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**DEPARTMENT OF THE TREASURY**

**[31 CFR Part 35  
RIN 1505-AC77]**

**Coronavirus State and Local Fiscal Recovery Funds**

**AGENCY:** Department of the Treasury

**ACTION:** Final Rule

**SUMMARY:** The Secretary of the Treasury (Treasury) is adopting as final the interim final rule published on May 17, 2021, with amendments. This rule implements the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

**DATES:** *Effective date:* The provisions in this final rule are effective April 1, 2022.

**FOR FURTHER INFORMATION CONTACT:**

Katharine Richards, Senior Advisor, Office of Recovery Programs, Department of the Treasury,  
(844) 529– 9527

**SUPPLEMENTARY INFORMATION:**

## I. INTRODUCTION

### *Overview*

Since the first case of coronavirus disease 2019 (COVID-19) was discovered in the United States in January 2020, the pandemic has caused severe, intertwined public health and economic crises. In March 2021, as these crises continued, the American Rescue Plan Act of 2021 (ARPA)<sup>1</sup> established the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to provide state, local, and Tribal governments<sup>2</sup> with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery. The U.S. Department of the Treasury (Treasury) issued an interim final rule implementing the SLFRF program on May 10, 2021<sup>3</sup> and has since disbursed over \$240 billion to state, local, and Tribal governments and received over 1,500 public comments on the interim final rule. Treasury is now issuing this final rule which responds to public comments, implements the ARPA statutory provisions on eligible and ineligible uses of SLFRF funds, and makes several changes to the provisions of the interim final rule, summarized below in the section Executive Summary of Major Changes.

Since Treasury issued the interim final rule in May 2021, both the public health and economic situations facing the country have evolved. On the public health front, the United States has made tremendous progress in the fight against COVID-19, including a historic vaccination campaign that has reached over 80 percent of adults with at least one dose and is

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<sup>1</sup> Pub. L. 117-2. <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>.

<sup>2</sup> Throughout this Supplementary Information, Treasury uses “state, local, and Tribal governments” or “recipients” to refer generally to governments receiving SLFRF funds; this includes states, territories, Tribal governments, counties, metropolitan cities, and nonentitlement units of local government.

<sup>3</sup> 86 Fed. Reg. 26786 (May 17, 2021).

received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. In other words, excluding interest due on Title XII advances, the magnitude of the decrease of the balance in the unemployment insurance trust fund plus the principal outstanding on any Title XII borrowings made from the beginning of the public health emergency to the date of publication of the SLFRF interim final rule sets a cap on the amount of SLFRF funds a recipient may use for trust fund contributions and repayment of principal on Title XII advances. Further, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that balance and deposit more SLFRF funds, back up to the pre-pandemic balance.

### **Enumerated Eligible Uses for Disproportionately Impacted Households**

#### *Background*

The COVID-19 pandemic has had disproportionately negative impacts on many households and communities that were already experiencing inequality related to race, gender, age, or income before the pandemic. People of color, low-income workers, and women

quality medical care in reducing health disparities and addressing the root causes that led to disproportionate impact COVID-19 health impacts in certain communities, the final rule recognizes that medical equipment and facilities designed to address disparities in public health outcomes are eligible capital expenditures. This includes primary care clinics, hospitals, or integrations of health services into other settings. Recipients should make sure that all capital expenditures adhere to the standards and presumptions detailed in section Capital Expenditures in General Provisions: Other.

2. Housing vouchers and assistance relocating. In addition to other housing services, the interim final rule permitted a variety of rental assistance approaches to support low-income households in securing stable, long-term housing, including housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents. Examples could include SLFRF-funded analogues to Section 8 Housing Choice vouchers; other kinds of rent subsidies, including shallow subsidies; and programs to help residents move to areas with higher levels of economic mobility.<sup>189</sup> Treasury did not receive public comments on these enumerated eligible uses.

*Treasury Response:* Treasury maintains the eligibility of vouchers and relocation assistance in the final rule.

3. Building strong, healthy communities through investments in neighborhoods. While the interim final rule included a category of enumerated eligible uses for “building stronger

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<sup>189</sup> See, e.g., Opportunity Insights, *Creating Moves To Opportunity* (August 2019), <https://opportunityinsights.org/policy/cmo/>.

communities through investments in housing and neighborhoods,” the examples of services provided generally focused on housing uses. In response to questions following release of the interim final rule, Treasury issued further guidance clarifying that “investments in parks, public plazas, and other public outdoor recreation spaces may be responsive to the needs of disproportionately impacted communities by promoting healthier living environments.”

