

## **2.24. Can funds be used for eviction prevention efforts or housing stability services?**

Yes. Treasury provided a non-exhaustive list of eligible services in the final rule: Rent, rental arrears, utility costs or arrears (e.g., electricity, gas, water and sewer, trash removal, and energy costs, such as fuel oil), reasonable accrued late fees (if not included in rental or utility arrears), mortgage payment assistance, financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing-related costs related to a period of forbearance, delinquency, or default, mortgage principal reduction, facilitating mortgage interest rate reductions, counseling to prevent foreclosure or displacement, relocation expenses following eviction or foreclosure (e.g., rental security deposits, application or screening fees).

Treasury also clarified that assistance to households for delinquent property taxes, for example to prevent tax foreclosures on homes, was permissible under the interim final rule and continues to be so under the final rule. In addition, Treasury also clarified that recipients may administer utility assistance or address arrears on behalf of households through direct or bulk payments to utility providers to facilitate utility assistance to multiple consumers at once, so long as the payments offset customer balances and therefore provide assistance to households. The public health and negative economic impacts eligible use category also includes emergency assistance for individuals experiencing homelessness, either individual-level assistance (e.g., rapid rehousing services) or assistance for groups of individuals (e.g., master leases of hotels, motels, or similar facilities to expand available shelter). Please see page 4360 of the final rule for further relevant clarifications.

## **3. Eligible Uses – Revenue Loss**

### **3.1. Does a recipient need to calculate or provide proof of its revenue loss to use funds for government services?**

Recipients may elect a “standard allowance” of up to \$10 million to spend on government services through the period of performance. The standard allowance is available to all recipients and offers a simple, convenient way to determine revenue loss, instead of using the full formula specified in the final rule. Recipients must make a one-time, irrevocable election to either take the standard allowance or calculate revenue loss. Recipients must indicate this choice in their Project and Expenditure Reports due April 30, 2022. Recipients who elect the standard allowance do not have to produce any further demonstration or calculation of revenue loss.

Electing the standard allowance does not increase or decrease a recipient’s total allocation. For example, a recipient with an allocation of \$6 million would be allowed to claim no more than \$6 million as revenue loss to use for government services, and a recipient with an allocation of \$12 million would be allowed to claim the full \$10 million standard allowance and use the remaining allocation towards other eligible use categories. Recipients who elect to calculate revenue loss by formula must do so as articulated in the

final rule and described in the [Overview of the Final Rule](#) and [FAQ #3.6](#).

**3.2. Can revenue loss funds be used for a purpose that is not explicitly listed as an example of a government service in the Overview of the Final Rule or Final Rule?**

Yes. Government services generally include any service traditionally provided by a government, unless Treasury has stated otherwise. Common examples are listed on page 11 of the [Overview of the Final Rule](#) and page 4408 of the final rule, but these lists are not exhaustive. In addition to the common examples described in the final rule, many recipients and stakeholders have asked if using funds for activities like payroll for specific public sector staff, renovations to particular government facilities, and equipment to facilitate and improve government services such as health services, waste disposal, road building and maintenance, and water and sewer services would be eligible as government services. Treasury is clarifying here that under the final rule, payroll for government employees, contracts, grants, supplies and equipment, rent, and the many other costs that governments typically bear to provide services are costs that could comprise the costs of government services, and are eligible uses of funds.

Revenue loss is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements. Recipients should be mindful that certain restrictions, which are detailed further in the Restrictions on Use section in the Overview of the Final Rule and Final Rule and apply to all eligible use categories, apply to government services as well. Note also that every use that is eligible under other eligible use categories is also eligible under revenue loss, because those eligible uses are also services provided by recipient governments, and Treasury encourages recipients to use their funds for investments that serve the needs of their communities and build a stronger and more equitable recovery.

**3.3. Can revenue loss funds be used for a project eligible under other eligible use categories, such as addressing the public health and negative economic impacts of the pandemic, providing premium pay, or investing in water, sewer, or broadband infrastructure?**

Yes. The revenue loss eligible use category allows recipients to expend funds with flexibility and streamlined reporting requirements, including on expenditures that would not be eligible under other eligible use categories, like general infrastructure repairs. Recipients may also use revenue loss funds to carry out investments that would be eligible under other eligible use categories, because those eligible uses are also services provided by recipient governments. Treasury encourages the use of government services funds on uses enumerated in these categories, including but not limited to affordable housing, childcare investments, supporting public sector workers, job training and workforce development, and investments in public health.

**3.4. How is revenue defined for the purpose of the revenue loss calculation formula?**

The final rule adopts a definition of “General Revenue” that is based on, but not identical,

to the Census Bureau’s concept of “General Revenue from Own Sources” in the Annual Survey of State and Local Government Finances.

General Revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions and proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General Revenue also includes revenue from liquor stores that are owned and operated by state and local governments. General Revenue does not include revenues from utilities, except recipients may choose to include revenue from utilities that are part of their own government as General Revenue provided the recipient does so consistently over the remainder of the period of performance. Revenue from Tribal business enterprises must be included in General Revenue.

Please see the appendix for a diagram of the final rule’s definition of General Revenue within the Census Bureau’s revenue classification structure.

**3.5. Will revenue be calculated on an entity-wide basis or on a source-by-source basis (e.g. property tax, income tax, sales tax, etc.)?**

Recipients should calculate revenue on an entity-wide basis. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the net impact of the COVID-19 public health emergency on a recipient’s revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregate revenue by purpose rather than by source.

Recipients should classify revenue sources as they would if responding to the U.S. Census Bureau’s Annual Survey of State and Local Government Finances. According to the Census Bureau’s [Government Finance and Employment Classification manual](#), the following is an example of current charges that would be included in a state or local government’s General Revenue from own sources: “Gross revenue of facilities operated by a government (swimming pools, recreational marinas and piers, golf courses, skating rinks, museums, zoos, etc.); auxiliary facilities in public recreation areas (camping areas, refreshment stands, gift shops, etc.); lease or use fees from stadiums, auditoriums, and community and convention centers; and rentals from concessions at such facilities.”

Please refer to the appendix for further details on the definition of General Revenue.

**3.6. For recipients not electing the \$10 million standard allowance, what is the formula for calculating the reduction in revenue?**

Recipients calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Under the flexibility provided in the final rule, recipients can

choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. To calculate revenue loss at each of these dates, recipients must follow a four-step process:

a. Calculate revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the base year revenue.

b. Estimate counterfactual revenue, which is equal to the following formula, where  $n$  is the number of months elapsed since the end of the base year to the calculation date:

$$\text{base year revenue} \times (1 + \text{growth adjustment})^{n/12}$$

The *growth adjustment* is the greater of either a standard growth rate—5.2 percent—or the recipient’s average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency.

c. Identify actual general revenue, which equals revenues collected over the twelve months immediately preceding the calculation date. Under the final rule, recipients must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after the date of adoption of the final rule (January 6, 2022). Specifically, the estimated fiscal impact of tax cuts and tax increases adopted after January 6, 2022, must be added to or subtracted from the calculation of actual revenue for purposes of calculation dates that occur on or after April 1, 2022. Recipients may subtract from their calculation of actual revenue the effect of tax increases enacted prior to the adoption of the final rule. Note that recipients that elect to remove the effect of tax increases enacted before the adoption of the final rule must also remove the effect of tax decreases enacted before the adoption of the final rule, such that they are accurately removing the effect of tax policy changes on revenue.

d. Revenue loss for the calculation date is equal to counterfactual revenue minus actual revenue (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period. Revenue loss for the period of performance is the sum of the revenue loss for each calculation date.

The supplementary information in the final rule provides an example of this calculation, which recipients may find helpful, in the Revenue Loss section. Recipients should see the final rule for the full description of the requirements to reflect the effect of tax cuts and tax increases on actual revenue.

### **3.7. Are recipients expected to demonstrate that reduction in revenue is due to the COVID-19 public health emergency?**

Under the final rule, any diminution in actual revenue calculated using the formula above would be presumed to have been “due to” the COVID-19 public health emergency, in the

case of both the standard allowance and the formula, which, as discussed above adjusts for certain tax policy changes.

**3.8. May recipients use pre-pandemic projections as a basis to estimate the reduction in revenue?**

No. Treasury is disallowing the use of projections to ensure consistency and comparability across recipients and to streamline verification. However, in estimating the revenue shortfall using the formula above, recipients may incorporate their average annual revenue growth rate in the three full fiscal years prior to the public health emergency.

**3.9. In calculating revenue loss, are recipients required to use audited financials?**

Where audited data is not available, recipients are not required to obtain audited data. Treasury expects all information submitted to be complete and accurate.

**3.10. In calculating revenue loss, should recipients use their own data, or Census data?**

Recipients should use their own data sources to calculate General Revenue, and do not need to rely on published revenue data from the Census Bureau. Treasury acknowledges that due to differences in timing, data sources, and definitions, recipients' self-reported General Revenue figures may differ somewhat from those published by the Census Bureau.

**3.11. Should recipients calculate revenue loss on a cash basis or an accrual basis?**

Recipients may calculate revenue loss on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology for all inputs of the revenue loss calculation throughout the period of performance and until reporting is no longer required.

