



# AMERICAN RESCUE PLAN ACT



## STATE OF OKLAHOMA

### State and Local Recovery Funds (SLFRF) Best Practices

#### Municipal Officials

In the award terms and conditions, your municipality signed when the American Rescue Plan Act (ARPA) State and Local fiscal recovery (SLFRF) funds were accepted you agreed to follow the Final Rule, Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards, and 2 C.F.R. Part 200. The state of Oklahoma has put together this document to help you understand these requirements. Please read this document carefully to understand how these requirements apply to your specific municipality

This summary document highlights various best practices Non-Entitlement Units of Government (NEUs) should abide by, to be compliant with the guidance and regulations laid out by the U.S. Department of Treasury regarding usage of State and Local Fiscal Recovery Funds (SLFRF). For more information on eligible use categories, the Final Rule, and associated overview, please visit the State of Oklahoma's ARPA-NEU website ([oklahoma.gov/arpa/local-governments.html](http://oklahoma.gov/arpa/local-governments.html)) or the Oklahoma Municipal League (OML) website ([www.oml.org/american-rescue-plan](http://www.oml.org/american-rescue-plan))



## Using This Handout

The purpose of this guide is to summarize requirements and best practices applicable to State and Local Fiscal Recovery Funds (SLFRF); however, the guide should not serve as a substitute for reviewing the applicable SLFRF federal guidance.

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## 1.0 Read & Comply with Guidance & Regulations

The U.S. Department of Treasury (“Treasury”) has published the Final Rule for the SLFRF program. The Final Rule is the administrative regulation that governs how SLFRF funds may be used, and the conditions attached to the funds. Recipients are expected to read, understand, and comply with the guidance and supplementary information, including the Frequently Asked Questions and Compliance and Reporting Guidance. Recipients are also encouraged to consult the Final Rule Overview.

Treasury’s guidance specific to SLFRF should be read alongside the Uniform Guidance (2 CFR Part 200), which is a set of federal rules (administrative requirements, cost principles, and audit guidelines) that apply to federal money. Nearly all provisions of the Uniform Guidance apply to SLFRF, including sections related subrecipient monitoring and management, internal controls, financial management, record retention, and audit requirements. Recipients and subrecipients are responsible for following Uniform Guidance and agree to be bound by it when undertaking projects with SLFRF funds.

Recipients who lack experience with federal grants administration should consider consulting with an attorney, CPA, and/or other subject matter professional.

### Best Practices

- Review and become familiar with all applicable federal guidance and regulations, including the Final Rule, Compliance and Reporting Guidance, and the Uniform Guidance
- Sign up for U.S. Treasury email updates
- Consult with professionals to understand applicable requirements

## 2.0 Understand the Different Recipient Types

The required content for a written agreement to expend SLFRF with an entity who is not the municipality varies depending on whether the entity is a contractor, subrecipient, or beneficiary. Prime recipients (NEUs) should review the table below to determine the type of relationship

Table 1: Entity Key Attributes

Entity	Key Attributes
<b>Subrecipient</b>	<ul style="list-style-type: none"> <li>➤ May determine who may be eligible to receive federal assistance under the program guidelines.</li> <li>➤ Has performance measured in terms of meeting federal program objectives.</li> <li>➤ Has responsibility for programmatic decision-making.</li> <li>➤ In accordance with its subaward agreement (which may be in the legal form of a contract), the subrecipient uses the federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the recipient.</li> <li>➤ The subrecipient will not earn a profit under the arrangement.</li> <li>➤ The subrecipient may be required to contribute cash or in-kind match in support of the subaward.</li> </ul>

Entity	Key Attributes
Contractor	<ul style="list-style-type: none"> <li>➤ Provides goods and services within normal business operations.</li> <li>➤ Provides similar goods or services to many different purchasers.</li> <li>➤ Normally operates in a competitive environment.</li> <li>➤ Provides goods or services that are ancillary to the operation of the federal program.</li> <li>➤ The entity may earn a profit under the contract.</li> </ul>
Beneficiary	<ul style="list-style-type: none"> <li>➤ Is the end recipient of SLFRF resources.</li> <li>➤ Is receiving funds for the purpose of directly benefitting the individual or entity as a result of experiencing a public health impact or negative economic impact</li> <li>➤ SFRF beneficiaries may include the following: <ul style="list-style-type: none"> <li>➤ Individuals/families</li> <li>➤ Small businesses</li> <li>➤ Public nonprofit institution/organization (if receiving assistance for eligible uses such as economic support for impacted industries)</li> <li>➤ Private nonprofit institution/organization (if receiving assistance for eligible uses such as economic support for impacted industries)</li> </ul> </li> </ul>

## 2.1 Prime Recipient

A prime recipient is an entity that receives grant funding directly from a grantor (such as the federal government). For the purposes of SLFRF, the State of Oklahoma is considered a prime recipient. Municipalities and counties, **including Non-Entitlement Units (NEUs)** are also prime recipients of SLFRF.

