



March 18, 2021

Re: Coronavirus State and Local Fiscal Recovery Fund

On behalf of the thousands of state and local finance professionals our groups collectively represent, we offer the following input surrounding anticipated guidance for the Coronavirus State and Local Fiscal Recovery Fund (CSLFRF). We know the implementation of the American Rescue Plan Act (ARPA), which will provide fiscal support to vulnerable communities across the country, will require authoritative guidance to be successful. This is especially true for the \$350 billion provided by the CSLFRF.

As the Department of Treasury will take the lead on implementing the fund, we request establishing core principles to assist recipients of the funds as soon as practical. Our organizations stand as a valuable resource in facilitating and strengthening the intergovernmental partnership as our members are at the forefront of managing these funds. We know that it is in our mutual best interest to create clear interpretations of allowable uses on the front-end and we are grateful that you are seeking input for clarity on implementation.

In that spirit, we offer our assistance to you on the following issues for clarifying guidance to recipients of the CSLFRF from the US Treasury. Please note that our responses are only from the perspective of the state and local governments receiving CSLFRF (referred to throughout as the “recipients”).

What questions do your members have about the permissible uses of the funds?

Covered Period for Eligible Uses: While the legislative text provides a definition for the term “covered period,” relative to states applying premium pay to eligible workers, it would be beneficial to expand this to include examples on the **covered period for other enumerated eligible uses**. Specifically:

- What is the covered period for the negative economic impact following the onset of the COVID-19 pandemic and can it be retroactive?

- Please provide examples of “negative economic impacts” and sample measurements.
- What is the covered period for Premium Pay of local governments and can it be used to recompense retroactively COVID-19 essential workers from 2020?
- Regarding water, sewer and broadband infrastructure, please confirm that the costs must be incurred by December 31, 2024, but may be expended within a reasonable timeframe thereafter.

Measurement of the Reduction in Revenue: To the extent that states and local governments will certify eligibility based on reduction in revenue prior to the pandemic, some clarification on methodology is requested. Many, if not all, jurisdictions had executive recommended budgets with projected revenues one year prior to pre-pandemic levels. We request that recipients calculate the “reduction in revenue” from either 2019 actuals or 2020 projected revenues for future covered years as both would be accurate representations of pre-pandemic expected revenues.

- Please confirm that the covered period for reduction in revenue includes 2020.
- Please confirm that a less than expected revenue growth satisfies the “reduction in revenue” provision.
- Please confirm that each governmental fund’s revenue loss in an enterprise would qualify for certification and that the replacement of those revenues is deemed as used in the enterprise for a governmental service.
- Please confirm that reduction in revenue is evaluated by each individual revenue source, and not in the aggregate across revenue sources.
- Please confirm that the replaced revenues can be used in any other fund of the government.
- Please confirm that replenishment of reserves, including rainy day funds, satisfies the “government services” of the expenditure.
- Please confirm that debt service satisfies a governmental service of the expenditure.
- Please confirm that deposit into the general fund satisfies a governmental service of the expenditure.
- Please confirm matching payments for other federal programs that require matching state funds satisfies the “governmental purpose” of the recipient.

COVID-19 Related Expenses: Many recipients would like to use CSLFRF funds to extend programs currently funded under the CRF. To that extent, a level of consistency between CRF and CSLFRF guidance would be appreciated. Please define eligible costs of response to public health emergencies and negative economic impact in a way that is no more restrictive than definitions provided for the CRF.

Are there specific examples of desired spending that your members have raised?

Acquisition of Long-Term Assets: Long-term investments that could benefit communities are a popular choice for recipients during this time of economic instability. Examples on what would be permissible as a long-term investment would be helpful. For example, can funds be used to purchase a building for a permanent food distribution location?

- Please confirm that recipients can use the funding to make investments in broadband infrastructure that is not owned by the state or another governmental unit.
- Please confirm that funds may be used to complete water, sewer or broadband infrastructure projects already in development.

Public Health and Safety Payroll: Communities still plan to cover payroll with these funds. An extension of the guidance provided under CRF would be especially helpful in this endeavor.

Unemployment: Please confirm that recipients will be able to use proceeds to replenish Federal Unemployment Compensation Funds and state trusts.

What questions do your members have about the restrictions on the use of funds?