**Public Comment: General:** A significant theme across many public comments was the importance of neighborhood environment to health and economic outcomes and the potential connections between residence in an underserved neighborhood and disproportionate impacts from the pandemic. Many commenters highlighted the connection between neighborhoods and health outcomes, including citing public health research linking neighborhood traits to health outcomes. For example, the CDC states that “neighborhoods people live in have a major impact on their health and well-being.”<sup>190</sup> As such, CDC identifies “neighborhoods and built environment” as one of five key social determinants of health<sup>191</sup> and includes “creat[ing] neighborhoods and environments that promote health and safety” as one of the agency’s goals for social determinants of health outcomes.

**a. Neighborhood features that promote improved health and safety outcomes.**

**Public Comment:** Commenters argued that neighborhoods impact physical health outcomes in several ways. First, some commenters reasoned that the physical environment and

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<sup>190</sup> U.S. Department of Health and Human Services, Neighborhood and Built Environment, <https://health.gov/healthypeople/objectives-and-data/browse-objectives/neighborhood-and-built-environment#cit1> (last visited November 9, 2021).

<sup>191</sup> Social determinants of health are “the conditions in the places where people live, learn, work, and play that affect a wide range of health risks and outcomes.” Centers for Disease Control and Prevention, About Social Determinants of Health (SDOH), <https://www.cdc.gov/socialdeterminants/about.html> (last visited November 9, 2021).

amenities in a community<sup>192</sup> influence a person's level of physical activity, with features like parks, recreation facilities, and safe sidewalks promoting increased physical activity that improves health outcomes. Conversely, commenters argued that a lack of these features in a neighborhood could dampen physical activity and contribute to health conditions like obesity that are risk factors for more severe COVID-19 health outcomes.

Second, some commenters also suggested that access to healthy food in a neighborhood impacts health outcomes. These commenters reasoned that lacking adequate access to affordable, healthy food or living in a "food desert" may contribute to disparities in diet that influence health outcomes, including contributing to pre-existing conditions that increased risk for severe COVID-19 outcomes. These commenters cited public health research finding "clear evidence for disparities in food access in the United States by income and race."<sup>193</sup>

Some commenters also suggested that neighborhood environment is connected to other public health outcomes, like mental health and public safety. For example, some research suggests that living in neighborhoods with green space and tree cover correlates with improved mental health outcomes.<sup>194</sup> Finally, some commenters argued that activities like installing

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<sup>192</sup> In public health, this is referred to as "built environment," or the man-made physical aspects of a community (e.g., homes, buildings, streets, open spaces, and infrastructure).

<sup>193</sup> J Beaulac, E Kristjansson, S Cummins, A systematic review of food deserts, 1966-2007, *Prev Chronic Dis* 2009;6(3):A105, [http://www.cdc.gov/pcd/issues/2009/jul/08\\_0163.htm](http://www.cdc.gov/pcd/issues/2009/jul/08_0163.htm).

<sup>194</sup> See, e.g., Yijun Zhang et al. The Association between Green Space and Adolescents' Mental Well-Being: A Systematic Review. *International journal of environmental research and public health* vol. 17,18 6640 (Sep. 11 2020), doi:10.3390/ijerph17186640; EC South, BC Hohl, MC Kondo, JM MacDonald, CC Branas, Effect of Greening Vacant Land on Mental Health of Community-Dwelling Adults: A Cluster Randomized Trial, *JAMA Netw Open*. 2018;1(3):e180298 (2018), available at: doi:10.1001/jamanetworkopen.2018.0298.

streetlights, greening or cleanup of public spaces or land, and other efforts to revitalize public spaces would support improved public safety.<sup>195,196</sup>

These commenters recommended that Treasury include as an enumerated eligible use in disproportionately impacted communities projects to develop neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks, projects that increase access to healthy foods, streetlights, neighborhood cleanup, and other projects to revitalize public spaces.

**Background: Investments in neighborhood features, including parks, recreation facilities, sidewalks, and healthy food access, can work to improve physical and mental health outcomes.**

Allowing people access to nature, including parks, has been connected to decreased levels of mortality and illness and increased well-being.<sup>197</sup> Urban park use during the COVID-19 pandemic may have declined among lower-income individuals.<sup>198</sup> Encouraging physical activity can also play a role in health outcomes, as a sedentary lifestyle is a risk factor for chronic diseases and more severe COVID-19 outcomes.<sup>199</sup> **Parks, recreation facilities, and sidewalks can promote healthier living environments by allowing for safe and socially distanced recreation during the COVID-19 pandemic.**

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<sup>195</sup> See, e.g., Yanqing Xu, Cong Fu, Eugene Kennedy, Shanhe Jiang, Samuel Owusu-Agyemang, The impact of street lights on spatial-temporal patterns of crime in Detroit, Michigan, *Cities*, Volume 79, Pages 45-52, ISSN 0264-2751 (2018), <https://doi.org/10.1016/j.cities.2018.02.021>.