## 2.2 Subrecipient

In some cases, a prime recipient of SLFRF will choose to pass all or a portion of the SLFRF funds they received on to another organization to carry out the “mission of the money” by administering a project or program on behalf of the prime recipient. Subrecipient is the official term given to organizations that receive this kind of federal grant funding as a subgrant. Notably, a subrecipient may choose to subgrant funds to a secondary subrecipient. For example, a subrecipient who is a state agency might subgrant funds to a municipality or other entity to carry out a project. In these cases, the primary subrecipient is creating a subrecipient relationship with a secondary subrecipient. It is important to understand that all federal SLFRF requirements applicable to recipients are also applicable to subrecipients and secondary subrecipients.

## 2.3 Contractor

A contractor is simply an entity that receives a contract (other than a subaward or subgrant). A contract is a legal instrument by which a prime recipient or subrecipient would purchase property or services needed to carry out the eligible uses of SLFRF.

## 2.4 Beneficiary

If a prime recipient or subrecipient provides funds to an organization or an individual for its/their own use, e.g., business interruption, salaries, weatherization, food assistance etc., those entities/people would typically be considered beneficiaries. Beneficiaries differ from subrecipients and contractors in that there is no ongoing expectation for them to carry out a program (i.e., subrecipient) or provide goods/services to the government in return for the funds provided.

### **Best Practices**

- Prior to entering into a contract, subrecipient agreement, or beneficiary agreement with an entity, review the terminology to ensure you have correctly categorized your relationship with the entity.
- Consult with professionals to draft appropriate agreements, including any provisions that should flow down to the subrecipient or other agreements.

## 3.0 Establish Robust Internal Controls

Internal controls are processes designed and implemented to provide reasonable assurance that the non-federal entity (i.e., recipient or subrecipient) is managing the award in compliance with all applicable statutes, regulations, and terms and conditions. When assessing and establishing internal controls, recipients should consider the following objectives:

1. Effectiveness and efficiency of operations
2. Financial stewardship and accountability
3. Reliability of reporting for internal and external use
4. Compliance with applicable laws and regulations

As required by 2 CFR 200.303, recipients must create internal controls to mitigate risks and prevent fraud, waste, and abuse. These include, for example, written policies and procedures and ongoing validation of compliance with policies. Treasury has described some best practices for development of internal controls in Table 2.

*Table 2: Internal Controls Best Practices*

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

Internal controls should be in compliance with one of two approved frameworks:

1. the Government Accountability Office (GAO) Standards for Internal Control in the Federal Government (commonly called “the Green Book”); or,
2. the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework.

### **Best Practices**

- Assess and bolster your organization’s existing internal controls for compliance with the GAO’s Green Book or COSO

## 4.0 Track Assets & Expenditures Using a Financial Management System

Recipients should maintain accounting records for compiling and reporting accurate, compliant financial data, using appropriate accounting standards and principles. Use of a financial management accounting system (for example, QuickBooks, or a Custom Proprietary System) is strongly recommended.

Per 2 CFR 200.302, a compliant financial management system must be able to:

- Track federal awards and related expenditures separately
- Provide accurate, current, and complete financial data to enable the disclosure of the results of each federal award
- Identify the source and application of funds (i.e., the system must be capable of tracing/tracking funds to tie to eligible uses of SLFRF).
- Maintain effective control over, and accountability for, all funds, property, and other assets
- Compare expenditures with budgeted amounts
- Be supported by the entity's written procedures for determining the allowability, reasonableness, and allocability of costs.

For recipients who are funding a project with SLFRF and another source of funds, recommended practice is to identify the receipts and expenditures of funds separately for each award in the accounting system (this can be accomplished by using separate funds, department or project codes, classes, etc.) This will allow for financial reporting data to be more easily itemized.

### *Best Practices*

- Utilize a financial management system that meets the standards outlined in 2 CFR 200.302
- If a project has multiple sources of funding, ensure receipts and expenditures are tracked separately for each funding stream

## 5.0 Document Retention-Compliant Policies

Recipients should ensure they are maintaining appropriate documentation to support all uses of SLFRF. The recipient is required to maintain records and financial documentation sufficient to evidence compliance with all applicable guidance and regulations. Records must be maintained for a period of five (5) years after all funds have been expended.

