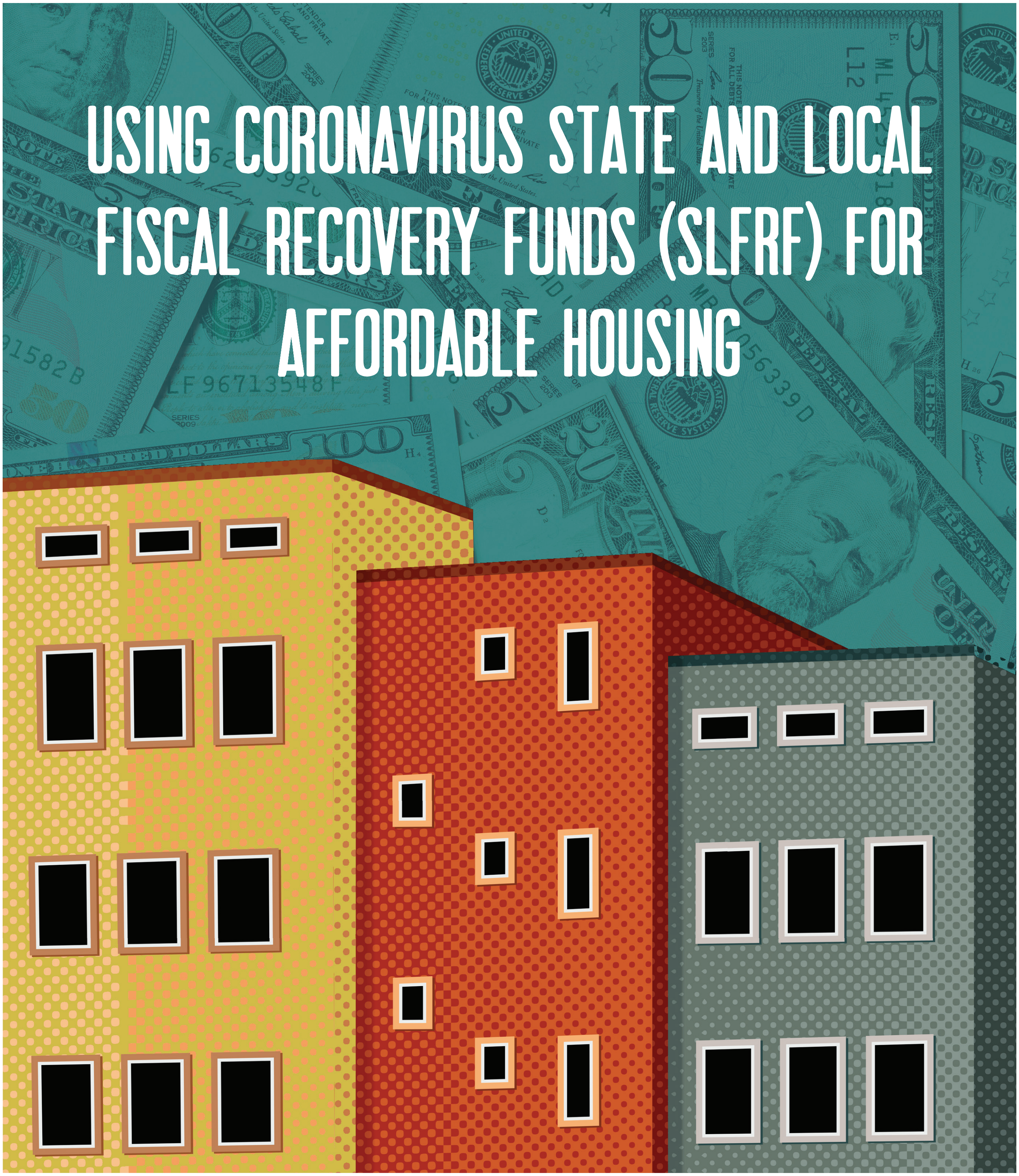
USING CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS (SLFRF) FOR AFFORDABLE HOUSING



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Using Coronavirus State & Local Fiscal Recovery Funds (SLFRF) for Affordable Housing

"It is clear that the ongoing pandemic and resulting economic crisis are having a profound, long-term negative effect on the pre-existing affordable housing crisis facing low-income households. The combination of a large number of higher-income households who have weathered the pandemic without significant income losses, low interest rates, and housing supply constraints exacerbated by the pandemic, have driven a sharp increase in the sale price of homes. Meanwhile, many low income renters and homeowners are struggling with lost employment and income and are behind on their housing payments."[1]

This is a direct passage from Treasury's final rule implementing the Coronavirus State and Local Fiscal Recovery Fund program and a reality that Floridians experience every day. Tenants' rights groups, housing champions with lived experience, and news articles punctuate daily the human toll that rising rents and home prices have wrought on our state. Fortunately, there is a funding source that can make a substantial impact on Floridians that lack access to an affordable place to live.

