

American Rescue Plan Act State and Local Fiscal Recovery Fund Project Review Policy

Purpose: This policy is designed to aid the Town of Apex in the management of American Rescue Plan Act (ARPA) funds and to ensure compliance with ARPA/State and Local Fiscal Recovery Fund (SLFRF) Compliance and Reporting Guidance. This policy establishes procedures for the Town to seek, receive, and expend ARPA funds. All Town projects and subrecipients of ARPA funds must comply with the Uniform Guidance as referenced in the ARPA Final Rule issued by the US Treasury Department.

Relevant Policies: The American Rescue Plan Act provides federal Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to local governments across the United States. All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (collectively referred to as “Uniform Guidance” hereinafter), codified at 2 C.F.R. Part 200, unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The following Town of Apex policies are required or recommended under Uniform Guidance and US Treasury Reporting and Compliance Guidance and may be applicable for the approval of Town projects and issuance of ARPA/SLFRF subawards: Procurement, Cost Allowability, Property Management, Nondiscrimination Policy, Record Retention, and Conflicts of Interest. Additionally, Uniform Guidance requires that subrecipients of ARPA/SLFRF funds have many of the above referenced policies and procedures in place and available for review by Town of Apex at all times.

Federal Procurement Policy: All procurements undertaken for ARPA approved projects shall comply with (a) Uniform Guidance; (b) all applicable State and federal laws; (c) local ordinances or directives established by the Town of Apex Council from time to time; (d) this Policy; and (e) all other applicable approved policies and procedures.

Cost Allowability: Staff responsible for all potential ARPA/SLFRF projects and subaward projects must submit a detailed budget to the Office of Budget, Performance & Strategy showing expenditures by cost item for staff evaluation of cost allowability under Uniform Guidance and the Town of Apex Allowable Cost Policy.

Policies Adopted by the Town of Apex: Prior to requesting an obligation of funds, staff shall review and ensure that all applicable projects and ARPA/SLFRF expenditures comply with the Town’s Property Management Policy, Nondiscrimination Policy, Record Retention Policy, Procurement Policy, and Conflict of Interest Policy. Staff shall review the above referenced policies and communicate in writing to the Office of Budget, Performance & Strategy how said policies will be followed as part of any ARPA/SLFRF funding request.

Project Eligibility: Eligible projects must be allowable under the ARPA Final Rule and North Carolina State Law. The following are eligible use categories under the ARPA Final Rule:

1. Support Public Health Responses

2. Replace Public Sector Revenue Loss
3. Make necessary investments to improve water, sewer, and broadband infrastructure
4. Address negative economic impacts
5. Offer Premium Pay for Essential Workers

Each eligible use category has separate and distinct standards for assessing whether a use of funds is eligible and are further detailed in the Town's Eligible Project Policy. All determinations on eligibility and allowable project costs will be documented on the Project Eligibility Determination and Documentation Form.

Project Eligibility Review and Recommendation: The Office of Budget, Performance & Strategy staff will review projects for eligibility and make determinations for all Town and subrecipient projects under consideration. All potential projects will be evaluated based on ARPA/SLFRF eligible use categories under the US Treasury Final Rule along with Federal Uniform Guidance, North Carolina State law, alignment with Town goals and initiatives, and the risk of non-compliance. Any eligibility uncertainty will be passed to the Town Attorney for a final determination. Staff may require interviews and concurrent reviews with other municipalities, funding agencies, or subaward applicants before making final determinations of eligibility and approval recommendations. A Project Eligibility Determination and Documentation form will be created and retained for each project proposal (Appendix 1).

Subrecipient Determination: Entities applying for ARPA/SLFRF funding will be designated as a subrecipient or a contractor through an initial review by a representative from the Office of Budget, Performance & Strategy. This determination will guide any contractual relationship between the potential subaward entity and Town of Apex. Any uncertainty from the initial review will be passed to the Town Attorney for a final determination. Programmatic responsibilities and reporting will increase if an entity receiving an award is determined to be a subrecipient and will be subject to additional compliance risk assessment. A contract with a nonprofit or other local government is not automatically a subaward. It must meet the criteria listed in the Town of Apex Subaward Policy. Characteristics which support the classification of the contractor as a subrecipient include when the contractor:

1. Determines who is eligible to receive what federal assistance;
2. Has its performance measured in relation to whether objectives of a federal program were met;
3. Has responsibility for programmatic decision-making;
4. In accordance with its agreement, uses the federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

If assessed to be a subaward recipient see Subaward Recipient Policy for additional compliance.