



# Town of Southborough ARPA Overview

Sources:

SLFRF-FINAL-RULE-Full Text

SLFRF-FINAL-RULE- Overview

ARPA Committee Charge FINAL 211116



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# Document Purpose

- This is a consolidated document from the three sources of information:
  - Source #1: 437-page document titled, “SLFRF-Final-Rule- Full Text.pdf” produced by the Treasury as the Final Ruling of the SLFRF funding guidelines
  - Source #2: 44-page document titled, “SLFRF-Final-Rule-Overview.pdf” produced as a summary of the final rule and provides a framework for local towns to evaluate potential uses of funds
  - Source #3: 1-page ARPA Committee Charge FINAL 211116 emailed to committee members on January 14, 2022 by Katie Barry, Town of Southborough
- This also provides the overview of the Southborough ARPA Committee composition and charter
- This is not intended to replace either source document but to provide a high level overview for the Southborough ARPA Committee
- Additional sources were shared with the committee but were not included in this overview, including:
  - Southborough State ARPA Funds, emailed on January 12<sup>th</sup> from Melanie Otsuka, provides a communication from Capital Strategi Solutions indicating potential applicability of ARPA funding
  - <https://www.mass.gov/guides/american-rescue-plan-act-arpa-resources#-office-of-the-inspector-general-resources->
  - <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>
- This was compiled by Marnie Hoolahan, Planning Board member through 1-24-2022, who subsequently needed to step away as a volunteer committee member representing the Planning Board

# Southborough ARPA Committee: Composition and Organization

- **Membership: The Committee shall consist of 7 members, comprised as follows:**
  - One (1) member of the Advisory Committee;
  - One (1) member of the Planning Board;
  - Two (2) members of the Capital Planning Committee;
  - One (1) member of the Economic Development Committee;
  - Two (2) Southborough residents who are not currently members of an appointed or elected Town board or committee.
  - Members will be appointed by the Select Board at a duly posted public meeting following the advertisement for interest in serving on the committee.
- **Term and Organization**
  - The term of office shall be for one (1) year;
  - The Committee shall report to the Select Board as required;
  - The Committee shall elect its own Chair, Vice-Chair, and Secretary, and shall establish a regular meeting schedule. All records of the Committee shall be filed with the Town Clerk and open to public inspection in accordance with applicable Open Meeting Law and Public Record statutes;
  - The Committee shall operate in accordance with the State Conflict of Interest Laws;
  - Members shall serve without financial compensation

# Southborough ARPA Committee: Charter

- **Duties:**

- **The Committee shall provide recommendations to the Select Board on the expenditure of approximately \$3,051,241 in ARPA (American Rescue Plan Act of 2021) funding;**
- The Committee shall solicit input from Town departments, boards, committees, and commissions;
- The Committee shall solicit input from the Southborough community, through means including but not limited to surveys and public forums;
- The Committee shall develop an evaluation tool to rank proposals for funding, taking into account the benefit of the requested improvement to Town operations and/or the community as a whole;
- The Committee shall develop a report to present to the Select Board that will include a list of all proposals submitted for consideration, in addition to those recommended for funding;
- The Committee recommendation will be presented to the Select Board at a regularly scheduled meeting not later than **May 16, 2022** and be prepared to discuss their process and findings at that time.
- **Recommendations that impact FY23 funding for Annual Town Meeting articles should be made no later than March 1, 2022.**

# Southborough ARPA Committee Membership

- John Wood
- Tony Schoener
- Joseph Palmer
- Tim Martel
- Marnie Hoolahan (Planning Board- withdrew on 1-24-22)
- Meme Luttrell (Planning Board replacement effective 1-24-22)
- Andrea Hamilton, resident
- Anne Rubenstein, resident

# Overview of the FINAL Ruling for Implementing the SLFRF

- In March 2021, as these crises continued, the **American Rescue Plan Act of 2021 (ARPA)**<sup>1</sup> **established the Coronavirus State and Local Fiscal Recovery Funds (SLFRF)** to provide state, local, and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery
- Treasury issued the final rule which:
  - responds to public comments,
  - implements the ARPA statutory provisions on eligible and ineligible uses of SLFRF funds,
  - and makes several changes to the provisions of the interim final rule
- SLFRF program provides vital resources for state, local, and Tribal governments to respond to the pandemic and its economic effects and to replace revenue lost due to the public health emergency, preventing cuts to government services.
- The SLFRF program ensures that state, local, and Tribal governments have the resources needed to fight the pandemic, sustain and strengthen the economic recovery, maintain vital public services, and make investments that support long-term growth, opportunity, and equity.

