms" prior to March 3, 2021, "provided that the cost of providing assistance" was not incurred by the state, local, territorial, or Tribal government prior to March 3, 2021. Treasury FAQ at page 35.

     Note: Many governments are also expanding eligibility to include nonprofits that delayed their opening and were recognized by the IRS after March 2020 because of the pandemic.
   - **Nonprofits as providers of services**: If a nonprofit was recognized after March 2020, it can partner with a government to support pandemic recovery efforts since it was providing services on behalf of one of more governments, and governments incurred costs because of the pandemic. Treasury FAQ at page 35.

5. Are nonprofits that received other federal funding, such as the Paycheck Protection Program, the Employee Retention Tax Credit, and Shuttered Venue Grants, eligible?
   - Yes. SLFRF does not put a restriction on nonprofits that previously received other pandemic-related federal funding.

6. Is the SLFRF program subject to the Davis-Bacon Act (governing construction wages)?
   - The updated FAQ from the Department of the Treasury (see page 49) states that the "Davis-Bacon Act requirements (prevailing wage rates) do not apply to projects funded solely with award funds from the SLFRF program, under the public health and

negative economic impacts, revenue loss, water, sewer, and broadband infrastructure, emergency relief from natural disasters eligible use categories," among other projects.

Allowable Uses

1. What are the SLFRF restrictions?
    - The most notable restrictions apply to governments. Governments cannot use SLFRF resources for "debt service and reserve replenishment costs," nor can they be used for "contributions to rainy day funds and similar financial reserves." Also, governments cannot use SLFRF resources for a "program, service, or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID-19." Treasury Final Rule at page 93.

2. What types of projects/programs can the funds cover?
    - There are many pandemic relief and recovery projects and programs for charitable nonprofits and governments to consider when advocating for funds or reviewing proposals. Some successful examples are Nonprofit Relief Funds/Grants, expanding broadband and connectivity access, economic development projects, addressing inequities in communities, expanding access to affordable housing, job retention and workforce development, and nonprofit capacity building. For a more extensive list of examples, see Successful Models of Nonprofit Relief from Around the Country.

3. What costs are recognized as recovery from the COVID-19 pandemic? What proof/records are needed?
    - The Treasury Department considers "decreased revenue (e.g., from donations and fees), financial insecurity, increased costs (e.g., uncompensated increases in service need), capacity to weather financial hardship, and challenges covering payroll, rent or mortgage, and other operating costs" as costs incurred by nonprofits. Treasury Overview at page 23.

4. What happens if a project or program isn't entirely funded by SLFRF?
    - According to Treasury, "If the entirety of a project is funded with SLFRF funds, then the entire project must be an eligible use. The use of funds is subject to the deadline of obligating funds no later than December 31, 2024, and expending funds no later than December 31, 2026…. If a project is partially funded with SLFRF funds, then the relevant portion must be an eligible use of SLFRF funds and the SLFRF funds must be obligated by December 31, 2024 and expended by December 31, 2026." See Treasury FAQ, pages 38-39.

5. Can SLFRF cover capital expenses? Can the funds be used for capital acquisitions?
    - Yes. Governments may use funds for "capital expenditures that support an eligible COVID-19 public health or economic response." Also, "mitigation measures in small businesses, nonprofits, and impacted industries" are eligible uses of capital expenditures. Treasury Final Rule at pages 1, 17.
    - "Expenditures from closely related activities directed toward a common purpose are considered part of the scope of one project. These expenditures can include capital expenditures, as well as expenditures on related programs, services, or other interventions. A project includes expenditures that are interdependent (e.g., acquisition of land, construction of the school on the land, and purchase of school equipment), or are of the same or similar type and would be utilized for a common purpose (e.g., acquisition of a fleet of ambulances that would be used for COVID–19 emergency response)." Treasury Final Rule at page 55.