Pension Payments: The legislation clearly prohibits funds being used on pensions, however, does not provide enough details on the specificities overlapping with pensions. Examples explaining the eligible use of proceeds being on salaries and not benefit contributions included in salaries will assist recipients in gaining a better understanding on how to proceed in this area.

Reduction in Net Tax Revenue: The legislation appears to intend to prohibit states from using the funds to subsidize broad tax cuts. Many state tax codes are coupled to the federal Internal Revenue Code and therefore may have experienced net reductions as a result of federal actions. Some states would also like to conform the state's tax code to the federal tax code, such as the exemption of the first \$10,200 of unemployment benefits, but now may be precluded from doing so. Furthermore, some states have enacted tax reductions in the form of COVID-19 economic relief to small businesses and individuals. Recipients would benefit from clarity that using proceeds to replace net reductions in tax revenue resulting from either of these scenarios do not constitute an ineligible use of funds. Please also provide examples of authoritative use toward directly or indirectly offsetting the net tax revenue loss or delays the imposition of any tax or tax increase and/or credits.

What concerns do your members have based on their experience deploying funding from the Coronavirus Relief Fund established by the CARES Act?

Incurring and Expended: The ambiguity around those terms in the CARES Act stalled the ability of recipients to spend CRF funds. Please provide clear definitions of these terms to ensure efficient and expeditious spending of the funds.

Single Audit Act Eligibility: Understanding the applicability of the Single Audit Act upon receipt of these funds will assist in the expediency of funds used to the intent of the law. If programs are covered by the Single Audit Act, we need to know if the Treasury will assign a new Assistance Listing Number (formally known as a CFDA number) for each section under subtitle M as soon as possible. Doing so would help in audit planning to determine if there is one more additional major program next year or multiple new major programs.

- SEC. 602. CORONAVIRUS STATE FISCAL RECOVERY FUND.
- SEC. 603. CORONAVIRUS LOCAL FISCAL RECOVERY FUND.
- SEC. 604. CORONAVIRUS CAPITAL PROJECTS FUND
- SEC. 605. LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND.

Additionally, please clarify that cities and counties (especially those that are non-entitlement recipients) are not subrecipients of the state of government and therefore for audit purposes will be reporting directly to the US Treasury in audit instruction.

Subrecipients vs. Beneficiaries: Please define the terms subrecipients and beneficiaries. A similar definition to that of the Coronavirus Relief Fund and clarification of the documentation that will be required in both categories.

GrantSolutions: GrantSolutions was the technology deployed for the CARES Act in terms of technical audit. If this program were to be used for CSLFRF, we would request immediate bulk uploading capability for all recipients in order to facilitate transfer of information without the inherent risk of hand-keying errors. Additionally, please confirm multiple access accounts for a single entity as different people will be entering information for each fund.

Multiple iterations of guidance and information distribution: The greatest challenge¹ of prime and sub-recipients of the CRF was keeping up with the nine iterations of guidance, FAQs and audit specifications of the US Treasury. We respectfully request that Treasury consider taking time to adequately prepare and issue comprehensive guidance. We understand additional guidance may

¹ Please see GFOA publication “[CARES ACT Coronavirus Relief Fund: The Prime Recipient Perspective](#)” which indicated the prevalence of uncertainty in guidance and FAQs delayed the spending of funds, particularly over categories that needed clarification. Respondents stated that they avoided proceeding with their own interpretation to prevent any potential disagreement with future updated guidance.

be needed and also ask that future iterations of guidance be additive and not contradict previous guidance. We would be happy to assist in the review of guidance prior to publication.

- Please confirm that the guidance and FAQs put forth by the United States Department of Treasury will be authoritative in that recipients will be able to reasonably rely on the pronouncements.

What concerns or questions do your members have about the timing of distributions?

Certification Process: Recipients are eager to begin the certification process but have questions about what it will look like. Please provide clarity on timing, required actions, documentation, and other details of the certification process.

Ensure Coverage/Disbursement to States and Locals is Met: We offer our assistance in helping the Treasury ensure there is no duplicity of eligible entities and that all unlisted incorporated entities are covered, specifically in the case of independent cities and other definitions of incorporation under each state. We would encourage transparency in sourced references to the CEBG program as well as the US Census data used.

