

American Rescue Plan Coronavirus State and Local Fiscal Recovery Funds (SLFRF)

Updates to the Final Rule

January 26, 2022

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410-260-7041

Agenda

- Brief Overview of Eligible Use Categories
- Updates to the Final Rule
- The Revenue Loss Provision
- The Standard Allowance and its impact on NEUs
- Additional Final Rule Updates
- Clarifications on Reporting & Compliance
- Questions and Answers
- Upcoming Events

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ARP Fiscal Recovery Funds (FRF) - 4 Eligible Use Categories

01

Support public health expenditures / address negative economic impacts



02

Replace lost public sector revenue



Eligible Use Categories

03

Provide premium pay for essential workers



04

Invest in water, sewer, and broadband infrastructure



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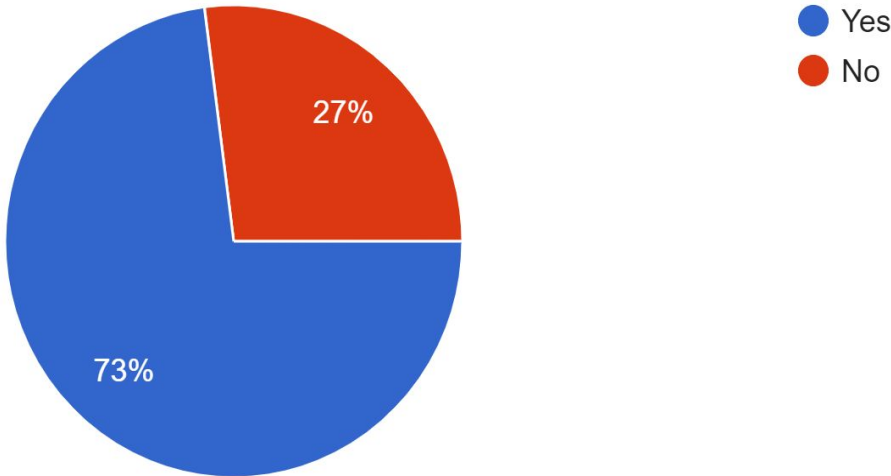


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NEU Final Rule Awareness

Have you seen information about the changes included in the Final Rule?

122 responses



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Final Rule Overview

- The Final Rule delivers more flexibility and simplicity than the Interim Final Rule across several categories.
- These updates include information on changes to the revenue loss provision, eligible capital expenditures, the streamlining of eligibility for those negatively economically impacted, and the potential for the hiring of new public sector staff.
- Compliance Requirements remain unchanged under the Final Rule.
- Recipients have the option to use the provisions of either the Interim Final Rule or the Final Rule between January 6, 2022 and April 1, 2022.

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Updates to Revenue Loss

- Recipients may now make a one-time election of a “standard allowance” revenue loss of \$10 million to spend on government services through the period of performance under the lost revenue eligibility category.
 - Allocations are not impacted by this standard allowance; recipients receiving less than \$10 million may simply choose to apply their entire allocation to the provision of government services.
- If choosing this option, there is **no need to calculate your NEU’s revenue loss.**
- Your NEU can begin to apply these funds “for the provision of government services” immediately.

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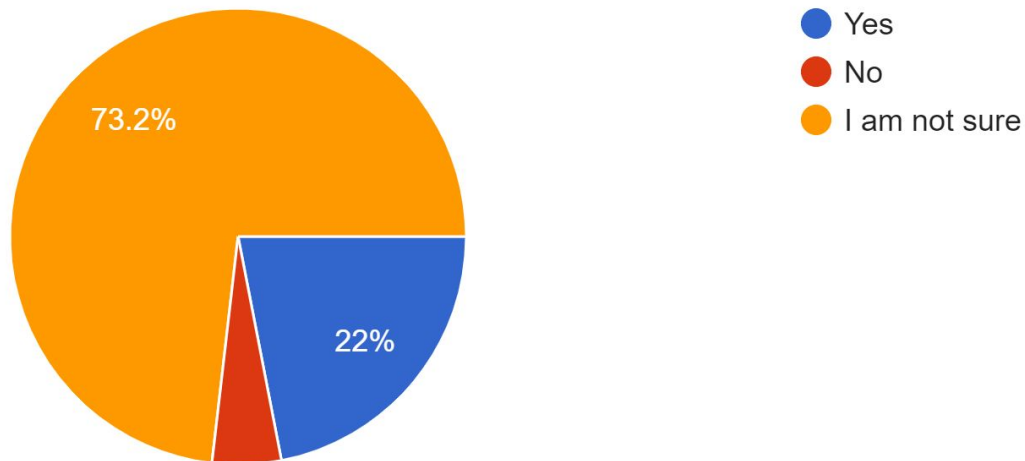


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NEU Revenue Loss Preference

Are you planning on electing the standard allowance that has been made available under the Revenue Loss provision?

123 responses



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Calculating Revenue Loss

However, you will need to decline the state's revenue and use your NEU's revenue as a percentage of the state's revenue.

Compare **actual** revenue to **counterfactual** revenue to determine what could have been expected in a normal economic environment.

