

State and Local Fiscal Recovery Funds (SLFRF) Training

August 22, 2024

Obligation

SLFRF funds must be obligated by December 31, 2024. Additional funds cannot be obligated after this deadline. To guarantee we meet this deadline, ensure all projects are created and amounts obligated no later than September 30, 2024.

The Federal Payroll Estimate deadline was extended to December 31, 2024. However, payroll estimates must be submitted to OA no later than October 31, 2024, to guarantee accurate reporting.

These accelerated deadlines will provide time to review and correct any errors before the hard deadline in December.

Obligation – Post CY24

While additional SLFRF amounts cannot be obligated after December 31, 2024, we are permitted to adjust obligations if a change order or contract contingency exists within the contract and funds are available (see Federal FAQ 17.16 for additional information). This is why we request all contracts have a change order or contract contingencies included.

17.16. Under what circumstances may a recipient use SLFRF to cover cost increases attributable to a contract that is entered into by December 31, 2024?

In general, recipients cannot re-obligate funds or obligate additional SLFRF funds after the obligation deadline of December 31, 2024. However, if a contract entered into by December 31, 2024, expressly provides for change orders or contract contingencies, the recipient may use SLFRF funds to cover increased costs attributable to such change orders or contract contingencies. Such increased costs are not considered new obligations but are instead attributable to a preexisting obligation to accommodate the change or contingency.

Obligation – Post CY24 (continued)

Additionally, a contract or subaward may be replaced for one of the following reasons if the new contract/subaward is for substantially the same scope and purpose (Federal FAQ 17.17):

- The contract is terminated due to the subrecipient defaulting, going out of business, or not able to perform that contract
- The recipient and subrecipient mutually agree to terminate for convenience
- The recipient terminates due to the contract or subaward was not awarded properly in good faith

Obligation – Post CY24 (continued)

17.17. The Obligation IFR states that recipients may enter into replacement contracts and subawards after the obligation deadline in certain circumstances. May the recipient commit additional funds to the replacement contract or subaward to account for price increases from the time the original contract or subaward was awarded?

After the obligation deadline, recipients are permitted to replace a contract or subaward that was entered into prior to December 31, 2024, under the three circumstances outlined in the Obligation IFR, which includes a contractor or subrecipient going out of business. The replacement contract or subaward must be within substantially the same scope and for substantially the same purpose as the contract that was entered into by December 31, 2024. In such cases, recipients may use SLFRF funds to cover increased costs of the replacement contract or subaward.

Summary of Contract Flexibilities

	Why would a recipient use this?	When can a recipient use this?	Restrictions
Change order or contingency	Cost increase or other reason anticipated in contract.	Contract expressly provides for the option.	Only restrictions in contract and Uniform Guidance.
Amend contract	Recipient wants to retain same contractor, but needs to make unanticipated changes.	Whenever the contract permits, including after the obligation deadline has passed.	Amended contract must be within substantially the same scope and for substantially the same purpose as the original contract.
Replace contract	Recipient wants to terminate contract and use a new contractor.	One of three circumstances in Obligation IFR (including mutual agreement to terminate for convenience).	Replacement contract must be within substantially the same scope and for substantially the same purpose as the original contract.

Source: <https://home.treasury.gov/system/files/136/Obligation-Webinar-Deck-V1.pdf>

Contracts

For contracts to constitute an obligation, they must include the following:

- Awarded Amount
- Specific requirement (i.e., scope of work)
- Signature from all parties

We highly recommend all contracts include a provision allowing change orders and/or contract contingencies. If the contract does not include this, the awarded amount will not be able to be changed after December 31, 2024.

Change Orders. This Agreement may be amended to provide for additions, deletions and revisions in the Engineering/Architectural Services or to modify the terms and conditions thereof by either written amendment or by change order. The contract price and contract time may only be changed by a written change order approved by City, unless it is the result of an emergency situation in which case the Project Manager may give written approval to be followed by a written and approved change order. If notice of any change affecting the general scope of the Engineering/Architectural Services or provisions of this Agreement, including but not limited to, contract price or contract time, is a requirement of any insurance policy held by Consulting Engineer/Architect as a requirement of this Agreement, the giving of such notice shall be the Consulting Engineer/Architect's responsibility.

Contracts - IAA

An interagency agreement, IAA, may qualify as an obligation if certain criteria are met. Potential eligible agreements include the memoranda of understanding (MOU) or agreement (MOA).

An IAA must meet the following conditions to be considered an obligation for SLFRF purposes (Federal FAQ 17.6):

<u>ONE</u> requirement from Column A:	<u>ALL</u> requirements from Column B:
Imposes conditions on the use of funds by recipient agency, department, or part of government	Has specific requirements (e.g., scope of work)
Governs provision of funds from one agency, department, or part of government to another	Is signed by the parties or evidences assent of parties
Governs the procurement of goods or services	Does not disclaim binding effect or state that it doesn't create rights or obligations

Frequently Asked Questions

When do I need to report a subrecipient?

- When a vendor/entity receives \$50,000 or more of funding or a vendor/entity is obligated \$50,000 or more.

Are there any exceptions to needing to report a subrecipient/subaward?

- Yes, expenditure category 6.1, Revenue Replacement, does not require subrecipient/subaward reporting.

Where do I report a subrecipient/subaward?

- A subrecipient and subaward should be added to the State ARPA portal under the reporting tab

Frequently Asked Questions (continued)

How much do I report for the subaward?

- Report the amount obligated (i.e., via contract) or if there is no obligation, report the amount spent to the subrecipient. The subaward amount is part of the obligation for that project.

Are subrecipients subject to any additional reporting requirements?

- Yes, if the subrecipient will receive over \$750,000 in funding they are subject to the “Single Audit Requirement” according to the Single Audit Act and 2 CFR Part 200, Subpart F

Frequently Asked Questions (continued)

Are expenditure category 6.1, Revenue Loss funds, automatically obligated?

- No, all SLFRF funds under any eligible use category are subject to obligation requirements (FAQ 17.15).

17.15. Does the same definition of “obligation” apply to funds used under the revenue loss category?

Yes. All SLFRF funds under any eligible use category are subject to the obligation requirements.

Miscellaneous

We will be sending out spreadsheets within the next couple of months to have each agency verify what we reported to the Federal Government as of June 30, 2024. We need your help to confirm accurate information was submitted so any error corrections needed can be made prior to December.

Verify all contracts/agreements have been uploaded to the portal (under the Manage Project tab) for obligations by September 30, 2024, and meet the Federal requirements for obligations. Reminder, these agreements should be named with the obligation type at the beginning of the document name and include the Vendor Name, for example, “Contract-SHI...”. We will be printing and verifying these contracts/agreements and will contact agencies if additional information is needed, however, we would appreciate it if all required information is already in the portal.

Miscellaneous (continued)

Ensure all fixed assets are added to the SAMII Fixed Asset Subsystem under the ARP agency, the appropriate ARPA organization for your agency, and the ARPA fund the money was spent from.

Thank you for your help in guaranteeing accurate reporting of the SLFRF money. You are all stars!

More information may be found at the [US Treasury](#), the following are of particular interest:

- [SLFRF Final Rule FAQ](#)
- [January User Guide](#)
- [Compliance and Reporting Guidance](#)
- [2023 Interim Final Rule](#)





Q&A
