



KIVA Advisory Memorandum
U.S. Treasury Final Rule for Coronavirus State &
Local Fiscal Recovery Fund (SLFRF): 31 CFR Part 365
January 10, 2022

On January 6, 2022, the U.S. Treasury released its Final Rule for the Coronavirus State Fiscal Recovery Fund and the Local Fiscal Recovery Fund, 31 CFR Part 35, established under the American Rescue Plan Act, Pub. L. 117-58. The Treasury initially published the Interim Final Rule on May 17, 2021, to provide interim guidance on the State & Local Fiscal Recovery Funds (SLFRF); and requested comments from tribal government and the general public that would be used in the publication of the Final Rule. After receiving and considering the comments, the U.S. Treasury made its adjustments and published the Final Rule to be effective on April 1, 2022. The document has been submitted to the Office of Federal Register (OFR) for publication. Once published it becomes an official document and can be found at: www.federalregister.gov, www.regulations.gov, and at www.treasury.gov. We provide this advanced information so you may be better prepared when the Final Rule is published in the Federal Register.

The SLFRF is a part of the American Rescue Plan Act (ARPA), and provides \$360 billion to state, local and tribal governments, of which \$20 billion is established as a tribal set-aside for tribes to support their response to and recover from the COVID-19 public health emergency. The program ensures that local and tribal governments have the resources to:

1. Fight the pandemic and support families and businesses struggling with public health and economic impacts;
2. Maintain vital public services, even amid declines in revenues; and
3. Build a strong, resilient, and equitable recovery by making investments that support long term growth and opportunity.

Attached is a copy of U.S. Treasury's January 2022 Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule, for your information. It provides an overview of the major provisions of the Final Rule for informational purposes; and is intended to be used as a User Guide to the Final Rule provisions.

The Final Rule, when officially published in the Federal Register, will take effect on April 1, 2022; but U.S. Treasury advises that recipients may take advantage of the Final Rule's flexibilities and simplifications now, even ahead of the effective date. The Final Rule provides broader flexibility and greater simplicity; and addresses the following:

1. Replacing Lost Public Sector Revenue: The Final Rule provides for a standard allowance for revenue loss of \$10 million, allowing recipients to select between the standard amount of loss or complete a full revenue loss calculation.

2. Public Health and Economic Impacts: Provides tribes with a wide range of services without requiring additional analysis, including cash to food assistance, health insurance coverage, expansion and paid sick and family leave, affordable housing development including permanent housing services, childcare services, educational assistance for K-12 students; construction of childcare facilities, schools, hospitals, and other projects. Tribal governments are exempt from providing complete justifications for capital expenditures.

It simplifies administration so small businesses operated by tribal governments or operated on tribal lands are eligible to receive loans or grants to mitigate financial hardship, to receive technical assistance; and will be afforded access to broader set of capital expenditures and support services.

The Final Rule allows recipients to cover payroll and covered benefits for public safety, public health, and human services staff. It provides a broader menu of options for recipients to restore and support their public sector workforce.

3. Premium Pay: The Final Rule provides for more streamlined options to provide premium pay by broadening the share of eligible workers who can receive premium pay without written justifications while maintaining a focus on low-income and frontline workers who are performing essential work.
4. Water, Sewer & Broadband Infrastructure: The Final Rule significantly broadens eligible broadband infrastructure investments to address challenges with broadband access, affordability, and reliability; and adds additional eligible water and sewer infrastructure that would provide for clean water and high-speed broadband to the communities.

Finally, keep in mind that SLFRF must be used for costs incurred on or after March 1, 2021; and that funds must be fully obligated by December 31, 2024, and expended by December 31, 2026. The above period is defined as the “covered period”.

We will provide guidance on the Final Rule in our upcoming classes. Should you have any questions, please contact us at: info@kivainstitute.com or 1-866-202-5482.