

**Coronavirus State and Local Fiscal Recovery Funds**  
**Frequently Asked Questions**  
**on Distribution of Funds to Non-entitlement Units of Local Government**

**AS OF JUNE 7, 2021**

This document contains answers to frequently asked questions regarding the distribution of funds to non-entitlement units of local government (NEUs) under the Coronavirus State and Local Fiscal Recovery Funds (CSFRF / CLFRF, or Fiscal Recovery Funds). This document serves as a supplement to the main document of frequently asked questions, which is also available on the Department of the Treasury (Treasury)'s website. Treasury will be updating this document periodically in response to questions received from stakeholders. Recipients and stakeholders should consult the Interim Final Rule (IFR) for additional information.

- For frequently asked questions on topics beyond distribution of funds to NEUs, please see the main FAQ document at <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.
- For overall information about the program, including information on requesting funding, please see <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-government>.
- For general questions about CSFRF / CLFRF, please email [SLFRP@treasury.gov](mailto:SLFRP@treasury.gov).
- Treasury is seeking comment on all aspects of the Interim Final Rule. Stakeholders are encouraged to submit comments electronically through the Federal eRulemaking Portal (<https://www.regulations.gov/document/TREAS-DO-2021-0008-0002>) on or before July 16, 2021. Please be advised that comments received will be part of the public record and subject to public disclosure. Do not disclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Questions updated or added 6/7/21: 7.4-7.15 (noted with “[6/7]”)

## **7. Non-Entitlement Units (NEUs)**

### **7.1. Can states impose requirements or conditions on the transfer of funds to NEUs?**

As the statute requires states to make distributions based on population, states may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury's implementing regulations and guidance.

For example, states may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU's use of Fiscal Recovery Funds based on the NEU's proposed spending plan or other policies, nor permitted to offset any debt owed by

the NEU against its payment. Further, states may not provide funding on a reimbursement basis (e.g., requiring NEUs to pay for project costs up front before being reimbursed with Fiscal Recovery Fund payments), because this approach would not comport with the statutory requirement that states make distributions to NEUs within the statutory timeframe.

**7.2. Can states transfer additional funds to local governments beyond amount allocated to NEUs?**

Yes. The IFR permits states, territories, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute, as long as the transferee abides by the transferor's eligible use and other requirements. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (e.g., a county is able to transfer Fiscal Recovery Funds to a city, town or school district within it).

**7.3. May states use funds to pay for the administrative costs of allocating and distributing money to the NEUs?**

Yes. If necessary, states may use Fiscal Recovery Funds to support the administrative costs of allocating and distributing money to NEUs, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts.

**7.4 What steps do states and territories need to undertake to receive their NEU payments? [6/7]**

State or territorial governments that have made a request for their own funds in the Treasury Submission Portal will be considered by Treasury to have requested funding for their NEUs as well and should expect to receive their first tranche of payments for distribution to their NEUs within a few days of submission. No further action is required on the state or territory's part to receive these payments from Treasury. State or territorial governments that have not submitted a request are encouraged to do so at their earliest convenience.

**7.5 What are the specific deadlines for state governments in distributing funds? [6/7]**

Section 603(b)(2)(C)(i) states that “[n]ot later than 30 days after a State receives a payment,” it “shall distribute” funds to each NEU in the state. Section 603(b)(2)(C)(ii) provides for a 30-day extension if a state certifies in writing an “excessive administrative burden,” and possible additional 30-day extensions at the discretion of the Secretary of the Treasury if the state provides a written plan to the Secretary specifying “when the State expects to make such distribution and the actions the State has taken and will take in order to make all such distributions before the end of the distribution period.”

As outlined above, the statute expects state governments to allocate and disburse payments to all eligible NEUs within 30 days of receiving their NEU payment from Treasury. The statute also directs Treasury to grant a 30-day extension if a state certifies

an “excessive administrative burden” in writing. Accordingly, Treasury will grant a 30-day extension for all states that complete and submit an extension form that will soon be available. Treasury encourages all states to expeditiously distribute funding to eligible NEUs.

At the end of the first 30-day extension (60 days after the date on which the state received an NEU payment), states that have not made all distributions of their NEU funding may request an additional 30-day extension, which may be granted at the discretion of the Secretary of the Treasury. These states will be asked to provide a written plan that specifies the expected timing of the remaining distributions and efforts that the state has and will undertake to make these distributions. As part of this state plan, Treasury will accept plans from states that detail “reasonable efforts” to contact non-responsive NEUs and propose issuing a subsequent distribution of unclaimed funds if the NEUs remain non-responsive.

As outlined in the guidance, a state may only issue a subsequent distribution if it has made “reasonable efforts” to contact an NEU that remains unresponsive. As detailed in a different FAQ, states should not issue a subsequent distribution until at least 60 days after the state begins accepting and processing requests for funding from NEUs.

**7.6 How long does a state have to wait until an NEU can be treated as “non-responsive” and the state can issue a subsequent distribution based on unclaimed funding? [6/7]**

As outlined in the guidance, a state can issue a subsequent distribution of unclaimed funding allocated to an NEU after it has “made reasonable efforts” to contact an NEU that remains unresponsive. Treasury expects that states will undertake multiple outreach attempts to each unresponsive NEU before issuing a subsequent distribution. States should not determine that NEUs have been unresponsive, reallocate the remaining funds, and make a subsequent distribution until at least 60 days after the state begins accepting and processing requests for funding from NEUs.