<sup>1</sup>Pub. L. 117–2. <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

## ARPA Provides Funds That May Be Used

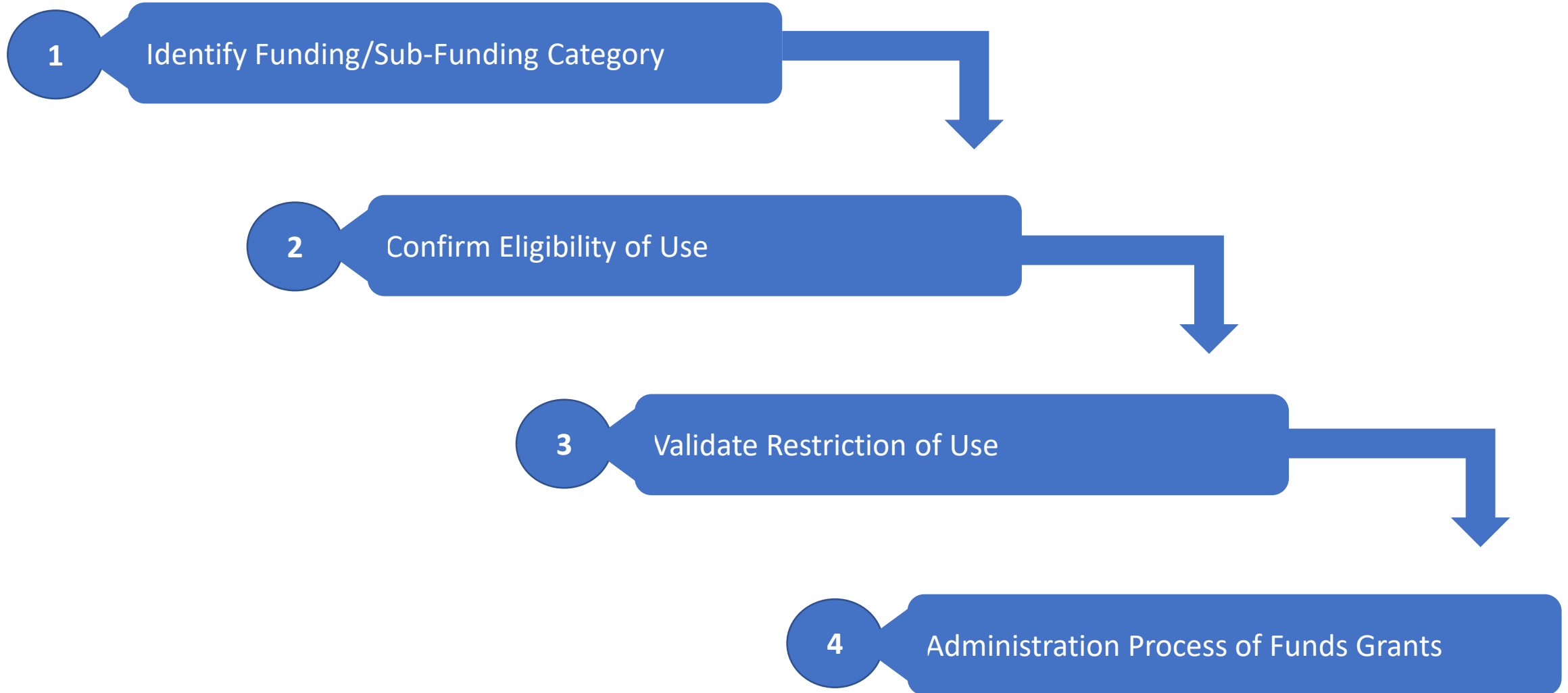
- To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- For the provision of government services to the extent of the reduction in revenue due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency;
- To make necessary investments in water, sewer, or broadband infrastructure.
- SLFRF funds may only be used for costs incurred within a specific time period, beginning March 3, 2021, with all funds obligated by December 31, 2024 and all funds spent by December 31, 2026.