The American Rescue Plan (ARP), passed by Congress and signed by President Biden in March 2021, created the Coronavirus State and Local Fiscal Recovery Fund (SLFRF). The U.S. Treasury Department distributes this Fund to cities, counties, and other eligible entities to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery. The SLFRF statute[2] provides substantial flexibility to grantees to choose from a broad variety of eligible uses to meet local needs - including support to households, small businesses, impacted industries, essential workers, and the communities hardest hit by the pandemic.

On January 27, 2022, Treasury published its *Final Rule* implementing the SLFRF program which went into full effect on April 1, 2022. This final rule[3] provides much needed clarity to how state and local governments can use these funds for affordable housing activities. **With this final rule, local governments in Florida can feel confident using this once-in-a-generation influx of federal dollars to meet a number of affordable housing goals.**

Now is the time for local governments to dedicate a substantial portion of their SLFRF to affordable housing. Although the SLFRF statute and rule allow grantees to use their funds on a broad variety of uses, there are few as pressing as the ones that address the affordable housing crisis.

This document breaks down how local governments can use their SLFRF funds for affordable housing activities based on the clarity provided in Treasury's Final Rule and is intended for educational purposes. For questions or more information on how to use your local government's SLFRF dollars for affordable housing, please contact Kody Glazer at glazer@flhousing.org.

[1] 87 Fed. Reg. 4338, 4365-66.
[2] 42 U.S.C. § 803(a).
[3] Coronavirus State and Local Fiscal Recovery Funds, 87 Fed. Reg. 4338 (Jan. 27, 2022).

The Opportunity

It is not overly dramatic or hyperbolic to say that these SLFRF dollars create a once-in-a-generation opportunity for local governments to address the affordable housing crisis. If you compare the amount of funds a local government has right now in SLFRF with the amount of state and federal funds that local government can expect to receive per year in affordable housing funding, it is night and day. It is hard to imagine another time in the foreseeable future where local governments across Florida have this much money at one time that can be used to address the housing crisis.

A local government's SLFRF allocation can be anywhere from **8 to 86 times** what they could expect from the state or federal government for housing in a given year. Most local governments will receive between 10 and 15 times more in SLFRF than annual federal and state housing funding. For example, it could take 13 years for a city such as Fort Pierce to receive the same amount of housing funding from the state and federal government that they have right now in SLFRF dollars.

Local Government	Estimated State and Federal Housing Funding 22/23*	SLFRF Allocation	Difference
Flagler County	$258,926	$22.3 million	**86x**
Broward County	$11.8 million	$379.3 million	**32x**
Charlotte County	$1.6 million	$36.3 million	**22.5x**
Miami-Dade County	$30 million	$527.7 million	**17x**
St. Johns County	$3.7 million	$51.4 million	**14x**
Hillsborough County	$21.4 million	$285.9 million	**13x**
Panama City	$737,967	$10.0 million	**13x**
Fort Pierce	$1.0 million	$13.5 million	**13x**
Gainesville	$3.1 million	$32.4 million	**10x**
Orlando	$6.9 million	$58.0 million	**8x**

*Includes SHIP, CDBG, HOME, and ESG funding.

Payments to local governments in Florida

All cities and counties in Florida are eligible for SLFRF dollars but depending on its size, receive the funds from different entities. "Direct grantees," for the purpose of this publication, refers to the 67 counties and 77 larger municipalities that received SLFRF dollars directly from the U.S. Treasury Department. "DEM grantees" refers to the 335 cities, towns, and townships that are eligible to receive SLFRF dollars through the Florida Division of Emergency Management.

Direct grantees

All 67 Florida counties and 77 larger municipalities received SLFRF dollars directly from the U.S. Treasury Department. Allocations are population-based as Florida county payments range from $1.6 million to $527 million and municipality payments range from $1.5 million to $157 million.

Here are some examples of direct SLFRF allocations for reference:

Broward County $379.3 million	Collier County $74.7 million	Duval County $186 million	Hialeah $66.8 million	Leon County $57.0 million
Ocala $12.2 million	Kissimmee $18.0 million	Flagler County $22.4 million	Miami-Dade County $527.7 million	Sarasota County $84.2 million
Lee County $149.6 million	Osceola County $72.9 million	Coral Springs $20.0 million	Port St. Lucie $24.7 million	Tampa $80.3 million

The direct grantee local governments will receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered approximately 12 months later. SLFRF dollars must be obligated by December 31, 2024 and expended by December 31, 2026. Local governments are currently deciding how to use their SLFRF dollars so education and advocacy on how to use these funds for affordable housing activities is key.