**3.12. In identifying intergovernmental revenue for the purpose of calculating General Revenue, should recipients exclude all federal funding, or just federal funding related to the COVID-19 response? How should local governments treat federal funds that are passed through states or other entities, or federal funds that are intermingled with other funds?**

In calculating General Revenue, recipients should exclude all intergovernmental transfers from the federal government. This includes, but is not limited to, federal transfers made via a state to a locality pursuant to the Coronavirus Relief Fund or Fiscal Recovery Funds. To the extent federal funds are passed through states or other entities or intermingled with other funds, recipients should attempt to identify and exclude the federal portion of those funds from the calculation of General Revenue on a best-efforts

basis.

### **3.13. What entities constitute a government for the purpose of calculating revenue loss?**

In determining whether a particular entity is part of a recipient's government for purposes of measuring a recipient's General Revenue, recipients should identify all the entities included in their government and the General Revenue attributable to these entities on a best-efforts basis. Recipients are encouraged to consider how their administrative structure is organized under state and local statutes. In cases in which the autonomy of certain authorities, commissions, boards, districts, or other entities is not readily distinguishable from the recipient's government, recipients may adopt the Census Bureau's criteria for judging whether an entity is independent from, or a constituent of, a given government. Recipients may not include independent entities in calculating General Revenue. For an entity to be independent, it generally meets all four of the following conditions:

- The entity is an organized entity and possesses corporate powers, such as perpetual succession, the right to sue and be sued, having a name, the ability to make contracts, and the ability to acquire and dispose of property.
- The entity has governmental character, meaning that it provides public services, or wields authority through a popularly elected governing body or officers appointed by public officials. A high degree of responsibility to the public, demonstrated by public reporting requirements or by accessibility of records for public inspection, also evidences governmental character.
- The entity has substantial fiscal independence, meaning it can determine its budget without review and modification by other governments. For instance, the entity can determine its own taxes, charges, and debt issuance without another government's supervision.
- The entity has substantial administrative independence, meaning it has a popularly elected governing body, or has a governing body representing two or more governments, or, in the event its governing body is appointed by another government, the entity performs functions that are essentially different from those of, and are not subject to specification by, its creating government.

If an entity does not meet all four of these conditions, a recipient may classify the entity as part of the recipient's government and include the portion of General Revenue that corresponds to the entity.

To further assist recipients in applying the foregoing criteria, recipients may refer to the Census Bureau's [\*Individual State Descriptions: 2017 Census of Governments\*](#) publication, which lists specific entities and classes of entities classified as either independent (defined by Census as "special purpose governments") or constituent

(defined by Census as “dependent agencies”) on a state-by-state basis. Recipients should note that the Census Bureau’s lists are not exhaustive and that Census classifications are based on an analysis of state and local statutes as of 2017 and subject to the Census Bureau’s judgment. Though not included in the Census Bureau’s publication, state colleges and universities are generally classified as dependent agencies of state governments by the Census Bureau.

If an entity is determined to be part of the recipient’s government, the recipient must also determine whether the entity’s revenue is covered by the final rule’s definition of General Revenue. For example, some cash flows may be outside the definition of General Revenue. In addition, note that the definition of general revenue includes Tribal enterprises in the case of Tribal governments. Refer to [FAQ #3.4](#) and the Appendix for the components included in General Revenue.

### **3.14. How should recipients that receive multiple allocations (e.g., a city and a county consolidated government) calculate their revenue loss?**

If a government entity receives a combined award (e.g., in its capacity both as an NEU and as a Unit of General Local Government (UGLG) within a non-UGLG county), it must determine its revenue loss only once as the combined entity. The government entity may not, for example, elect the standard allowance once as an NEU and once as an UGLG (i.e., it would only be able to claim up to a total of \$10 million standard allowance against all of its awards). Similarly, if the government entity elects to calculate its revenue according to the formula set out in the final rule, it must do so on a combined basis.

In the case of an award to an UGLG within a non-UGLG county under section 603(b)(3)(B)(ii) of the Social Security Act, the UGLG is considered the prime recipient of this award. Therefore, the prime recipient in this circumstance may treat these transferred funds as its own award for purposes of the revenue loss determination.

For example, if an NEU receives \$2 million in its NEU distribution, and then receives an additional \$13 million as an UGLG within a non-UGLG county, and the NEU elects the standard allowance of \$10 million in revenue loss, the NEU would be able to spend up to a total of \$10 million on government services under revenue loss against its awards, and would be able to spend the remaining \$5 million in other expenditure categories.

## **4. Eligible Uses – General**

### **4.1. How do I know if a specific use is eligible?**

The best way to begin evaluation of whether a specific use is an eligible use of SLFRF funds is to consider which of the four eligible use categories the use may fall into.

As a reminder, there are four eligible use categories, ordered below from the broadest and most flexible to the most specific. The [Overview of the Final Rule](#) serves as a summary of the major provisions of each category.