

Compliance Requirements Under the Revenue Loss Provision

As of May 2024

Recipients of American Rescue Plan Act (ARPA) Coronavirus Local Fiscal Recovery Funds (CLFRF) are generally required to adhere to the [Uniform Guidance](#) as part of their recipient responsibilities. However, there are certain distinctions between projects funded under Expenditure Category 6.1, the Provision of Government Services (sometimes referred to as 'Revenue Loss' or 'Revenue Replacement,' including the Standard Allowance Provision), and all other Expenditure Categories in terms of the elements of [Uniform Guidance](#) which are applicable. With most Maryland Non-Entitlement Units (NEUs) dedicating ARPA CLFRF funds to Expenditure Category 6.1, this document is designed to outline the elements of [Uniform Guidance](#) relevant to such projects.

The following summary provides a high-level overview of the Compliance Requirements Under Revenue Loss. Recipients are still required to follow Subparts A (Acronyms and Definitions), B (General Provisions), C (Pre-Federal Award Requirements and Contents of Federal Awards), and F (Audit Requirements) of the [Uniform Guidance](#) for expenses categorized under Expenditure Category 6 "Revenue Replacement."

Additionally, funds for all Expenditure Categories (including the Provision of Government Services) must be obligated by December 31, 2024, and expended by December 31, 2026 (aside from Surface Transportation and Title I projects, which must be expended by September 30, 2026).

The Standard Allowance Provision

According to the Final Rule released in 2022, the US Department of Treasury (Treasury) presumes that up to \$10 Million in State and Local Fiscal Recovery Funds (SLFRF) may be used to account for lost revenue during the pandemic. Recipients may use up to \$10 million or allocate their full allocations (if at or under \$10 million) to this Expenditure Category for the "Provision of Government Services." This includes any traditional service performed by a government and provides streamlined reporting. The Final Rule details a list of specific (though non-exhaustive) eligible uses that can be included under the Revenue Loss Provision, including:

- » Construction of schools and hospitals;
- » Road building and maintenance, and other infrastructure;
- » Health services;
- » General government administration, staff, and administrative facilities;
- » Environmental remediation; and
- » Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles).

Despite the broad flexibility that the Revenue Loss Provision details, recipients must also adhere to the restrictions of use or ineligible uses section in the guidance for how funds may not be spent.

REQUIREMENT TO FOLLOW ESTABLISHED PRACTICES AND PROCEDURES

In general, recipients of Federal funding should be sure to follow their current practices and procedures in managing their CLFRF in addition to the requirements outlined in the award terms and conditions and the [Uniform Guidance](#).

Under the Revenue Loss Provision, recipients must only adhere to certain aspects of the [Uniform Guidance Subparts D and E](#). These subparts recognize that, “**recipients should not deviate from their established practices and policies regarding the incurrence of costs, and that they should expend and account for the funds in accordance with laws and procedures for expending and accounting for the recipient’s own funds. Recipients’ use of revenue replacement funds remains subject to the other applicable requirements of the SLFRF program, including among other things the deadlines for obligations and expenditures and the application of Federal antidiscrimination requirements.**” ([FAQ 13.15](#)).

INELIGIBLE USES OF FUNDS

The following ineligible uses of SLFRF as stated throughout Treasury Guidance, and therefore cannot be spent under the Revenue Loss Provision:

- » Offset a reduction in net tax revenue due to a change in laws or their interpretation and enforcement (applicable to States and Territories);
- » Make a deposit into a pension fund (applicable to all recipients except Tribes);
- » Service debt or replenish financial reserves (e.g., “rainy day funds”) (**applicable to all recipients**);
- » Satisfy settlements and judgments (**applicable to all recipients**); and
- » Fund programs, services, or capital expenditures that include a term or condition that undermines efforts to stop the spread of COVID-19 (**applicable to all recipients**).

Subpart D Post Federal Award Requirements

200.300 STATUTORY AND NATIONAL POLICY REQUIREMENTS

According to the [Uniform Guidance](#), as the Federal awarding agency, the US Treasury Department must administer and manage CLFRF in accordance with the U.S. Constitution, Federal law. Accordingly, CLFRF recipients must comply with all requirements of the Federal award.

200.302 FINANCIAL MANAGEMENT

Under the Financial Management Provision, federal funds must be spent and accounted for in alignment with State and local government laws and procedures. CLFRF recipients must provide the following information as part of their financial management responsibilities:

- » Recipients must identify all Federal awards received and expended and the Federal programs they received in its accounts.