6. Are funds provided as an award or is the SLFRF program a reimbursement?
    - To reduce administrative burdens, Treasury clarified that governments may determine the "optimal payment structure for the transfer of funds (*e.g.*, advance payments, reimbursement basis, etc.)" and nonprofits that have faced challenges with the government grant and contracting process are encouraged to seek advance payments when possible. Treasury Final Rule at page 98.

7. What is the role of philanthropy in aiding governments in investing and managing funded programs?
    - Foundations can help grantees and communities leverage SLFRF in three meaningful ways: (1) using their own resources ranging from financial support to capacity building, (2) providing their grantmaking expertise to help distribute and administer SLFRF resources, and (3) convene groups of nonprofits and policymakers to identify solutions and help ensure SLFRF resources are promoted and obligated in ways that benefit communities. See more at Roles for Philanthropy.

Accessing Funds

1. Where do we search for funds?
    - **Dashboards**: The Pandemic Oversight dashboard allows users to select their state and see the recipients, amount obligated, and list of projects as of September 30, 2023.
    - **Government ARPA Websites**: Many governments also have a website dedicated to SLFRF with data on how much funding is left.

    - **Trackers**: The National Conference of State Legislatures released an ARPA State Fiscal Recovery Fund Allocations dashboard, and a Local Government ARPA Investment Tracker is updated by the Brookings Institute, National Association of Counties, and National League of Cities.

2. What does the process look like? Is there an RFP? How do we ask for funding when there isn't an RFP?
    - Unlike other federal funding, there is no universal Request for Proposal (RFP) to access SLFRF – nonprofits must create their own template. Using online resources about remaining SLFRF resources, develop a proposal that includes nonprofits' eligibility for SLFRF, your nonprofit's mission, and how a government's partnership with your organization will advance pandemic relief and recovery efforts.

3. Who oversees the funds at the state level? At the local level?
    - SLFRF is a new concept, and many governments have never been responsible for this amount of funding. As a result, the answer will vary by jurisdiction. Some governments have a dedicated ARPA office, others delegated responsibility to their City Manager or finance office, or to local committees tasked with overseeing obligations and expenditures.

4. Who do we contact at the state and local levels? How can nonprofits work with municipal leaders to access SLFRF?
    - Every government is different, and not all of them will have a lead on SLFRF. Nonprofits are encouraged to contact their local finance office, Mayor's office, City Council, or even the central switchboard to ask for the appropriate contact person.

5. Are funds sent to nonprofits directly or through a third party?
    - A SLFRF recipient "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."" (page 5-6) **Note**: Only SLFRF recipients can transfer funds directly to a charitable nonprofit. See Treasury FAQ, page 6.

6. Do these funds have to be paid back?
    - Generally, no. SLFRF is not a loan program. Funds expended for uses related to the underlying grant or agreement are appropriate and would not need to be paid back. However, the deadline to spend all SLFRF funds by December 31, 2026, still applies. Any unspent funds after that date must be returned to Treasury.

Timeline

1. What are the deadlines for obligating and spending funds?
    - Governments must obligate all funds by December 31, 2024, and spend them by December 31, 2026. (SLFRF Final Rule page 19)

2. Does the deadline to obligate funds apply to nonprofits?
    - No. The Department of the Treasury's 2023 Interim Final Rule defines CSLFRF "obligations" and the reference guide makes it clear that the December 31, 2024, deadline to obligate funds only applies to governments. Subrecipients and contractors, which include nonprofits, do not need to take further action.

3. What are the reporting requirements? What kind of accounting and record keeping should be done?
    - Reporting requirements depend on whether your nonprofit is a beneficiary or subrecipient. The SLFRF Final Rule states that "If a nonprofit is providing services on behalf of a government, then the nonprofit is "subject to subrecipient monitoring and reporting requirements. Conversely, if the recipient is providing funds to the individual or entity for the purpose of directly benefitting the individual or entity as a result of experiencing a public health impact or negative economic impact of the pandemic, the individual or entity is acting as a beneficiary. Acting as a beneficiary, the individual or entity is not subject to subrecipient monitoring and reporting requirements." (see page 57)