DEM grantees

The remaining 335 cities, towns, and townships in Florida are eligible to receive SLFRF dollars from the Florida Division of Emergency Management. These 335 local governments are defined as "non-entitlement units of local government" or "NEUs" and all have a population under 50,000 persons. Allocations are also population-based and distributions range from $5,509 to $24.1 million. These 335 NEUs in total are eligible to receive over $1.4 billion. Here are some examples of DEM SLFRF allocations for reference:

Clermont $19.3 million	Brooksville $4.2 million	Key West $12.0 million	Stuart $8.1 million	South Palm Beach $736,255
Zephyrhills $8.3 million	Fernandina Beach $6.5 million	Archer $600,022	Hallandale Beach $19.9 million	Marathon $4.2 million

The DEM grantee local governments will receive funds in two tranches as well, with 50% provided once an agreement is entered into with the balance delivered approximately 12 months later.

Eligible uses, generally

Under the SLFRF statute[4], local governments may use these funds in the following ways:

A. to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
B. to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
C. for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or
D. to make necessary investments in water, sewer, or broadband infrastructure.

This list of eligible uses provides a host of ways to use these funds. A local government can use its SLFRF allocation to provide assistance to small businesses negatively impacted by the pandemic, to provide premium pay to essential workers, make up for lost government revenue during the pandemic, and even to make broadband infrastructure investments, just to name a few. Because local governments have wide latitude in how to spend these dollars, **it is up to advocates and housing professionals to ensure affordable housing is considered a priority in allocating these funds**.

The breadth of affordable housing activities that Treasury allows with these dollars are justified by (A) and (D) above. Under eligible use (A), a local government could provide housing assistance directly to households and nonprofits and more generally, use the funds to respond to the negative economic impacts of COVID-19 by building affordable housing. Under eligible use (D), a local government could fund water, sewer, and broadband infrastructure investments that serve affordable housing developments.

Eligible affordable housing uses

In its final rule, the U.S. Treasury makes clear that SLFRF dollars can be used for a number of affordable housing purposes to respond to COVID-19's negative economic impacts.[5] Assistance can be structured as a grant or a loan, but if structured as a loan, there are certain Treasury

[4] 42 U.S.C. § 803(a).
[5] 87 Fed. Reg. 4338, 4449.

requirements the grantee must be aware of which may require a non-SLFRF match (more on this later). Here is a non-exhaustive list of eligible affordable housing uses:

- Construction costs
- Rent and mortgage assistance
- Demolition or deconstruction of vacant or abandoned buildings
- Land acquisition and title clearing
- Environmental remediation
- Conversion of vacant or abandoned properties into affordable housing
- Down payment assistance
- Housing vouchers and relocation assistance
- Inspection fees
- Gap Financing
- Supportive housing services
- Site prep work and infrastructure
- Operating support
- Home repair and preservation
- Housing counseling and legal aid

Even if a use is not listed in the Rule, Treasury has made it clear that grantees have "broad flexibility to identify and respond to other pandemic impacts and serve other populations that experienced pandemic impacts, beyond those enumerated uses and presumed eligible populations."[6] If your affordable housing idea is not expressly listed, your community can still attempt to justify that the idea addresses a COVID-19 economic impact by using Treasury's "Framework for Eligible Uses Beyond Those Enumerated" that can be found here at page 32.

Ideas for Funding

With so many possible affordable housing uses, it may be difficult to decide which ones to target with these funds. Here are some ideas for local initiatives:

- Shovel ready projects that were delayed due to increased costs, labor, or material shortages due to COVID
- Land acquisition for permanently affordable housing
- Development costs to produce permanently affordable units
- Ongoing rental assistance & housing vouchers (through 12/31/2026)
- Down payment & closing cost assistance
- Site prep & pre-development activities
- Legal aid to prevent evictions
- Operating support grant for organizations that suffered a COVID economic hardship

This funding source may be ideal as a way to fund an affordable housing development that was stalled due to increased costs during the pandemic. SLFRF could help get affordable projects to the finish line by paying for gap financing, increased material costs, and other justifiable actions

[6] https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Overview.pdf.

to produce units. Similarly, because this is a once-in-a-generation opportunity, these funds are an ideal way to purchase land for permanently affordable units. A local government could use its SLFRF allocation to purchase land and then partner with a community land trust or other entity under a 99-year ground lease to steward the land as permanently affordable housing.