## ARPA Funds Cannot Be Used For

- Deposit into any pension fund or, for states and territories only, to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation
- Administrative interpretation

# Proposed Process for Eligibility



**Step 1: Determination of Funding Category for Eligible Use**

- 1) **PUBLIC HEALTH AND ECONOMIC IMPACTS:** Responding to the public health and negative economic impacts of the pandemic
  - a. *public health,*
  - b. *assistance to households,*
  - c. *assistance to small businesses,*
  - d. *assistance to nonprofits,*
  - e. *aid to impacted industries,*
  - f. *public sector capacity and workforce*
- 2) **PREMIUM PAY:** Providing premium pay to essential workers
- 3) **GOVERNMENT SERVICES:** Providing government services to the extent of revenue loss due to the pandemic (recipients have broad latitude to use funds for government services up to their amount of revenue loss due to the pandemic)
- 4) **WATER, SEWER & BROADBAND INFRASTRUCTURE:** Making necessary investments in water, sewer, and broadband infrastructure.

**Step 2: Confirm Eligibility of Use**

- Provides a standard for determining if other uses of funds, beyond those specifically enumerated, are eligible.
- If a recipient would like to pursue a use of funds that is not specifically enumerated, the recipient should use the standard and other guidance provided in the section Public Health and Negative Economic Impacts to assess whether the use of funds is eligible.

## 2.1

## Public Health and Economic Impacts

Step	1. Identify COVID-19 public health or economic impact  MUST SELECT ONE (1)	2. Design a response that addresses or responds to the impact  MUST SELECT ONE (1)
Analysis	<ul style="list-style-type: none"><li><input type="checkbox"/> Grant request identifies an impact to a specific household, business or nonprofit or to a class of households, businesses or nonprofits (i.e., group)</li><li><input type="checkbox"/> Grant request identifies disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class</li></ul>	<ul style="list-style-type: none"><li><input type="checkbox"/> Types of responses can include a program, service, or capital expenditure</li><li><input type="checkbox"/> Response should be related and reasonably proportional to the harm</li><li><input type="checkbox"/> Response should also be reasonably designed to benefit impacted individual or class</li></ul>

## 2.2

## Premium Pay

1. Identify “ELIGIBLE” Worker MUST SELECT ONE (1)	2. Verify that the eligible worker performs “essential work,”	3. Confirm that the premium pay “responds to” workers performing essential work during the COVID-19 public health emergency
<ul style="list-style-type: none"> <li><input type="checkbox"/> Health care</li> <li><input type="checkbox"/> Emergency response</li> <li><input type="checkbox"/> Sanitation, disinfection &amp; cleaning Maintenance</li> <li><input type="checkbox"/> Grocery stores, restaurants, food production, and food delivery</li> <li><input type="checkbox"/> Pharmacy</li> <li><input type="checkbox"/> Biomedical research</li> <li><input type="checkbox"/> Behavioral health</li> <li><input type="checkbox"/> Medical testing and diagnostics</li> <li><input type="checkbox"/> Home / community-based health care or assistance with activities of daily living</li> <li><input type="checkbox"/> Family or childcare</li> <li><input type="checkbox"/> Social services</li> <li><input type="checkbox"/> Public health</li> <li><input type="checkbox"/> Mortuary</li> <li><input type="checkbox"/> Critical clinical research, development, and testing necessary for COVID-19 response</li> <li><input type="checkbox"/> State, local, or Tribal government workforce</li> <li><input type="checkbox"/> Workers providing vital services to Tribes</li> <li><input type="checkbox"/> Educational, school nutrition, and other work required to operate a school facility</li> <li><input type="checkbox"/> Laundry</li> <li><input type="checkbox"/> Elections</li> <li><input type="checkbox"/> Solid waste or hazardous materials management, response, and cleanup</li> <li><input type="checkbox"/> Work requiring physical interaction with patients</li> <li><input type="checkbox"/> Dental care</li> <li><input type="checkbox"/> Transportation and warehousing</li> <li><input type="checkbox"/> Hotel /commercial lodging facilities used for COVID-19 mitigation and containment</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Is not performed while teleworking from a residence Involves</li> <li><input type="checkbox"/> regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or</li> <li><input type="checkbox"/> 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.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> 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</li> <li><input type="checkbox"/> Eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions; or</li> </ul> <p>Note: 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. This may include a description of the essential worker’s duties, health, or financial risks faced due to COVID-19, and why the recipient determined that the premium pay was responsive. Treasury anticipates that recipients will easily be able to satisfy the justification requirement for front-line workers, like nurses and hospital staff.</p>