- » Recipients must provide accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements in sections §§ 200.328 and 200.329.
- » Records that identify adequately the source and application of funds for Federally funded activities.
- » Recipients must establish effective control over, and accountability for, all funds, property, and other assets.
- » Recipients must have a comparison of expenditures with budget amounts for each Federal award.
- » Recipients should maintain written procedures to implement the requirements of section 200.305 - Federal Payment.
- » Recipients should maintain written procedures for determining the allowability of costs in accordance with subpart E (Cost Principles further described below) and the terms and conditions of the Federal award.

200.303 INTERNAL CONTROLS

Internal controls are processes that ensure compliance with applicable laws and regulations, reliability of financial reporting, and the effectiveness and efficiency of an organization's operations. Internal controls must follow the ["Standards for Internal Control in the Federal Government"](#). **Municipalities should also follow their own policies and procedures** for program income, property management, procurement, suspension, and debarment, in addition to:

- » Establishing and maintaining internal controls to ensure that award management complies with Federal statutes, regulations, and terms and conditions.
- » Complying with the U.S. Constitution, Federal statutes, regulations, and terms and conditions.
- » Evaluating and monitoring compliance with statutes, regulations and the award terms and conditions.
- » Taking prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- » Taking reasonable measures to safeguard protected personally identifiable information and other information deemed sensitive by your municipality.

Table from Treasury's [Compliance and Reporting Guidance \(2023\)](#)

| Best Practice | Description | Example |
|--|--|---|
| Written policies and procedures | Formal documentation of recipient policies and procedures. | Documented procedure for determining worker eligibility for premium pay. |
| Written standards of Conduct | Formal statement of mission, values, principles, and professional standards. | Documented code of conduct / ethics for subcontractors. |
| Risk-based due diligence | Pre-payment validations conducted according to an assessed level of risk. | Enhanced eligibility review of subrecipient with imperfect performance history. |

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| Risk-based compliance monitoring | Ongoing validations conducted according to an assessed level of risk. | Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics. |
| Record maintenance and retention | Creation and storage of financial and non-financial records. | Storage of all subrecipient payment information. |

200.328 FINANCIAL REPORTING

This section of the Uniform Guidance maintains that recipients must report their funding in accordance with the award's terms and conditions. NEUs that have received over \$10 million in CLFRF funding must report quarterly, from January 31, 2022, through April 30, 2027.

NEUs that are allocated less than \$10 million in CLFRF funding are required to report annually on the following dates:

| Date | Status |
|----------------|----------|
| April 30, 2022 | Passed |
| April 30, 2023 | Passed |
| April 30, 2024 | Passed |
| April 30, 2025 | Upcoming |
| April 30, 2026 | Upcoming |
| April 30, 2027 | Upcoming |

200.329 MONITORING AND REPORTING PROGRAM PERFORMANCE

Recipients are responsible for the oversight and operations of activities under CLFRF. Monitoring must occur to ensure that funds are spent in a compliant manner and performance expectations are met. Recipients must also report performance data in a way that uses the Office of Management and Budget (OMB) approved common information collections and connect program accomplishments to that of the award's financial data.

200.334 – 200.338 RECORD RETENTION AND ACCESS

According to the [Compliance and Reporting Guidance](#), recipients must maintain records and financial documents for five (5) years after all funds have been expended or returned to Treasury. Treasury may request transfer of records of long-term value at the end of this period. Records should be collected, transmitted, and stored in open and machine-readable formats. The following Record Retention and Access sections of the [Uniform Guidance](#) required under Revenue Loss are listed below.

- » [200.334 Retention requirements for records;](#)
- » [200.335 Requests for transfer of records;](#)
- » [200.336 Methods for collection, transmission, and storage of information;](#)
- » [200.337 Access to records;](#) and
- » [200.338 Restrictions on public access to records.](#)

Subpart E – Cost Principles

Cost Principles require a recipient to determine whether a cost is allocable, necessary, reasonable, and otherwise permitted. It is important to consider if the cost is consistent with internal policies that apply to other activities, such as whether a contract complies with municipality's own procurement policy. As a reminder, municipalities must align their own policy and procedures in addition to the award terms and conditions of CLFRF. Other considerations may include whether the cost is treated consistently with similar items charged for other grants, if the cost is adequately documented, and whether an auditor could follow supporting documentation.

CLFRF recipients must abide by the following portions of Subpart E of the [Uniform Guidance](#) (2 CFR 200):

- » [200.400\(a\) - \(c\), and \(e\) Policy guide;](#)
- » [200.403\(a\), \(c\), \(d\), \(g\), and \(h\) Factors affecting allowability of costs;](#) and
- » [200.404\(e\) Reasonable costs.](#)