For more short-term solutions, SLFRF can be used to fund ongoing rental assistance, especially for households that have seen dramatic rent increases. However, if your community suffers from a supply shortage that can't be addressed with other funding sources, you may want to devote all of your funds set aside for affordable housing on new development.

Which affordable housing uses should your local government prioritize?

Priorities should start with the data. Funding should be prioritized to households and for housing activities that are the greatest need. If your community has an acute affordable rental housing crisis for low-income households, SLFRF could be prioritized solely for affordable rental development. Funding decisions should also be made by looking at all of the local government's housing resources as a whole. For example, if you live in a community that only receives State Housing Initiatives Partnership (SHIP) funds and does not receive any federal funds for housing, you may want to use SLFRF solely for rental housing since SHIP is predominately a homeownership program.

Communities across the state have hosted workshops and have accepted public comments on how to dedicate their SLFRF dollars. When advocating for affordable housing to be funded with these dollars, it may be helpful to identify a few specific affordable housing activities to rally behind. An ask to just fund "affordable housing" may lack the specificity to encourage your City or County Commission or local government staff to fund affordable housing. Instead of advocating for "affordable housing," consider advocating for things like "homeownership development for low-income households," "permanently affordable rental housing targeting essential workforce," "housing vouchers for households who experienced a rent increase of 5% or greater."

It will also be beneficial to identify existing affordable housing developers that can step in to build the affordable housing the community seeks through use of SLFRF. Strategic partnerships with the non-profit and for-profit sector can be a boon to the success of affordable housing initiatives.

Things to consider when setting SLFRF affordable housing priorities:

- What are your community's greatest affordable housing needs?
- What other funding sources are available and what types of activities can those sources fund?
- What is the capacity of local affordable housing providers to carry out the local government's priorities?
- How can these SLFRF dollars be leveraged with other community efforts?

Eligible households and populations

In the *Interim* Final Rule and prior Treasury guidance for the SLFRF Program, the main standard for whether an affordable housing activity was eligible was whether it served "disproportionally impacted populations and communities."[7] Recognizing that this was not a workable, clear standard, the Final Rule provides much needed clarity to help local governments assess which households and populations are eligible.

Treasury has made eligibility for SLFRF affordable housing programs clear by[8].

1) presuming certain households and affordable housing developments that qualify for other federal benefits programs are eligible; and

2) releasing accompanying guidance for how to identify eligibility if a household or development is *not presumed* to be eligible.

1. Categorical Eligibility

Treasury allows grantees to presume certain households and populations are eligible for SLFRF-funded affordable housing activities if the household, population, or project falls under a listed category. This is also referred to as "categorical eligibility." SLFRF eligibility is dependent upon whether the activity serves a household or population that was either "impacted" or "disproportionately impacted" by COVID-19.

Treasury provides a host of ways for a grantee to presume that a household was either impacted or disproportionately impacted by COVID. This chart below demonstrates a few of the ways grantees can presume program eligibility. For a complete list, see Treasury guidance.

"Impacted" household or population (most affordable housing activities)	• Moderate-income or below (At or below 65% Area Median Income or at or below 300% of the most recently published Federal Poverty Guidelines, adjusted for household size) • Experienced unemployment • Experienced increased food or housing insecurity • Qualifies for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, Medicaid, or other listed programs • Qualifies for the National Housing Trust Fund or Home Investment Partnership Program If a household or population does not meet one of the above criteria, the grantee may use additional information to justify the household or population was impacted by the pandemic pursuant to Treasury guidance

[7] 31 C.F.R. § 35.6(12).
[8] See the U.S. Treasury's document titled "Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule", https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Overview.pdf.

"Disproportionally impacted" household or population (only for housing vouchers, relocation assistance, and improvements to vacant and abandoned properties)	• Low-income or below (At or below 40% Area Median Income or at or below 185% of the most recently published Federal Poverty Guidelines, adjusted for household size) • Resides in a Qualified Census Tract • Qualifies for Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch, and other programs identified by Treasury that presume eligibility If a household or population does not meet one of the above criteria, the grantee may use additional information to justify the household or population was impacted by the pandemic pursuant to Treasury guidance

Categorical eligibility for affordable housing uses depends on the use itself; in other words, whether a household has to be "disproportionally impacted" or merely "impacted" depends on the use. For most affordable housing activities, a household or population only has to be "impacted" by the negative economic effects of COVID-19. For housing vouchers, relocation services, and improvements to vacant and abandoned properties, the household or population being served has to be "disproportionally impacted." Here is a chart demonstrating when a household or population must be "impacted" vs. "disproportionately impacted" to receive assistance:

