



# Commonwealth of Massachusetts

Executive Office for Administration & Finance

Federal Funds Office (FFO)

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## Coronavirus Local Fiscal Recovery Fund: Final Rule Takeaways

*February 2022*



## Overview

### Four Key Eligible Use Categories

1. Public Sector Revenues
2. Public Health & Economic Response
3. Premium Pay for Essential Workers
4. Water, Sewer & Broadband Infrastructure

### Final Rule

- Final Rule takes effect on **April 1, 2022**
  - › If a use of funds complies with the final rule, Treasury will not take action to enforce the interim final rule, regardless of when the funds were used
    - » Recipients can take advantage of expanded flexibilities in the final rule now
  - › Until April 1, the interim final rule remains in effect; funds used consistently with the IFR while it is in effect are in compliance with the SLFRF program



## Final Rule

### Key New Features

#### **Public Sector Revenues**

*\$10 million revenue loss standard allowance*

#### **Public Health & Economic Response**

*Broadens eligible uses for impacted and disproportionately impacted communities*  
*Clarifies that reasonable proportional capital expenditures are allowable*

#### **Premium Pay for Essential Workers**

*Broadens essential workers who can receive premium pay without written justification*

#### **Water, Sewer & Broadband**

*Expands water and sewer projects that are eligible to include dams and culverts*  
*Broadens eligible broadband investments to address access, affordability, reliability*



## Final Rule

### Replace Public Sector Revenues

- Creates “**standard allowance**” of up to \$10 million to spend on government services through the life of the program
  - › Does not increase or decrease award amount
- If recipients do not select “standard allowance”, they must calculate revenue loss according to **Treasury’s formula**
  - › Final Rule allows calculation to be conducted on calendar or fiscal year basis
  - › Final Rule increases minimum growth adjustment to 5.2%
- Funds used to replace public sector revenues still must comply with all federal procurement, contracting, documentation, and audit requirements
  - › The Office of the Inspector General (OIG) has compiled rules and resources related to funding from the American Rescue Plan Act
    - » <https://www.mass.gov/guides/american-rescue-plan-act-arpa-resources>



## Final Rule

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### Respond to COVID-19's Public Health and Economic Impacts

- Organizes eligible **public health response costs** into four categories:
  - › COVID-19 mitigation and containments; Medical Expenses; Behavioral Healthcare; Preventing & Responding to Violence
- Organizes **eligible uses to respond to negative impact** by beneficiary:
  - › Assistance to households; Assistance to small businesses; Assistance to non-profits; Aid to travel, tourism, hospitality, and other impacted businesses
- Expands presumption of “**impacted**” and “**disproportionately impacted**” by the pandemic and broadens eligible uses
- Establishes format for making **eligibility determinations**:
  - › Identify public health or economic impact to an individual or a class
  - › Design a related and reasonably proportional response



## Final Rule

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### Respond to COVID-19's Public Health and Economic Impacts

- Recipients can use funds to invest in capital expenditures as part of public health or economic response
  - › Must meet “**related and reasonably proportional**” requirement
  - › **Written Justification** required for capital expenditures at or above \$1 million
    - » Requires recipients to explain why the expenditure is appropriate and why it is superior to other alternatives



## Final Rule

### Provide Premium Pay to Essential Workers

- Eligible workers are those in **critical infrastructure sectors**
- Essential work involves regular **in-person interactions** or **physical handling of items handled by others**
- Premium pay must serve workers who:
  - › Earn at or below 150% of their state or county's average, or
  - › Are not exempt from Fair Labor Standards Act overtime rules
- If workers do not meet these requirements, recipient must provide written justification of how it meets needs
- Pay can be flexibly awarded up to **\$13 per hour** in installments or lump sums to hourly, part time, or salaried/non-hourly workers, and may not exceed \$25,000 for any single worker during the program



## Final Rule

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### Build Water, Sewer, or Broadband Infrastructure

- **Water & Sewer:**

- › Projects eligible under EPA's State Revolving Funds are eligible
- › Final Rule expands eligibility to include lead remediation, stormwater infrastructure (incl. culverts), residential wells, and certain dam and reservoir rehabilitation

- **Broadband:**

- › Recipients encouraged to invest in locations without reliable wireline service of at least 100/20 Mbps speed, but are broadly able to invest in locations where recipient has identified need for additional investment
- › Requires enrollment in low-income subsidy program
- › Allows for modernization of cybersecurity





## Final Rule

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### Restrictions on Uses

- **Restricted uses for municipalities remains the same as in the Interim Final Rule**
  - › No pension fund deposits
  - › No debt service
  - › Cannot replenish reserves
  - › Cannot use funding for legal settlements
- One new point of clarification:
  - › Use of funds may not undermine COVID-19 mitigation practices in line with CDC guidance and recommendations



## Final Rule

### Reporting

- **Metropolitan Cities and Counties must submit quarterly reports**
  - › Most recent deadline was January 31<sup>st</sup> (first report)
  - › Metropolitan Cities and Counties must also submit annual “Recovery Plan Performance Reports”
    - » Narrative regarding large projects and goals for equitable outcomes
- **Nonentitlement units of government (NEUs) must submit annual reports**
  - › First report due on April 30<sup>th</sup>
- Treasury’s Compliance and Reporting Guidance can be found on their webpage: <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>



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