- Providing government services to the extent of revenue loss due to the pandemic
- Recipients have broad latitude to use funds for government services up to their amount of revenue loss due to the pandemic
- *No specific guidance has been provided, although all other eligibility and restrictions requirements must be met*
- *Note from Sam Stivers (received by email on 1/19 as a request to incorporate into this document)*
  - Andrew Pfaff did an initial calculation of the “revenue loss” for Southborough to show that our entire \$3MM or so qualifies for use under the “revenue loss” category (and this was later confirmed by our consultant).
  - Second, the very recent “Final Rule” creates a \$10MM “safe harbor” threshold that allows any entity with an ARPA allocation under \$10MM to consider all of this amount as spendable under the “revenue loss” guidelines—so this removes any doubt about the accuracy of Andrew’s initial calculation (and it also allows for streamlined reporting of these expenditures).

## 2.4

## Water and Sewer Infrastructure

1. Identify eligibility of Project PROJECTS ELIGIBLE UNDER EPA'S CLEAN WATER STATE REVOLVING FUND (CWSRF)	PROJECTS ELIGIBLE UNDER EPA'S DRINKING WATER STATE REVOLVING FUND (DWSRF)	ADDITIONAL ELIGIBLE PROJECTS DEEMED <u>NECESSARY</u> NOT DEFINED BY CWSRF OR SWSRF*
<ul style="list-style-type: none"> <li><input type="checkbox"/> Construction of publicly owned treatment works</li> <li><input type="checkbox"/> Projects pursuant to implementation of a nonpoint source pollution management program established under the Clean Water Act (CWA)</li> <li><input type="checkbox"/> Decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage</li> <li><input type="checkbox"/> Management and treatment of stormwater or subsurface drainage water</li> <li><input type="checkbox"/> Water conservation, efficiency, or reuse measures</li> <li><input type="checkbox"/> Development and implementation of a conservation and management plan under the CWA</li> <li><input type="checkbox"/> Watershed projects meeting the criteria set forth in the CWA</li> <li><input type="checkbox"/> Energy consumption reduction for publicly owned treatment works</li> <li><input type="checkbox"/> Reuse or recycling of wastewater, stormwater, or subsurface drainage water</li> <li><input type="checkbox"/> Security of publicly owned treatment works</li> </ul> <p>Note: See <a href="#">CWSRF</a> for a full list of eligibility</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Facilities to improve drinking water quality</li> <li><input type="checkbox"/> Transmission and distribution, including improvements of water pressure or prevention of contamination in infrastructure and lead service line replacements</li> <li><input type="checkbox"/> New sources to replace contaminated drinking water or increase drought resilience, including aquifer storage and recovery system for water storage</li> <li><input type="checkbox"/> Green infrastructure, including green roofs, rainwater harvesting collection, permeable pavement</li> <li><input type="checkbox"/> Storage of drinking water, such as to prevent contaminants or equalize water demands</li> <li><input type="checkbox"/> Purchase of water systems and interconnection of systems</li> <li><input type="checkbox"/> New community water systems</li> </ul> <p>Note: See <a href="#">DESRF</a> for a full list of eligibility</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Culvert repair, resizing, and removal, replacement of storm sewers, and additional types of stormwater infrastructure</li> <li><input type="checkbox"/> Infrastructure to improve access to safe drinking water for individual served by residential wells, including testing initiatives, and treatment/remediation strategies that address contamination</li> <li><input type="checkbox"/> Dam and reservoir rehabilitation if primary purpose of dam or reservoir is for drinking water supply and project is necessary for provision of drinking water</li> <li><input type="checkbox"/> Broad set of lead remediation projects eligible under EPA grant programs authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act, such as lead testing, installation of corrosion control treatment, lead service line replacement, as well as water quality testing, compliance monitoring, and remediation activities, including replacement of internal plumbing and faucets and fixtures in schools and childcare facilities</li> </ul>

\* Note necessary as defined (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, taking into account 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.



