



November 20, 2023

Office of Recovery Programs
Department of the United States Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Coronavirus State and Local Fiscal Recovery Funds 2023 Interim Final Rule Comments

To Whom It May Concern:

Thank you for the opportunity to comment on the interim final rule concerning the State and Local Fiscal Recovery Fund (SLFRF) established by the American Rescue Plan Act (ARPA) of 2021. We appreciate the opportunity to provide comments on certain of the questions posed. We also thank Treasury for issuing an additional interim final rule to amend the definition of "obligation" set forth in 31 CFR 35.3 with respect to the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under ARPA. Our comments on the obligation notice will be forthcoming.

ELIGIBLE USE

Emergency Relief from Natural Disasters

1. *Are there other types of services or costs that Treasury should consider as enumerated eligible uses to provide emergency relief from the physical or negative economic impacts of natural disasters? Describe how these provide emergency relief from natural disasters.*

Several entities have tornado sirens which need updating. The list of enumerated eligible uses does not include tornado sirens or other methods used to alert residents of the threat of an impending natural disaster even though sirens would mitigate potential physical impacts (i.e., loss of life) when a tornado hits. Consider adding tornado sirens and other methods used by entities to alert residents of the threat of impending natural disaster to the list of enumerated eligible uses.

2. *Additional Feedback*

The Interim Final Rule indicates that, under Stafford Act prohibition on duplication of benefits, recipients may not provide financial assistance to a person, business concern, or other entity with respect to disaster losses for which such beneficiary will receive financial assistance under any other program or from insurance or any other source. Is whether the property should have been insured and wasn't a consideration? Treasury should consider clarifying this and, if it is a consideration, provide guidelines as to how recipients should determine whether a property should have been insured.

Regarding the Stafford Act prohibition on duplication of benefits, the Interim Final Rule indicates that recipients should treat SLFRF funds as last in the delivery sequence, unless the recipient, in consultation with the appropriate FEMA regional administrator or state disaster assistance administrator, determines that another sequence is appropriate. The recipient is responsible for preventing and rectifying duplication of benefits with respect to disaster losses and should coordinate with the relevant FEMA regional administrator and state disaster assistance administrator, or other relevant agencies providing disaster assistance, as described



in FEMA's guidance. If beneficiaries receive assistance under SLFRF and subsequently receive assistance from another source, such as insurance, recipients may not have the resources to detect duplicative payments and work with FEMA or other agencies to recover the SLFRF funds provided. Recipients will need to be cognizant of this requirement when determining how to use SLFRF funding under this eligible use category, but with many smaller governments receiving SLFRF funding it may be a risky area. Treasury should consider including cautionary guidance in the FAQs or 2023 Final Rule.

The Interim Final Rule allows recipients to use SLFRF funds to provide cash assistance for uninsured or underinsured expenses caused by the disaster such as repair or replacement of personal property and vehicles, or funds for moving and storage, medical, dental, childcare, funeral expenses, behavioral health services, and other miscellaneous items. In designing a cash assistance program targeted to low-income households impacted by a natural disaster, recipients are not required to apply a specific dollar threshold for permissible payments and instead, recipients have flexibility in determining the appropriate level of cash assistance. This approach enables recipients to respond to the particularized natural disaster impacts for their low-income community members. Consider adding additional guidance to this area of the Final Rule that indicates that payments must still be related and reasonably proportional if that is the Treasury's intent.

Surface Transportation Projects

1. *What are the advantages and disadvantages of the eligibility criteria for the streamlined framework outlined in Pathway Two? Do these criteria adequately account for project risk in a manner that is both accurate and administrable? Why or why not?*

Treasury allows recipients to follow the streamlined framework outlined in Pathway Two if the project would be eligible under the RAISE grant program, among other requirements. The Notice of Funding Opportunity for the RAISE program is 70 pages long. For recipients with less sophisticated finance departments, they may not have the capacity to read and interpret the requirements of the RAISE program to make an accurate determination of whether a particular project would qualify under the RAISE program. There is a risk that entities will reach an inaccurate conclusion on eligibility. Further, the complicated nature of comparing a potential project to the requirements of another grant make the process significantly more complex rather than achieving the intent of providing flexibility to allow recipients to use their funds for necessary infrastructure projects.

2. *What additional information or clarification is needed for recipients to understand the applicable program requirements for Pathway Two?*

Treasury should consider providing a summary of the eligibility requirements of the RAISE program in an easy-to-digest format for recipients. A summary of the RAISE eligibility requirements to which Treasury intends to have recipients compare potentially eligible projects would allow recipients to more easily determine project eligibility and provide a more consistent eligibility determination process among all recipients.



ADDITIONAL COMMENTS ON THE CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUND

Guidance And Resources for Recipients

We thank Treasury for the ongoing communication and request that Treasury continue to respond to and address questions from state and local recipients on matters related to reporting, cost allowability, and other matters via FAQ updates, fact sheets, plain language updates to Treasury's SLFRF website, and webinars. These guidance documents serve as an invaluable resource and are frequently accessed by NASACT members. We also would encourage Treasury to continue incorporating new guidance as needed, such as that contained in the 2023 interim final rule, into the U.S. Office of Management and Budget's annual Compliance Supplement since auditors rely on information in the Compliance Supplement to perform Single Audits.

Optional Alternative Compliance Examination

NASACT remains supportive of the optional alternative compliance examination engagement described in the SLFRF section of Part 4 of the Compliance Supplement. This approach seeks to alleviate the burden on both auditors and eligible recipients that would be required by a Single Audit while providing oversight over SLFRF expenditures. We encourage Treasury to continue and expand efforts to educate recipients on this option and we are willing to assist in this effort.

IN CONCLUSION

We appreciate the opportunity to comment and share our thoughts and concerns on a few of the questions posed in the interim final rule. We also look forward to continued dialog with your office on issues related to SLFRF. Please feel free to reach out to our representative in Washington, Cornelia Chebinou, at cchebinou@nasact.org or (202) 989-6801 should you have any questions or desire additional information.

Sincerely,

Greg S. Griffin
State Auditor of Georgia
NASACT President, 2023-24