1. Estimate the counterfactual revenue rate. This counterfactual is the rate that would have been expected if the state's revenue had grown at the same rate as the state's revenue over the three full fiscal years prior to the emergency.
 - a. 5.2% (was projected for 2020)
 - b. the municipal revenue rate over the three full fiscal years prior to the emergency
2. Identify the actual revenue for the fiscal year.
3. Compare the actual revenue to the counterfactual revenue. If there is a loss, and if the loss is greater than the actual revenue, the loss is the difference between the actual revenue and the counterfactual revenue.

Calculation dates: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023 OR at the end of each fiscal year that contained these dates.

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Revenue Classification



Source: U.S. Bureau of the Census, Government Finance and Employment Classification Manual, 2006; Annual Survey of State and Local Government Finances

What does this mean for my NEU?

NEUs can use the amount of SLFRF program funds dedicated to revenue replacement “for any service traditionally provided by a government, unless Treasury has stated otherwise” through the SLFRF period of performance.

Examples of Government Services not otherwise eligible under other SLFRF categories include:

- Construction of schools and hospitals,
- Road building and maintenance,
- Health services,
- General government administration, staff, and administrative facilities,
- Environmental remediation;
- Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles); and,
- Funds assigned to revenue loss can now be used to meet the non-federal cost-share of many other Federal programs.

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Reporting on “Replaced Revenue”

Expenditures using funds designated for revenue replacement will have different and simpler reporting requirements than reporting on other expenditures.

- Many other expenditure categories require detailed programmatic data, but reporting on expenditures designated as revenue replacement is more straightforward.
 - The “description of government services reported to Treasury may be narrative or in another form, and recipients are encouraged to report based on their existing budget processes and to minimize administrative burden. For example, a recipient with \$100 in revenue replacement funds available could indicate that \$50 were used for personnel costs and \$50 were used for pay-go building of sidewalk infrastructure.”
- Further information on reporting, including on reporting on subrecipients and grants, is expected in a future NEU Project and Expenditure User Guide.

Non-Federal Match

- Under the Final Rule, recipients may use funds applied to the revenue loss provision for the non-federal match share for most other federal programs requiring such matches.
- Programs that may require or recommend as part of a strong application a local government match include:
 - Hazard Mitigation Grant Program (HMGP)
 - Community Development Block Grants (CDBG)
 - Building Resilient Infrastructure and Communities (BRIC)
- These and other programs requiring local matches have received significant supplemental funding through the Infrastructure Investment and Jobs Act (IIJA).

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Other Final Rule Changes

Additional key updates in the Final Rule eligible use guidelines include:

- Streamlines and clarifies guidelines for responding to negative economic impacts to households, small businesses, and nonprofits
 - Defines low and moderate income households
 - Additional information on how to identify impacted industries
- Provides a framework to determine eligibility for other eligible uses designed to respond to the pandemic and its economic impacts.
- Flexibility to use SLFRF funds to hire public sector staff above pre-pandemic levels.

Other Final Rule Changes (Cont'd)

Additional key updates in the Final Rule eligible use guidelines include:

- Expands eligibility for COVID-19 related medical costs and expenses, including
 - Expansion of behavioral health eligibility
 - Clarification that the general public, including businesses, is considered impacted with regards to public health impacts
- Broader eligibility of capital projects and infrastructure
 - Broader eligibility under water, sewer, and (particularly) broadband
 - Clarifies that recipients can use funds for capital expenditures that support an eligible COVID-19 public health or economic response.
 - Introduces additional justifications for Capital Expenditures over \$1 million.

Ineligible Uses

Any SLFRF funds used must still comply with the general restrictions on SLFRF program funds usage, even when utilizing the revenue loss provision. These restrictions on uses of SLFRF program funds include:

- Interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt
- Expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money
- 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, except if the judgment or settlement required the provision of government services
- Replenishing financial reserves (e.g., rainy day or other reserve funds)

SLFRF Compliance

- Maintaining a robust compliance program throughout the program remains critical.
- All Uniform Guidance regulations discussed on the previous webinar, including subrecipient monitoring, the applicability of the Single Audit, and the maintaining of strong internal controls and procurement practices, remain in effect for these funds.
- Treasury has emphasized that they have recoupment authority for mismanaged funds.
- The first NEU Project & Expenditure Report is due April 30, 2022, and will cover the period through March 31, 2022.

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QUESTIONS?

For any questions following this webinar, please email:
arpa.neuadmin@maryland.gov or submit questions
through the [Technical Assistance Portal](#)

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Do you have a better understanding of the Final Rule and the updated Revenue Loss provision?

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Upcoming Events

- Office Hours launch on Tuesday, February 1st.
- Reporting Webinar on Thursday, February 24th.
- NEU Newsletter released on January 20th.
- Account Administrator designations on Treasury's Portal for Recipient Reporting.
- Forthcoming Project and Expenditure Report User Guide by Treasury.
- Question submission portal open.

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Appendix

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Resources

- [U.S. Treasury Final Rule](#)
- [U.S. Treasury Final Rule Overview](#)
- [U.S. Treasury Statement on Final Rule Compliance](#)
- [U.S. Treasury Compliance and Reporting Guidance](#)
- [State of Maryland NEU Technical Assistance Webpage](#)
- [State of Maryland NEU Technical Assistance Question Portal](#)
- [Maryland Municipal League ARP Resource Page](#)
- [U.S.Census Bureau Government Finance and Employment Classification Manual](#)

U.S. Treasury guidance is subject to change. As a recipient of Federal funds, each non-entitlement unit of government is responsible for administration and compliance of fiscal recovery funds.

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