Household/population must be "disproportionally impacted" by COVID	Household/population must only be "impacted" by COVID
Housing vouchers	• Emergency housing assistance (rental, mortgage, utility, property tax assistance)
Relocation assistance	• Counseling & legal aid to prevent eviction
Improvements to vacant and abandoned properties	• Homeless services including transitional housing & emergency funding
	• Home repair & weatherization
	• Development of affordable housing
	• Development of permanent supportive housing

For example, if using SLFRF funds to provide rental assistance, a local government can presume that households that qualify for Section 8 vouchers, TANF, have experienced unemployment, or are below 300% of the Federal Poverty Guidelines for a household its size are all eligible for funds. If using SLFRF funds for housing vouchers, a local government can presume that households in a Qualified Census Tract, that qualify for SNAP, and that are low-income according to Treasury's definition are eligible for assistance.

Be aware that Treasury's definition of low- and moderate-income are different than what a local government may be used to serving in its housing assistance programs. This is because the definitions of low- and moderate-income include reference to 185% and 300% of the Federal Poverty Guidelines. As you can see below for reference, Treasury's definition of "moderate-income" for certain household sizes may be higher or lower than 120% AMI for depending on the community.

300% of 2022 Federal Poverty Guidelines compared to 120% AMI for select communities

Household Size	300% of Federal Poverty Guidelines (moderate-income)	120% AMI for Marion County	120% AMI for Polk County	120% AMI for Tallahassee	120% AMI for Miami-Dade County
1	$40,770	$52,320	$56,760	$68,280	$81,960
2	$54,930	$59,760	$64,800	$78,000	$93,600
3	$69,090	$67,200	$72,960	$87,720	$105,360
4	$83,250	$74,640	$81,000	$94,440	$117,000
5	$97,410	$80,640	$87,480	$105,240	$126,360
6	$111,570	$86,640	$93,960	$113,040	$135,720

185% of 2022 Federal Poverty Guidelines compared to 80% AMI for select communities

Household Size	185% of Federal Poverty Guidelines (low-income)	80% AMI for Marion County	80% AMI for Polk County	80% AMI for Tallahassee	80% AMI for Miami-Dade County
1	$23,828	$34,850	$37,800	$45,500	$54,600
2	$32,227	$39,800	$43,400	$52,000	$62,400
3	$40,626	$44,800	$48,600	$58,500	$70,200
4	$49,025	$49,750	$54,000	$64,950	$78,000
5	$57,424	$53,750	$58,350	$70,150	$84,250
6	$65,823	$57,750	$62,650	$75,350	$90,500

To summarize, this is the method for determining household eligibility for SLFRF assistance:

1. What affordable housing activity is being funded? (this will determine whether a household must be "impacted" or "disproportionally impacted" by COVID)

2. Is the household presumed eligible? (is the household either presumed "impacted" or "disproportionately impacted" by COVID?)

3. If the household is not presumed eligible, can the grantee justify a COVID impact?

2. How to determine eligibility if household or development is not presumed eligible

Local government grantees have broad flexibility to identify households or populations that are eligible for SLFRF even beyond those that are presumed to be eligible. To help grantees identify these persons, Treasury released a "Framework for Eligible Uses Beyond Those Enumerated" that can be found here at page 32. Once impacted populations beyond those presumed to be impacted are identified, the response must be reasonably proportional to the harm.

For example, using the chart above, Treasury's definition of "moderate-income household" is way lower than 120% AMI for Miami-Dade County ($69,090 vs. $105,360 for a household of three), the typical AMI level used to identify a "moderate-income household" for housing programs. To serve households up to 120% AMI in Miami-Dade County, the County would need to justify that households, in general, up to 120% AMI were impacted by the negative economic effects pandemic or that an individual household was impacted negatively by the pandemic.

Treasury's guidance at the above-referenced Framework expressly allows grantees to "designate a class based on income level, including at levels higher than the final rule definition of "low- and moderate-income."[9] SLFRF grantees can serve higher incomes than the Treasury definitions allow as long as it provides adequate justification. Grantees can identify eligible incomes higher than Treasury's definitions if the income range is "based on academic research or government research publications . . ., through analysis of their own data, or through analysis of other existing data sources."[10] For Miami-Dade to serve up to 120% AMI, it would need to use data that shows that households up to 120% AMI, in general, experienced a negative economic impact in the affordable housing market due to COVID based on Treasury's standards outlined in the Framework.