## 2.4

## Broadband Infrastructure

1. Identify an eligible area for investment	2. Design project to meet high-speed technical standards.	3. Require enrollment in a low-income subsidy program.
<ul style="list-style-type: none"> <li><input type="checkbox"/> Lack of access to a reliable high-speed</li> <li><input type="checkbox"/> Lack of affordable broadband broadband connection</li> <li><input type="checkbox"/> Lack of reliable service</li> <li><input type="checkbox"/> Cybersecurity investments</li> </ul> <p>Note: Recipients are encouraged to prioritize projects that are designed to serve locations without access to reliable wireline 100/20 Mbps broadband service (meaning service that reliably provides 100 Mbps download speed and 20 Mbps upload speed through a wireline connection), but are broadly able to invest in projects designed to provide service to locations with an identified need for additional broadband investment.</p>	<p>Recipients are required to design projects to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, eligible projects may be designed to reliably meet or exceed 100/20 Mbps and be scalable to a minimum of symmetrical 100 Mbps download and upload speeds.</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Participate in the FCC's Affordable</li> <li><input type="checkbox"/> Provide access to a broad-based Connectivity Program (ACP) affordability program to low-income consumers that provides benefits commensurate to ACP</li> </ul>

### Step 3: Validate Restriction of Use

- Next, the Restrictions on Use section describes limitations on how funds may be used.
- Treasury has divided the Restriction on Use section into
  - (A) statutory restrictions under the ARPA, which include:
    - offsetting a reduction in net tax revenue
    - deposits into pension funds, and
  - (B) other restrictions on use, which include:
    - debt service and replenishing reserves
    - settlements and judgments
    - general restrictions
- For states and territories only, funds **may not be used to offset directly or indirectly a reduction in net tax revenue resulting from a change in state or territory law.**
- For all recipients except Tribal governments, **funds may not be used for deposits into a pension fund.**
- For all recipients, **funds may not be used for debt service or replenishing financial reserves.**

## 3.1

## Validate Restriction of Use

OFFSET A REDUCTION IN NET TAX REVENUE	DEPOSITS INTO PENSION FUNDS	ADDITIONAL RESTRICTIONS AND REQUIREMENTS
<p>States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the funds provided have been spent. If a state or territory cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than SLFRF, such as by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the Treasury.</p>	<p>No recipients except Tribal governments may use this funding to make a deposit to a pension fund.</p> <p>Example: Reduce a liability incurred prior to the start of the COVID-19 public health emergency and occur outside the recipient's regular timing for making the payment</p>	<p><b>No debt service or replenishing financial reserves.</b> Since SLFRF funds are intended to be used prospectively, recipients may not use SLFRF funds for debt service or replenishing financial reserves (e.g., rainy day funds).</p> <p><b>No satisfaction of settlements and judgments.</b> Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding is itself not an eligible use. However, if a settlement requires the recipient to provide services or incur other costs that are an eligible use of SLFRF funds, SLFRF may be used for those costs.</p> <p><b>Additional general restrictions.</b> SLFRF funds may not be used for a project that conflicts with or contravenes the purpose of the American Rescue Plan Act statute (e.g., uses of funds that undermine COVID-19 mitigation practices in line with CDC guidance and recommendations) 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).</p>

#### Step 4: Administrative Process for Grant Distribution

The Program Administration Provisions section describes the processes and requirements for administering the program on an ongoing basis, specifically as relates to the following:

- distribution of funds
- timeline for using funds
- transfer of funds from a recipient to different organizations
- use of funds for program administration
- reporting on use of funds
- remediation and recoupment of funds used for ineligible purposes

## 4.1

## Administration Process of Funds Grants

Requirements	Detailed Description
<b>TIMELINE</b>	Funds must be used for costs incurred on or after March 3, 2021. Further, costs must be obligated by December 31, 2024, and expended by December 31, 2026.
<b>TRANSFERS</b>	Recipients may undertake projects on their own or through subrecipients, which carry out eligible uses on behalf of a recipient, including pooling funds with other recipients or blending and braiding SLFRF funds with other sources of funds. Localities may also transfer their funds to the state through section 603(c)(4), which will decrease the locality's award and increase the state award amounts.
<b>LOANS</b>	Recipients may generally use SLFRF funds to provide loans for uses that are otherwise eligible, although there are special rules about how recipients should track program income depending on the length of the loan. Recipients should consult the final rule if they seek to utilize these provisions.
<b>NON-FEDERAL MATCH OR COST-SHARE REQUIREMENTS</b>	SLFRF funds beyond those that are available under the revenue loss eligible use category may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute.
<b>ADMINISTRATIVE EXPENSES</b>	SLFRF funds may be used for direct and indirect administrative expenses involved in administering the program.
<b>REPORTING, COMPLIANCE &amp; RECOUPMENT</b>	Recipients are required to comply with Treasury's <a href="#">Compliance and Reporting Guidance</a> , which includes submitting mandatory periodic reports to Treasury.