

CLIENT ALERT

Treasury Publishes Final Rule on the Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act

January 21, 2022

On January 6, 2022, the U.S. Department of the Treasury published the [Final Rule](#) governing the eligible uses of the \$350 billion dollars in Coronavirus State and Local Fiscal Recovery Funds (SLFRF) under the American Rescue Plan (ARPA). Treasury also issued an [Overview of the Final Rule](#), which identifies the notable changes and clarifications made in the Final Rule from the Interim Final Rule (IFR) published on May 17, 2021, as we previously covered [here](#).

Under the Final Rule, state, local, and Tribal governments (collectively “recipients”) may fund a broader range of water and sewer projects, such as lead remediation and stormwater management projects, aid for private wells and septic units, and drinking water projects to support population growth. Recipients may also use the funds for the modernization of cybersecurity (both hardware and software) and high-speed broadband infrastructure with more flexibility in areas they have identified as being in need, including areas with slower speeds or unstable connections. Additionally, completed broadband projects must participate in a low-income subsidiary program.

Other notable changes including:

- Allowing recipients to use the ARPA funds to replace “lost revenue”;
- Clarifying that recipients may use the funds for capital expenditures “that support an eligible COVID-19 public health or economic response,” including building certain affordable housing, childcare facilities, schools, hospitals, and other projects consistent with final rule requirements, and expands the set of households and communities considered to be impacted by the pandemic; and
- Expanding the list of workers performing essential work that are eligible to receive premium pay without written justification.

The final rule will take effect on April 1, 2022, however the IFR is in effect until then. During that interim period, funds used consistently with the IFR are considered to be in compliance with the SLFRF program. However, recipients can choose to comply with the Final Rule immediately, as Treasury will not take action to enforce the IFR so long as the recipients use the funds consistently with the terms of the Final Rule.

In addition, recipients are required to comply with the Department of Treasury’s [Compliance and Reporting Guidance](#) issued November 15, 2021, which, among other things, requires recipients to submit mandatory periodic reports to Treasury.

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