After justifying serving higher incomes, grantees must ensure that the response is "reasonably proportional" to the scale of the harm. Treasury notes that "for example, it may not be reasonably proportional for a cash assistance program to provide a very small amount of aid to a group that experienced severe harm and a

much larger amount to a group that experienced relatively little harm."[11] Using the Miami-Dade County example again, if Miami-Dade is able to justify that households up to 120% AMI in general were impacted by the pandemic vis a vis the housing market, it would need to provide benefits reasonably proportional to the harms. An 80% AMI household, for example, could reasonably receive more down payment assistance than a 120% AMI household.

[9] U.S. Treasury Department, Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule, pg 33, https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Overview.pdf.
[10] *Id.*
[11] *Id.* at 34.

Terms of Assistance

SLFRF can be structured as a grant, a loan, or in-kind assistance. For reasons to be discussed below, SLFRF funds are most suitable as grants, although there are inherent issues providing grants to tax-credit developers specifically. It is possible for affordable housing subsidy to be structured as a loan, but the grantee should be aware of specific Treasury requirements that may mandate a non-SLFRF match.

Structuring assistance as a loan

Treasury guidance allows SLFRF to be structured as a loan. Treasury provides different standards for loans that mature or are forgiven on or before December 31, 2026, and loans that mature or are forgiven after December 31, 2026.

For loans that mature or are forgiven **before** December 31, 2026, the grantee must account for the use of funds on a cash flow based, consistent with the approach to loans taken in the Coronavirus Relief Fund. Recipients may use SLFRF funds to fund the principal of the loan and must track repayment of principal and interest as "program income" is defined under 2 C.F.R. 200. When the loan is made, recipients must report the principal of the loan as an expense and repayment and principal may be re-used only for eligible uses and subject to restrictions on timing of use of funds. Interest payments received prior to the end of the period of performance will be considered an addition to the total award and may be used for any purpose that is an eligible use of funds.

For example, if a local government makes a one-year loan in August 2022 and the loan is fully repaid in August 2023 with interest, the local government can use the repaid principal and interest to fund additional SLFRF-eligible uses according to the program deadlines. The local government would have until December 31, 2024 to re-obligate a repaid loan.

For loans that mature or are forgiven **after** December 31, 2026, grantees can use SLFRF dollars only for the projected cost of the loan. Treasury provides two ways the estimate the projected cost of the loan 1) a net present value analysis; or 2) through the Current Expected Credit Cost (CECL) standard. This analysis which should be done in coordination with the local government Finance Department. Since local governments can only fund the "projected cost of the loan," local governments may need to provide a non-SLFRF match to fund the entire loan depending on the interest rate, term, and discount rate.

A local government can determine its cost of funding based on the interest rates of securities with a similar maturity to the cash flow being discounted that were either 1) recently issued by the recipient; or 2) recently issued by a unit of state, local, or Tribal government similar to the recipient. This technical guidance may be best interpreted by the finance experts on local government staff.

The two scenarios below provide an example for informational purposes on how long-term SLFRF loans can be structured and depending on the terms, what non-SLFRF match is required since SLFRF can only be used to cover the local government's "projected cost of the loan." These loan analyses were done by the Florida Housing Coalition in consultation with Housing and Community Development Consulting Firm, LLC and is not to be relied upon for programmatic decisions. These analyses must be done locally and in consultation with local counsel.

Scenario #1 – 40 years, no interest	
Loan Amount	$1,000,000
Term (Years)	40
Interest Rate	0.00%
Discount Rate	5.50%
Present Value	$117,463
ARPA SLRF	$882,537
Other Funds	$117,463

Note: Input cells highlighted in red font.

In this example, if a local government wanted to provide a $1 million loan to an affordable housing developer using SLFRF funds for a term of 40 years, at 0% interest, with a discount rate of 5.5%, SLFRF could only be used to fund $882,537 of the loan. The local government would need to find another funding source to cover the remaining $117,463.

Scenario #2 – 30 years, 1% interest	
Loan Amount	$1,000,000
Term (Years)	30
Interest Rate	1.00%
Discount Rate	5.50%
Present Value	$345,981
ARPA SLRF	$654,019
Other Funds	$345,981

Scenario #2 illustrates that the shorter the loan term and the higher the interest rate, the more non-SLFRF funds will need to provided. Here, over double the amount of non-SLFRF funds will need to provided for a 30-year, 1% interest loan than for a 40-year, 0% interest loan.