The U.S. Treasury may require documentation to demonstrate compliance related to the SLFRF award. The list below provides examples of documents that may be requested:

- A. Policies & procedures for the administration of federal funds
- B. Organization charts for all relevant administrative functions
- C. Monitoring or audit reports
- D. General ledger and subsidiary ledgers used to account for (a) the receipt of SFRF payments and (b) the disbursements from such payments to meet eligible expenses
- E. Budget records
- F. Payroll, time records, human resource records to support costs incurred for payroll expenses related to the SLFRF award
- G. Invoices for and receipts of purchases made related to the SLFRF award
- H. Contracts and subcontracts using SLFRF payments and all documents related to such contracts

- I. Grant subaward agreements using SLFRF payments and all documents related to such awards
- J. All procurement-related materials, including RFPs, scoring materials, records of negotiations
- K. All documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients
- L. All documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards
- M. All internal and external email/electronic communications related to use of SLFRF payments
- N. All investigative files and inquiry reports involving SLFRF payments.

### **Best Practices**

- Develop a written document retention policy
- Establish an electronic document repository for the grant materials and provide access to more than one person
- Maintain documents for a minimum of 5 years after all SLFRF funds have been expended

## 6.0 Follow Local, State, & Federal Procurement Standards

When recipients enter into contract procurements with SLFRF, they are required to follow all federal procurement rules outlined in the Uniform Guidance (2 CFR 200.318-200.327) as well as their own internal policies. Where established local or state rules are stricter than the federal rules, the recipient must follow those stricter rules.

Prior to issuing any bid documents for contracts to be funded with SLFRF, recipients should carefully review all applicable local, state, and federal rules and requirements.

Generally, all procurement transactions for the acquisition of property or services under a federal award must be conducted in a manner providing full and open competition. The recipient must have and use documented procedures for any methods of procurement.

Please note that the specific Federal Procurement Rules outlined in the Uniform Guidance (2 CFR 200.318-200.327) do not apply to the use of SLFRF revenue loss funds i.e., projects funded specifically through revenue loss method are not required to follow the Uniform Guidance procurement rules and requirements. However, Subparts D and E of the Uniform Guidance apply to recipients' use of such funds. In general, these requirements provide that recipients should not deviate from their established practices and policies regarding the incurrence of costs, and that recipients should expend and account for the funds in accordance with laws and procedures for expending and accounting for the recipient's own funds. These requirements include conflict of interest laws under the Oklahoma constitution, record documentation requirements, and requirements for bidding under the Oklahoma competitive bidding act or local law.

### 6.1 Federal Procurement Methods Under the Uniform Guidance

*Note: if other applicable policies call for lower thresholds than the federal thresholds, the stricter policies must be followed*

#### 6.1.1 Informal Procurements

1. **Micro-purchases:** if the purchase is below the micro-purchase threshold (\$10,000), the purchase may be made without soliciting competitive price or rate quotations (though the price must still be "reasonable"). Recipients should distribute micro-purchases equitably among qualified suppliers.
2. **Small purchases:** if the purchase is below the simplified acquisition threshold (\$250,000), price or rate quotations must be obtained from an adequate number of qualified sources, though a cost or price analysis is not required. Recipients should distribute small purchases equitably among qualified suppliers.

### 6.1.2 Competitive Procurements (all purchases over \$250,000)

Formal procurement methods require following documented procedures. The following formal methods of procurement are used for procurement of property or services, usually through a process known as a “Request for Proposals” or RFP. RFPs must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical

1. Sealed bids. Bids are publicly solicited, and a firm fixed-price contract is awarded to the responsible bidder whose bid is the lowest in price. The sealed bids method is the preferred method for procuring construction.
2. Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:
  - a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical
  - b. The non-federal entity must have a written method for conducting technical evaluations of the proposals received and making selections
  - c. Contracts must be awarded to the responsible offer or whose proposal is most advantageous to the non-federal entity, with price and other factors considered; and
  - d. The non-federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated, and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

### 6.1.3 Non-Competitive Procurements

Sole source: noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

1. The item is available only from a single source
2. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation
3. The Federal awarding agency or the pass-through entity (the State of Oklahoma) expressly authorizes a noncompetitive procurement
4. After solicitation of several sources, competition is determined inadequate.

