NCPRO

NC Pandemic Recovery Office

ARPA State Fiscal Recovery Funds

Interagency Meeting

April 18, 2024

Agenda

1. US Treasury Guidance
2. KPI Dashboard
3. Office Hours (remaining time)

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US Treasury Obligation Guidance

Released March 29, 2024

US Treasury New Obligation Guidance

- US Treasury released new obligation guidance on March 29, 2024, that makes our job much easier
- NCPRO sent out a memo to state agencies to explain the new guidance (email from Josh Peacock on 4/4), and you can find the full updated FAQs here: SLFRF FAQs (treasury.gov)
- Review what this means for state agencies:
  - Obligation process and documentation
  - Expenditure deadline of December 31, 2026, still applies
  - Other processes and work remains the same (e.g., reporting, KPIs, Deloitte monitoring, etc.)

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US Treasury New Obligation Guidance

Section 17 of the recently updated FAQ's deals with a number of issues and finally gives clarity on NC's most urgent questions:

1. When are funds "Obligated?" (17.1, 17.6, 17.7)
2. What happens to funds not obligated by 12-31-2024? (17.2, 17.7, 17.8, 17.10, 17.17)
3. What are allowable closeout costs after the 12-31-2026 deadline? (17.5, 17.10, 17.11, 17.12, 17.13)
4. How do we obligate administrative costs for CY 2025 and 2026? (17.7, 17.8, 17.9, 17.10, 17.13)
5. Can SFRF be shifted to other projects after the obligation deadline? (17.16, 17.17, 17.19)

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New Obligation Mechanism Allowed

17.6. Does an interagency agreement between departments and agencies within a recipient's government constitute an obligation?

Treasury considers an interagency agreement, including an agreement in the form of a memorandum of understanding (MOU), to constitute a "transaction requiring payment" similar to a contract or subaward and therefore an obligation for purposes of the SLFRF rule, if the agreement satisfies one of the following conditions:

- it imposes conditions on the use of funds by the agency, department, or part of government receiving funds to carry out the program;
- it governs the provision of funds from one agency, department, or part of government to another to carry out an eligible use of SLFRF funds; or
- it governs the procurement of goods or services by one agency, department, or part of government from another

<u>and</u> the agreement also satisfies each of the following conditions:

- it sets forth specific requirements, such as a scope of work and project deliverables;
- it is signed by the parties to the agreement, or otherwise evidences that each party has assented to the agreement; and
- it does not disclaim any binding effect or state that it does not create rights or obligations

What this means for state agencies:

- Signed NCPRO/State Agency MOUs will meet these requirements and obligate funds (with accurate scope of work and deliverables)
- State agencies will need to make any updates to scope of work
  (attachment A), budget (attachment B) for MOUs by December 31, 2024
- MOUs will also obligate administrative funds
- NCPRO will continue to monitor agencies, require monthly reporting, and ensure compliance with MOUs
- State agencies should continue best practices for agreements and MOUs with subrecipients and other agencies, but NCPRO/State Agency MOU is obligation vehicle for SFRF

Unobligated Funds are Returned to UST

17.2. What happens to funds not obligated by December 31, 2024?

Recipients are required to return to Treasury any SLFRF funds that have not been obligated by the obligation deadline of December 31, 2024. Recipients will report funds that were obligated by December 31, 2024, in the Project and Expenditure Report that, in the case of annual reporters, is due by April 30, 2025, and, in the case of quarterly reporters, is due by January 31, 2025.

However, recipients are not required to return to Treasury SLFRF funds that recipients have estimated will cover costs in 2025 and 2026 for certain legal and administrative expenses (as discussed in FAQs 17.10-13), certain personnel expenses (as discussed in FAQs 17.7 and 17.8), or certain contract changes or contingencies (as discussed in FAQ 17.17). As noted in the obligation IFR, Treasury will provide a deadline by which recipients must return funds not obligated by December 31, 2024.

**See also FAQs 17.7, 17.8, 17.10, 17.18*

What this means for state agencies:

- Any SFRF dollars not obligated in an MOU by December 31, 2024, will be reported to UST in our January 31, 2025, quarterly report and returned to UST

What are allowable closeout costs?

17.5. What types of closeout costs are allowable after December 31, 2026, and how will recipients report these obligations and expenditures to Treasury?

Consistent with the revision to the definition of obligation in the Obligation IFR, recipients are considered to have incurred an obligation by December 31, 2024, with respect to costs to close out their SLFRF award pursuant to 2 CFR 200.344, the provision of the Uniform Guidance addressing closeout.

Eligible costs may include the costs of administrative support, data security measures, review and reconciliation of the general ledger and other accounting matters, compliance with reporting requirements, bank reconciliation matters, preparation of and compliance with program policies and procedures, compliance with internal controls, single audit and program-specific audit matters, and closeout processes associated with subrecipient, contractor, and beneficiary relationships, among other costs.