Deployment of Funds to “Non-Metro” Communities: As states will be required to determine eligibility for non-entitlement jurisdictions, we request clarity on the measurement of distribution to localities “not to exceed 75% of budget.” Specifically, states and localities would ask that you please define “budget” for local governments. Many states do not have visibility into their local government’s budgets, therefore States need to begin planning as soon as possible to accommodate efficient distribution.

Management and Investment Guidance: Recipients would appreciate authoritative guidance surrounding the management of proceeds prior to the receipt of such. Recipients would also benefit from guidance that is largely consistent with the management guidance provided under the CRF. Please confirm recipients will be provided with the flexibility to:

- Store the funds in an interest-bearing account, including a general fund, Money Market Mutual Fund (MMMF), a Local Government Investment Pool (LGIP), or other high-quality liquid money market investments and transactions;
- Comingle the funds in order to be consistent with state and local investment policies;
- Treat the earned interest on proceeds as unrestricted funds separate from the CSLFRF restrictions.

Collateralization: Most recipients are required to have their bank deposits collateralized under state laws, regulations or constitutions. Short notice on the receipt of large sums of funds would

(and in fact did during the distribution of CRF proceeds) cause many challenges for recipients. These requirements further underscore the urgent need for timely guidance and advance notice to recipients prior to the transfer of funds. Furthermore, the Federal Reserve provides cutoff times for wire transfers during business days. Funds should be transferred at a time well in advance of these cutoffs to provide recipients with the ability to properly manage funds.

CMIA: Please confirm that the CSLFRF are not governed by the Treasury-State Cash Management Improvement Act (CMIA) agreement for the state.

Do you have suggestions as to how you would like to receive information about the funds?

Website Management: Regular communication via the US Treasury website is a concept familiar to many CRF recipients. Now that the universe of direct recipients has greatly expanded, we would request significant upkeep of the information on the website, including archiving legacy information (i.e. past iterations of guidance) and highlighted/tracked new information.

Online Clearinghouse: While email communication is appreciated, it does not allow for widespread distribution of information. Email is used when individual recipients ask questions distinctive to their own jurisdictions and are often responded to individually. We suggest an online portal where recipients can ask questions and responses are published so that all recipients can search to see if a similar situation has already received a response. This way individual outreach could serve as information to all recipients.

Email Distribution Sign-Up: Additionally, we would recommend a way for jurisdictions to request changes/additions to Treasury email list in the event that there has been a human resource change within the organization and management of the funds changes hands. It is especially important not to assume that the executive that certifies the funds will be the user of the information or the system. There may be several people involved in the grant management on a state or local implementation team. We also request that to enhance communication efforts, Treasury allow for an expanded resource team (not only the prime recipient contact) to “opt-in” to receiving notification of new guidance.

What information do your members need in order to spend the resources most effectively?

Investment in Capital Infrastructure: As a major eligible spend category, states and local governments would prefer to know if there are other federal requirements that would apply to the project.

Projects Already in Progress: Additionally, states and local governments request the ability to use the funds on qualified capital projects already under construction or development.

What can U.S. Treasury do to be most helpful to recipients throughout implementation?

Appointment of Federal Liaison by State: It would be beneficial to assign a federal liaison to each state with the authority to answer questions and provide guidance to recipients. This would allow the recipient and the federal liaison to have discussions; however, upon request by the recipient, the liaison must be able to provide authoritative guidance in writing so that the recipient can share the information with their auditors and other interested parties to ensure everyone has the same understanding of the situation. A dedicated liaison would be able to become familiar with the unique organization and laws of the State that may present implementation challenges, and provide a continuity of responses.

What other aspects of the program or statute will your members most need additional clarity around?

Request for Clearinghouse of ARPA Information: Jurisdictions have multiple opportunities for grants receivable through ARPA. Many would greatly appreciate a repository for information on possible grant relief for which they are eligible.

Thank you for the opportunity to provide input from our collective memberships. We look forward to discussing these suggestions with you and to working with you on this and other matters of mutual interest.

Sincerely,

Emily Swenson Brock, Government Finance Officers Association
Cornelia Chebinou, National Association of State Auditors Comptrollers and Treasurers
Shelby Kerns, National Association of State Budget Officers
Brian Egan, National Association of State Treasurers