**7.7 How should a state treat a local government on the list posted on the Treasury website that is no longer in operation and has been dissolved? [6/7]**

A state should consider a local government that is no longer in operation and has been dissolved as unresponsive and therefore ineligible for funding. As a result, the state should not allocate any funds to such local government.

In special circumstances where the local government is no longer in operation because it has been wholly annexed or otherwise wholly subsumed by another local government, the state may exercise discretion to re-allocate funding that had been allocated to the local government that is no longer in operation to the local government that annexed or otherwise subsumed such local government.

**7.8 How should territories allocate and distribute payments to their NEUs? [6/7]**

On May 24, 2021, Treasury issued guidance to assist states in allocating and distributing funds to NEUs. As part of this guidance, Treasury published a [list of local governments](#) for the states, along with a [step-by-step guidance document](#) for states to use to determine eligible NEUs from this list (NEU Guidance).

However, since the U.S. Census Bureau lacks recent data about NEUs in the territories (American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands), Treasury did not publish a list of local governments in these territories. In order to determine the eligibility of its NEUs, territories should follow the NEU definitions and standards set forth in the American Rescue Plan Act of 2021 (ARPA), the IFR, and the NEU Guidance.

- All active and functioning incorporated places are eligible as NEUs.
- In addition, the territories should consider active and functioning minor civil divisions as eligible, provided that each eligible minor civil division has the legal and operational capacity to accept ARPA funds and provides a broad range of services that would constitute eligible uses under ARPA. Please consult the [NEU Guidance](#) and the [definitional and data methodology](#) documents for more information about how to conduct such a facts-and-circumstances analysis to make this determination.
- States are not permitted by the statute to make NEU payments to cities that are eligible for a metropolitan city payment directly from Treasury under Section 603(b)(1) of the Social Security Act. The list of eligible metropolitan cities can be found [here](#).
- Territories should use the population data that it deems most appropriate. In evaluating the appropriateness of a data source, territories should give preference to the most recent and authoritative data available. Further, territories should publish a list of eligible NEUs on their website before issuing their first payments.

Territories should follow all other parts of the NEU Guidance (other than the subparts on identifying eligible NEUs from the list on Treasury's website), including with respect to treatment of overlapping populations, application of the 75 percent budget cap, procedures around the initial and subsequent distributions, and reporting requirements to Treasury.

### **7.9 Can states pay entities that are not included in the list of local governments provided by Treasury? [6/7]**

No. The list of local governments on the Treasury website includes the NEUs eligible for distribution based on data provided by, and after consultation with, the U.S. Census Bureau. The statutory definition of NEU is detailed in the [Non-Entitlement Unit of Local Government Definitional and Data Methodology](#). States may not pay entities that are not included in the list of local governments without prior Treasury approval.

**7.10 Is a Second Tranche payment guaranteed for NEUs, provided that they comply with the terms and conditions of the funding? [6/7]**

Section 603 of the Social Security Act, as added by the American Rescue Plan Act of 2021, directs Treasury to make two Tranches of payments to states for distribution to NEUs. The statute does not require, and Treasury will not require, NEUs to provide additional substantive information or receive special approval in order to receive a distribution from their state for the Second Tranche payment.

**7.11 How should states check to see whether an NEU is excluded or disqualified as outlined in the guidance? [6/7]**

States should use SAM.gov to check whether an NEU is excluded or disqualified in accordance with 2 C.F.R. Part 180 and Treasury's implementing regulations at 31 C.F.R. Part 19. Please contact the General Services Administration for further technical assistance with SAM.gov, including batch processing.

**7.12 Are states required to collect key information from the NEU as outlined in the guidance (e.g., banking information or top-line budget totals) or may states rely on existing information in their systems? [6/7]**

Provided that the existing information in a state's system complies with the requirements set forth in Section 603 of the Social Security Act, as added by the American Rescue Plan Act of 2021, and Treasury's [Guidance on Distribution of Funds to Non-Entitlement Units of Local Government](#), a state may rely on existing information from their systems. Prior to using the information, the state should confirm that the information is accurate and up to date with the NEU.

**7.13 Do states have to collect actual budget documents to calculate the "75 percent budget cap," or can they rely on a budget total? [6/7]**

States can rely on a budget total from an NEU in order to calculate the "75 percent budget cap." As part of their first report to Treasury, NEUs will be asked to submit the actual budget documents that validate the budget total.

**7.14 Do states have to monitor NEUs for compliance with use of funds? [6/7]**

NEUs are considered prime recipients of Treasury and states are not responsible for monitoring NEUs for compliance with use of funds, beyond distributing and collecting signed copies of the award terms and conditions and assurances of compliance with Title VI of the Civil Rights Act of 1964. However, if a state transfers funds to an NEU under Section 602 of the Social Security Act, as added by the American Rescue Plan Act of 2021 (e.g., a transaction that is not a distribution of funds to the NEU as required by Section 603(b)(2)(C) of the Social Security Act) or otherwise establishes a subrecipient relationship with an NEU, the state will be obligated under the award terms to account for the uses of the funds and report on such uses.

**7.15 Is there a requirement to distribute funds to NEUs electronically, or can funds be distributed via check? [6/7]**

While Treasury encourages payment in the most efficient way possible, there is no requirement that funds must be distributed to NEUs electronically.