## 6.2 2 CFR 300 Clauses

In addition to following federal and state procurement policies, the recipient is responsible for ensuring any relevant clauses outlined in Appendix II to 2 CFR 200 are included in purchases orders and contracts. Appendix II outlines the contract provisions for non-federal entity contracts under federal awards to be utilized where relevant. For example, all contracts must include a provision regarding a preference for the purchase, acquisition, or use of domestically produced goods. Additionally, construction contracts in excess of \$2,000 that are not funded solely with SLFRF must include a provision for compliance with the Davis-Bacon Act, providing that workers will be paid the higher of the prevailing wage rates determined by the U.S. Secretary of Labor and the State of Oklahoma. Projects funded solely with SLFRF are not required to include this provision; however, recipients should be mindful of the labor reporting requirements for infrastructure projects found on page 26 of the SLFRF Reporting and Compliance Guidance.

Recipients should ensure contractors and subrecipients over \$50,000 are registered in SAM.gov. Additional financial transparency reporting requirements apply to contractors and subrecipients who are not registered.



Additionally, Appendix II to 2 CFR part 200 requires the non-federal entity to ensure that a contract is not made to a party that has been debarred or suspended in SAM.

Conduct standards should be established such that there are no conflicts of interest in administering contract agreements. Additionally, pursuant to 2 CFR 200.319(b), if a firm assists in the development or drafting of specifications, statements of work, or bids or RFPs, the firm must be excluded from competing for the procurement.

Contractors are expected to perform duties according to the terms and conditions of their contract or purchase order. Once goods or services are procured, the recipient should ensure that there is adequate oversight over contractors to ensure that contracts are executed according to the contract terms, conditions, and specifications.

#### **Best Practices**

- Comply with state and federal procurement standards and policies
- Include all federally required contract provisions in contracts funded with SLFRF. These are found at 2 CFR Part 200 Appendix II.
- Ensure the procurement is conducted in a manner providing full and open competition by utilizing the appropriate procurement method and not allowing firms that assist in the development of specifications to compete for the contract.
- Ensure contactors and subrecipients are registered in SAM.gov and in good standing
- Establish oversight procedures to ensure contracts are executed according to the terms, conditions, and specifications

## **7.0 Assess Subrecipient Risk & Engage in Subrecipient Monitoring**

Pursuant to 2 CFR 200.332, any entity who subgrants SLFRF to a subrecipient is required to vet, manage, and monitor their subrecipient to ensure compliance with all federal requirements of the award. Recipients must be aware that they will be held liable for any mishandling or misuse of SLFRF funds by their subrecipient. The same requirements apply to a primary subrecipient making a subgrant to a secondary subrecipient.

Please note that Subrecipient Monitoring and management rules outlined in the Uniform Guidance (2 CFR 200.331-200.333) DO NOT apply to the use of SLFRF revenue loss funds i.e., projects funded specifically through revenue loss method are not required to follow the Uniform Guidance Subrecipient Monitoring and management requirements.

When working with a subrecipient, it is the responsibility of the recipient to ensure that the subrecipient can carry out the project as required. The recommended method for evaluating a potential subrecipient's compliance capability is through a subrecipient risk assessment tool. Based on the outcome of the risk assessment, the recipient can design a monitoring plan that is tailored to the identified risks.

Components of a subrecipient monitoring plan must include:

- A. Reviewing financial and performance reports
- B. Following-up and ensuring that Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient detected through audits, on-site reviews, and other means.
- C. Issuing a management decision for audit findings pertaining to the Federal award provided to Subrecipient from Grantee as required by 2 CFR 200.521 Management decision.
- D. Verifying that subrecipient is audited as required by 2 CFR Part 200 Subpart F—Audit Requirements when it is expected that Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR 200.501 Audit requirements.

When developing a subaward agreement, the recipient must inform their subrecipient of any requirements under the monitoring plan. Recipients should also ensure all required elements under 2 CFR 200.332 are included in the subaward agreement. Key elements for inclusion in a subaward agreement include: amount and purpose of

the award; notice of source of funds; subgrant period and payment schedule; allowance for changes; requirements for internal controls; performance goals; and access to records, sites, and financial statements.

#### ***Best Practices***

- Conduct a risk assessment for each subrecipient, and develop and execute a monitoring plan tailored to identified risks
- When sub-granting funds to a subrecipient, ensure all requirements set forth in 2 CFR 200.332 are included in the subaward agreement

## 8.0 Understand Equipment & Real-Property Requirements

Any purchase of equipment or real property with SLFRF funds must be consistent with 2 CFR 200.310-200.316. The title of equipment or property purchased with SLFRF funds rests with the purchaser, who must maintain insurance coverage for the equipment/property that is equivalent to other equipment/property held. Equipment must be inventoried at least once every two years.