This is how a local government could structure a SLFRF loan to require less in non-SLFRF funds:

- **Longer term**. A 40-year loan will require less subsidy blending than a 30-year loan.
- **Lower or no interest rate**. The lower the interest rate, the less in local match is required.
- **Higher discount rate**. The higher the discount rate, the less in local match.
- **Completely deferred and forgivable**. If a loan is completely forgivable with no expectation of repayment, the present value will be $0. Therefore, a 15-year deferred loan that can be completely forgiven at the end of the loan term can be fully funded by SLFRF with no non-SLFRF portion.

The best structure to avoid a non-SLFRF portion of the loan is a 30-50 year, no-interest loan with no payment until maturity. This information is all for educational purposes and local governments should consult with their own counsel before relying on this information.

Affordability periods

The SLFRF legislation, Final Rule, and accompanying guidance are silent as to any specific affordability periods of housing units assisted by SLFRF dollars. A local government may need to work closely with their Treasury representative to determine these nuances. All that Treasury requires for affordable housing development, housing stability services, and homelessness assistance is that funds must be spent to address the negative economic impacts of COVID-19 and be used on either impacted or disproportionately impacted populations depending on the use. Other funds that are justifiable under separate provisions of the Final Rule to small businesses, nonprofits, and households, and impacted industries only require that grantees prove the assistance supports entities that suffered a negative economic impact due to COVID-19.

In terms of an affordability period, a local government should require the longest possible affordability period for units assisted by SLFRF funds. For land acquisition, as to be discussed below, units should be affordable in perpetuity. These funds provide a once-in-a-generation influx of federal capital for affordable housing and therefore should be used to support housing units that are affordable in the community long-term or permanently. Local governments can maintain long-term or permanent affordability through a Land Use Restriction Agreement (LURA) with provisions regarding annual monitoring and penalties for noncompliance. For example, a LURA can state that renting the assisted units above allowable rents will constitute an event of default triggering a financial penalty that reflects the difference between the affordable rents and the rents charged plus punitive damages. For more information regarding how to structure and enforce Land Use Restriction Agreement, please contact the Florida Housing Coalition.

Following the federal Uniform Guidance

Under Treasury guidelines, most of the provisions of the Uniform Guidance (2 CFR Part 200) apply to the SLFRF program. The Uniform Guidance is a set of rules and regulations that covers federal grants. Part 200 has presented a potential challenge for local governments when using SLFRF for land acquisition. Specifically, 2 CFR § 200.311 relating to Real Property standards has presented an issue.

2 CFR § 200.311, which is typically waived for the HUD programs local governments are used to working with for housing, requires that real property purchased with federal funds be used only for the originally authorized purpose and only as long as it is needed for that purpose. Under 2 CFR § 200.311(c) governing disposition, when real property is no longer needed for the original purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency which may require the non-Federal entity to compensate the Federal government either by paying any due balances or selling the property or by transferring title to a third party approved by the Federal government.

2 CFR § 200.311 would apply in a situation where the local government uses SLFRF to purchase land. Under this section, a strict reading would find that if the local government only had a 15-year affordability period for example (the original purpose) and on year 15 and 1 day the property

was no longer used as affordable housing, the local government would need to compensate the Federal government if found that the property was no longer needed for the original purpose (affordable housing).

The best way to avoid having to compensate the Federal government when using SLFRF to purchase property is to keep units built on land acquired with SLFRF affordable in perpetuity. If the units on purchased property are always affordable, it will always be used and needed for its original purpose. Local governments should discuss this internally and with their Treasury representative for final clarification.

Examples of SLFRF-funded affordable housing initiatives

SLFRF Highlights in Florida

As of this writing in Spring 2022, local governments are still in the planning process regarding how to use their SLFRF dollars. Fortunately, there are several good examples in Florida of local governments dedicating a substantial proportion of their funds towards affordable housing initiatives, with the City of St. Petersburg in the lead. A SLFRF leaderboard can be found at www.flhousing.org/ARPA. The Final Rule implementing the SLFRF program and the examples from across the state should provide comfort to local governments looking to address the affordable housing crisis with these dollars.

This chart is a local leaderboard in terms of the total percentage of SLFRF dedicated to affordable housing.