<sup>196</sup> A. Chalfin, B. Hansen, J. Lerner et al., Reducing Crime Through Environmental Design: Evidence from a Randomized Experiment of Street Lighting in New York City, *Journal of Quantitative Criminology* (2021), <https://doi.org/10.1007/s10940-020-09490-6>.

<sup>197</sup> See, e.g., American Public Health Association, Improving Health and Wellness through Access to Nature (November 5, 2013), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/08/09/18/improving-health-and-wellness-through-access-to-nature>.

<sup>198</sup> LR Larson et al., Urban Park Use During the COVID-19 Pandemic: Are Socially Vulnerable Communities Disproportionately Impacted?, *Front. Sustain. Cities* 3:710243 (2021), <https://doi.org/10.3389/frsc.2021.710243>.

<sup>199</sup> JP Després, Severe COVID-19 outcomes — the role of physical activity. *Nat Rev Endocrinol* 17, 451–452 (2021). <https://doi.org/10.1038/s41574-021-00521-1>.

Additionally, food insecurity rates, which are higher among lower-income households and households of color, doubled among all households and tripled among households with children during the onset of COVID-19 from February 2020 to May 2020.<sup>200</sup> Improving healthy food access supports public health, particularly among lower-income households and households of color that face disproportionate outcomes.

**Treasury Response:** Treasury recognizes the connection between neighborhood built environment and physical health outcomes as discussed in the research and analysis provided by commenters, including risk factors that may have contributed to disproportionate COVID-19 health impacts in low-income communities. The final rule also recognizes that the public health impacts of the pandemic are broader than just the COVID-19 disease itself and include substantial impacts on mental health and public safety challenges like rates of violent crime, which are correlated with a neighborhood's built environment and features. **As such, neighborhood features that promote improved health and safety outcomes respond to the pre-existing disparities that contributed to COVID-19's disproportionate impacts on low-income communities.**

**The final rule includes enumerated eligible uses in disproportionately impacted communities for developing neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks,<sup>201</sup> projects that increase access to healthy foods, streetlights,**

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<sup>200</sup> Caroline George and Adie Tomer, Beyond 'food deserts': America needs a new approach to mapping food, Brookings Institution (August 17, 2021), <https://www.brookings.edu/research/beyond-food-deserts-america-needs-a-new-approach-to-mapping-food-insecurity/>.

<sup>201</sup> However, Treasury cautions recipients that general infrastructure development, including street or road construction, remains a generally ineligible use of funds under the final rule. Sidewalks and pedestrian safety should be the predominant component of uses of funds in this category. While projects may include ancillary construction needed to execute the predominant component, a project that predominantly involves street construction or repair to benefit vehicular traffic would be ineligible.



neighborhood cleanup, and other projects to revitalize public spaces. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other, which describes additional eligibility standards that apply to uses of funds for capital expenditures.

b. Vacant or abandoned properties. As discussed above, the interim final rule included enumerated eligible uses for building stronger communities through investments in housing and neighborhoods in disproportionately impacted communities. The interim final rule also posed a question of whether other potential uses in this category, specifically “rehabilitation of blighted properties or demolition of abandoned or vacant properties,” address the public health or economic impacts of the pandemic.

*Public Comment:* Several commenters argued that programs or services to address vacant or abandoned property would respond to the public health and negative economic impacts of the pandemic in disproportionately impacted communities. Some commenters cited research suggesting that living near such property is correlated with worse physical health and mental health outcomes, noted that such properties pose an environmental hazard, or argued that such properties present a barrier to economic recovery. These commenters suggested that renovation or demolition of vacant or abandoned property could benefit community health and raise property values. Other commenters recommended that Treasury include an enumerated eligible use for the operation of land banks that redevelop or renew vacant properties and land.

*Treasury Response:* As noted throughout the final rule, the pandemic underscored the importance of safe, affordable housing and healthy neighborhood environments to public health and economic outcomes. Treasury agrees with commenters that high rates of vacant or