Please note that Property Standards outlined in the Uniform Guidance (2 CFR 200.310-200.316) DO NOT apply to the use of SLFRF revenue loss funds i.e., projects funded specifically through revenue loss method are not required to follow the Uniform Guidance Property Standard Requirements. Requirements surrounding insurance coverage, real property, federally-owned and exempt property, equipment, supplies, intangible property, and property trust relationship. This includes all requirements arising from federal interests in real property or equipment.

The equipment/property must be utilized for the authorized project until it is no longer needed for the specific project. When the equipment/property is no longer needed for the project, the following actions must be taken:

### 8.1 Equipment

The equipment may be used for other SLFRF projects or activities supported by federal awards. If the recipient wishes to sell/dispose of equipment valued over \$5,000, they must request instructions from Treasury for one of the following options 1) retain/sell with no compensation, 2) sell and compensate Treasury, 3) Transfer title to Treasury or designated third party.

### 8.2 Real Property

If the recipient wishes to sell/dispose of real property, they must request instructions from Treasury for one of the following options 1) retain and compensate Treasury, 2) sell and compensate Treasury, 3) Transfer title to Treasury or designated third party.

#### ***Best Practices***

- Maintain insurance coverage for equipment and real property purchased with SLFRF
- Inventory equipment at least every two years
- Ensure the equipment/property is utilized for the authorized project until it is no longer needed for that project
- When the equipment/property is no longer needed for the project, request instructions from Treasury, or reassign equipment to another project

## 9.0 Prepare for an Annual Audit

Recipients and subrecipients who expend more than \$750,000 in federal awards during their fiscal year (SLFRF + all other federal funds), will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR 200, Subpart F regarding audit requirements.

The Office of Management and Budget (OMB) Compliance Supplement provides information on the existing, important compliance requirements that the federal government expects to be considered as part of such audit. Recipients should consult the Federal Audit Clearinghouse to see examples of Single Audit Submissions. SLFRF funds may be used to cover audit costs.

#### ***Best Practices***

- Review 2 CFR 200 Subpart F, the OMB Compliance Supplement, and the Federal Audit Clearinghouse to understand audit requirements
- If you will expend more than \$750,000 in federal awards during your fiscal year, budget for audit costs

## 10.0 Understand Reporting Requirements & Collect Data

Prime recipients, including NEUs, will report directly to Treasury. Guidance and materials to support NEUs in submitting the required reporting to Treasury can be found on the Oklahoma Municipal League Website.

Unlike prime recipients, subrecipients will not submit reports directly to Treasury. However, subrecipients must assist the State of Oklahoma in completing reports by providing all required project data elements. While the State will document processes, procedures, and templates for reporting to Treasury, subrecipients should review the required project data elements and develop a plan to collect and submit the data to the State. Required project data elements vary based on the project's expenditure code. The list of data elements is found on pages 22-28 of the Compliance and Reporting Guidance. For example, for water and sewer projects that have begun construction, reporting requirements include: 1) Permit numbers for projects aligned with the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund, 2) median household income of service area, 3) lowest quintile income of the service area.

Recipients and subrecipients undertaking construction projects should be mindful of the labor reporting requirements found on page 26 of the Compliance and Reporting Guidance. These indicators are required for projects greater than \$10 million.

Further, recipients and subrecipients making a capital expenditure over \$1 million must develop and provide a written justification for the capital expenditure. A written justification includes:

- Description of the harm or need to be addressed. Provide a description of the specific harm or need to be addressed and why the harm was exacerbated or caused by the public health emergency. Subrecipients may provide quantitative information on the extent and the type of harm, such as the number of individuals or entities affected.
- Explanation of why a capital expenditure is appropriate. For example, subrecipients should include an explanation of why existing equipment and facilities, or policy changes or additional funding to pertinent programs or services, would be inadequate.
- Comparison of proposed capital project against at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior. Subrecipients should consider the effectiveness of the capital expenditure in addressing the harm identified and the expected total cost (including pre-development costs) against at least two alternative capital expenditures. Where relevant, subrecipients should consider the alternatives of improving existing capital assets already owned or leasing other capital assets.

#### ***Best Practices***

- Review the required project data elements that apply to your projects and develop a plan to collect and submit the data
- If you are undertaking a construction project or making a capital expenditure, prepare to meet the additional reporting requirements