Local Government	SLFRF $ dedicated to affordable housing	% of total allocation
St. Petersburg	$34 million	74%
Sarasota County	$25 million	30%
Palm Bay	$5 million	27%
Palm Beach County	$60 million	20%
Tampa	$16 million	20%
Manatee County	$15 million	19%
Broward County	$49.255 million	13%
Alachua County	$6 million	11.5%

The **City of St. Petersburg** has a comprehensive plan for how to spend the $34 million of SLFRF it has dedicated towards affordable housing:

- $6.5 million for an affordable townhome development with construction expected to start in the summer of 2023 and completion in the summer of 2024
- $2.5 million for scattered site family shelter
- $1 million for supportive housing services
- $20 million for development of affordable multi-family rental housing
- $3.5 million for rental assistance

Broward County selected seven projects to be funded at $47.255 million through three RFAs. The RFAs were for:

- $29 million for large projects at a minimum of 70 units with no more than $10 million per project;
- $5 million for land acquisition, and
- $5 million for small non-profit development no larger than 50 units.

However, after selecting the seven projects, Broward County ultimately decided to use $40 million in general revenue and $7.255 million in local trust fund dollars as the funding source instead of SLFRF. To make this happen, Broward County found $40 million worth of non-housing activities that would have been funded with general revenue to free up the general revenue for these affordable housing projects. This is example of how SLFRF could be used to fund general revenue projects to free up general revenue for affordable housing.

Palm Beach County has set aside $60 million to increase retention and supply of affordable and workforce housing. The County will implement housing strategies that will require funding for construction, gap financing for contractor and developers, and first and/or second mortgages to homebuyers.

Manatee County is dedicating $15 million in SLFRF towards the repurposing of an old county jail into housing for veterans.

Seminole County dedicating $2 million to pursue opportunities to create, diversify, and preserve attainable housing by using the funding to provide vacant land and/or structures to a community land trust, develop a land bank program, and transfer title to a 501C3 for the development of affordable housing.

National Affordable Housing Highlights

The U.S. Treasury released a Fact Sheet titled "*State, local, and Tribal governments are using Fiscal Recovery Funds to keep families in their homes and build more affordable housing*." This Fact Sheet confirms the guidance for affordable housing found in the Final Rule, Treasury's FAQs, and in this publication, and also provides nationwide examples of how grantees are using SLFRF for affordable housing. Treasury states that by the end of 2021, "[n]early 570 governments committed $11.7 billion to meet housing needs and lower costs, including through direct assistance to households and expanding affordable housing" with SLFRF. Further, "[r]oughly $3.2 billion [has been] committed by 120 states, localities and Tribes to affordable housing development, preservation, and innovative approaches to expand housing supply."

For examples of individual housing assistance, the **State of New Jersey** committed $790 million to rental and utility assistance for households affected by the pandemic. **St. Louis County, Missouri** will use $5 million to supplement its emergency rental assistance program, expanding rent and utility assistance. **Bellevue, Washington** will use $7 million for rent assistance, eviction prevention efforts, and mortgage assistance. **Glynn County, Georgia** funded program navigators to help residents apply for emergency rental assistance and provide referrals to other programs as needed. **Indianapolis, Indiana** will use $1.15 million for tenant advocates in housing courts to prevent evictions. There are a host of examples nationwide of governments using SLFRF for individual assistance.

There are also many examples of state and local governments using SLFRF to fund affordable housing development. The **State of California** will invest $1.75 billion in development capital for “shovel ready” affordable housing developments, preservation of existing affordable housing at risk of conversion to market-rate housing or in need of significant repairs, and development of additional adult and senior care facilities. **Minneapolis, Minnesota** will use $79 million for a wide range of projects to increase access to affordable housing in the community, support housing stability, promote homeownership, and assist individuals experiencing homelessness. **Denver, Colorado** has allocated $28 million to the Affordable Housing Fund, which will provide financing that assists in the development and preservation of affordable housing projects, including rental projects that have deeply affordable units with supportive services or large units for families and homeowner projects.

The **State of Delaware** and the **City of Wilmington** will partner to support redevelopment of the Riverside neighborhood through the construction of 67 rental units on vacant land that was formerly public housing. The mixed-income project will include 50 affordable and 17 workforce townhouse units, with the affordable units receiving operating subsidies enabling them to serve households at very low-income levels. **Fort Worth, Texas** will purchase 36 properties in a low-income neighborhood as part of a $70 million redevelopment investment to include affordable housing in addition to retail, commercial units, parks, and other public spaces. See the Treasury publication for more examples nationwide of SLFRF-funded affordable housing initiatives.

Contact Us

The Florida Housing Coalition can help your local government plan to use SLFRF dollars for affordable housing initiatives. We can also help local housing nonprofits or advocates use this information to secure an affordable housing commitment from your local government. COVID-19 has accelerated housing unaffordability in the state and these dollars provide a tremendous opportunity to fund affordable housing activities in response to the pandemic. Please contact Kody Glazer at glazer@flhousing.org if you have any questions.