**SAMPLE ELIGIBLE USE POLICY AND RESOLUTION FOR THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS**

***Note that this sample policy and resolution are intended to give NC local governments a general guide to crafting a Project Eligibility Determination Policy for its American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Fund monies. A local government must work with its attorney to draft a policy that is compliant with applicable laws and regulations and that can be fully implemented by the local government. Use of this sample policy does not create an attorney/ client relationship. Any questions about this sample policy, or suggestions for improvements, may be directed to Kara Millonzi at*** *millonzi@sog.unc.edu****.***

**SAMPLE ELIGIBLE USE POLICY RESOLUTION**

**WHEREAS** the [LOCAL GOVERNMENT NAME], has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

**WHEREAS** US Treasury is responsible for implementing ARP/CSLFRF and has enacted a Final Rule outlining eligible projects; and

**WHEREAS** the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to households, small businesses, non-profits, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors;
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and
6. Invest in certain disaster recovery/mitigation projects, Title I projects, and Surface Transportation projects; and

**WHEREAS** the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Part 200 (UG), as provided in the [Assistance Listing](https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view); and

**WHEREAS** US Treasury has issued a [Compliance and Reporting Guidance v.3.0 (February 28, 2022)](https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

**WHEREAS** the Compliance and Reporting Guidance states on page 6 that

Per 2 CFR Part 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.

**BE IT RESOLVED** that the [Local Government Name] hereby adopts and enacts the following Eligibility Determination Policy for ARP/CSLFRF funds.

# SAMPLE ELIGIBLE USE POLICY

# Eligibility Determination Policy for American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds

This policy defines the permissible and prohibited uses of the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF) funds. It also outlines the procedures for determining how [Local Government Name] will spend its ARP/CSLFRF funds.

## PERMISSIBLE USES OF ARP/CSLFRF FUNDING

US Treasury issued its [**Final Rule**](https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf) regarding use of ARP funds on January 6, 2022. Treasury subsequently released an Interim Final Rule related to certain additional eligible expenditures, referred to as ARP/CLSFRF-Flex. The Final Rule (and the Interim Final Rule) identify permissible uses of ARP/CSLFRF funds and certain limitations and process requirements. Local governments must allocate most ARP/CSLFRF funds no later than December 31, 2024 and disburse all funding no later than December 31, 2026. (For certain Title I and Surface Transportation projects, expenditures must occur no later than September 30, 2026.) Failure of an entity to obligate and expend all funds by these deadlines will result in forfeiture of ARP funds.

ARP/CSLFRF funds may be used for projects within the following categories of expenditures:

1. Support COVID-19 public health expenditures, by funding COVID-19 mitigation and prevention efforts, medical expenses, behavioral healthcare, preventing and responding to violence, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, non-profits, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet; and
6. Invest in certain disaster recovery/mitigation projects, Title I projects, and Surface Transportation projects; and

## PROHIBITED USES OF ARPA FUNDING

The ARP/CSLFRF and US Treasury’s Final Rule prohibit certain uses of ARP/CSLFRF funds. Specifically, ARP/CSLFRF funds may not be used for projects within the following categories of expenditures:

1. To make a deposit into a pension fund that constitutes an extraordinary payment of an accrued, unfunded liability (Note that routine contributions as part of a payroll obligation for an eligible project are allowed.);
2. To borrow money or make debt service payments;
3. To replenish rainy day funds or fund other financial reserves;
4. To satisfy an obligation arising from a settlement agreement, judgment, consent decree, or judicially confirmed debt restricting in a judicial, administrative, or regulatory proceeding (There is an exception to this prohibition if the settlement or judgment requires the [Local Government Name] to provide services to respond to the COVID-19 public health emergency or its negative economic impacts or to provide government services, then the costs of those otherwise ARP/CSLFRF-eligible projects are allowed.);
5. For a project that includes a term or condition that undermines efforts to stop the spread of COVID-19 or discourages compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19;
6. In violation of the conflict-of-interest requirements imposed by the award terms and 2 CFR 200.318(c).
7. For any expenditure that would violate other applicable federal, state, and local laws and regulations.

The [LOCAL GOVERNMENT NAME HERE], and any of its contractors or subrecipients, may not expend any ARP/CSLFRF funds for these purposes.

## PROCEDURES FOR PROJECT APPROVAL

The following are procedures for ARP/CSLFRF project approvals. All [Local Government Name] employees and officials must comply with these requirements.

1. Requests for ARP/CSLFRF funding, must be made in writing and include all the following: [INDICATE IF FORM WILL BE PROVIDED. SEE UNC SCHOOL OF GOVERNMENT’S WORKSHEET TEMPLATE.]
	1. Brief description of the project
	2. Identification of ARP/CSLFRF Expenditure Category (EC) (A list of ECs in in the Appendix to the [US Treasury Compliance and Reporting Guidance](https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf).)
	3. Required justifications for applicable projects, according to the requirements in the Final Rule. Employees or any applicant seeking ARP funding should review the [Final Rule](https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf), [Final Rule Overview](https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-Overview.pdf), and ARP/CSLFRF-Flex Interim Final Rule, and Interim Final Rule Overview prior to submitting a proposal.
	4. Proposed budget, broken down by cost item, in accordance with the [LOCAL GOVERNMENT NAME]’s Allowable Cost Policy.
	5. A project implementation plan and estimated implementation timeline
2. Requests for funding must be submitted to [NAME PERSONNEL HERE] for approval. All requests will be reviewed by [NAME PERSONNEL HERE] for ARP/CSLFRF compliance and by [NAME OF FINANCE PERSONNEL HERE] for allowable costs and other financial review.
3. No ARP/CSLFRF may be obligated or expended before final written approval by [NAME PERSONNEL HERE]. [INDICATE WHETHER BOARD APPROVAL AND BUDGET AMENDMENTS WILL BE REQUIRED BEFORE APPROVAL.]
4. If a proposal does not meet the required criteria, it will be returned to the requesting party for revision and resubmittal.
5. Following approval, employees responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget. Changes in project budgets must be approved by [NAME PERSONNEL HERE] and may require a budget amendment before proceeding. Any delay in the projected project completion date shall be communicated to the [NAME PERSONNEL HERE] immediately.
6. [NAME PERSONNEL HERE] must collect and document required information for each EC, for purposes of completing the required Project and Expenditure reports. [[SEE SOG’s SAMPLE TRACKING SPREADSHEETS THAT A LOCAL GOVERNMENT MAY ADAPT AND USE TO TRACK ALL REQUIRED INFORMATION.]](https://arpa.sog.unc.edu/wp-content/uploads/2022/03/Project-and-Expenditure-Report-Template_v2.xlsx)
7. [NAME PERSONNEL HERE] must maintain written project requests and approvals, all supporting documentation, and financial information until at least 5 years after all the ARP/CSLFRF funds are expended or returned to US Treasury.