What this means for state agencies:

- State agencies can expend funds for closeout activities after December 31, 2026, for the listed purposes
- Reporting on closeout costs will be required, but those requirements are unclear
- NCPRO would encourage state agencies to make every effort to close out projects prior to December 31, 2026, if possible
- Additional state restrictions may apply

Can 2025-26 personnel costs be obligated?

17.7. May a recipient use SLFRF funds to cover personnel costs between January 1, 2025, and December 31, 2026?

Treasury will consider a recipient to have incurred an obligation with respect to personnel costs for an employee through December 31, 2026, to the extent the employee is serving in a position that was established and filled prior to December 31, 2024.

Accordingly, funds may be used to cover such personnel costs if doing so would fall within the scope of an eligible use of SLFRF, such as payroll costs for state employees overseeing contracts for broadband projects or county employees overseeing affordable housing projects. Personnel costs for this purpose include all salary and wages, covered benefits, and payroll taxes for such positions, as in effect at the time of payment.

In the event of turnover of personnel, recipients may continue to pay different personnel in the same job position to the extent that the position in question was established and filled prior to December 31, 2024. Recipients may also reorganize positions within the scope of an eligible use of SLFRF after December 31, 2024, but may not use funds to cover any new positions after that date.

What this means for state agencies:

- Signed NCPRO/State Agency MOUs will obligate administrative funds
- Personnel costs include salaries, wages, benefits, and payroll taxes
- NCPRO does not anticipate additional reporting/estimation of costs based on current UST guidance
- Agencies can reorganize and refill vacant positions created before December 31, 2024, with SFRF, but should not create new SFRF-funded positions after the obligation deadline
- State limits on administrative costs still apply

Can 2025-26 personnel costs be obligated (continued)?

17.9. Are there any other circumstances besides those listed in FAQ 17.7 under which a recipient may cover personnel costs between January 1, 2025, and December 31, 2026?

Recipients may use SLFRF funds to pay personnel costs between January 1, 2025 and December 31, 2026 pursuant to an interagency agreement meeting certain conditions, as discussed in FAQ 17.6.

In addition, under the Obligation IFR, a recipient is considered to have incurred an obligation by December 31, 2024, with respect to a requirement under federal law or regulation or a provision of the SLFRF award terms and conditions to which the recipient becomes subject as a result of receiving or expending SLFRF funds.

A recipient may use SLFRF funds to pay personnel costs associated with satisfying the legal and administrative requirements noted above between January 1, 2025, and December 31, 2026, as discussed further in FAQ 17.10.

What this means for state agencies:

- Signed NCPRO/State Agency MOUs will obligate administrative funds
- Personnel costs include salaries, wages, benefits, and payroll taxes
- NCPRO does not anticipate additional reporting/estimation of costs based on current UST guidance
- Agencies can reorganize and refill vacant positions created before December 31, 2024, with SFRF, but should not create new SFRF-funded positions after the obligation deadline
- State limits on administrative costs still apply

Can SFRF be shifted to other projects after December 31, 2024?

Meeting change orders or contract contingencies in 2025 and 2026:

Recipient states may include contingency provisions in obligating funds, and retain those funds for use if needed in 2025 and 2026. If unneeded they can be spent on other eligible projects. Likewise, if there are provisions for contingencies for which insufficient funds were retained, they can be moved from other over-budgeted projects. Updated reporting instructions are forthcoming. **(FAQ 17.16)**

Reallocation of funds in 2025 and 2026 that were overbudgeted or disallowed from the projects in place at the end of 2024:

Recipient states are free to cancel funds obligated by 12/31/24 and allocate them to other eligible projects or to address needs in underbudgeted eligible projects. **(FAQ 17.19)**

Replacement contracts or subawards that are higher than cancelled contracts or subawards:

Treasury recognizes that if there is a cancellation and replacement necessary in 2025 or 2026, costs may change. So long as the substantial scope and purpose remains the same, costs may be higher if justified under changed circumstances. **(FAQ 17.17)**

What this means for state agencies:

- No new NCPRO/State Agency projects/MOUs can be funded or created after December 31, 2024
- State agencies can work with NCPRO to shift funds between their projects (those outlined in their MOUs) or to another state agency's MOU/project after December 31, 2024, <u>if NCGA allows</u>
- NCPRO will work with state agencies that need to shift funds between MOUs to ensure state and federal requirements are met, reporting will be impacted

KPI Dashboard

KPI Dashboard

- Per Session Law 2021-180, Section 4.9.(i), the North Carolina Pandemic Recovery Office (NCPRO) is required to submit a report to the Senate Committee on Appropriations/Base Budget, House Appropriations Committee, and Fiscal Research Division on the use of State Fiscal Recovery Funds.
- KPI dashboard will be used to provide information on the outputs and outcomes of SFRF and will be available on the NCPRO website

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KPI Updates/Reminders

143 Total SFRF projects for which we are creating KPIs

- KPIs finalized for ~75%
- Awaiting interviews or follow up for ~25%

Reminder:

When reporting KPI data, make sure to report cumulative totals

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