

**TOWN OF APEX ELIGIBLE PROJECT POLICY FOR THE
EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY
FUNDS**

WHEREAS the Town of Apex 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; 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

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](#); and

WHEREAS US Treasury has issued a [Compliance and Reporting Guidance v.2.1 \(November 15, 2021\)](#) dictating implementation of the ARP/CSLFRF award terms and compliance requirements; and

WHEREAS the Compliance and Reporting Guidance states in Section C.2. 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 Town Council of the Town of Apex hereby adopts and enacts the following Eligibility Determination Policy for ARP/CSLFRF funds.

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 the Town of Apex will spend its ARP/CSLFRF funds.

I. PERMISSIBLE USES OF ARP/CSLFRF FUNDING

US Treasury issued its [Final Rule](#) regarding use of ARPA funds on January 6, 2022. (The Final Rule is effective as of April 1, 2022). Until that date, a local government may proceed under the regulation promulgated by US Department of the Treasury in its [Interim Final Rule](#) or the Final Rule.) 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 ARP/CSLFRF funds no later than December 31, 2024 and disburse all funding no later than December 31, 2026. Failure of an entity to expend all funds by December 31, 2026 will result in forfeiture of ARPA 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

II. 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 Town of Apex 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 Town of Apex, and any of its contractors or subrecipients, may not expend any ARP/CSLFRF funds for these purposes.

III. PROCEDURES FOR PROJECT APPROVAL

The following are procedures for ARP/CSLFRF project (hereinafter “Project”) approvals. All Town of Apex employees and officials must comply with these requirements.

1. Requests for ARP/CSLFRF funding, must be made in writing by department heads. A request form will be provided. Written requests shall include all the following:
 - a. Brief description of the Project.
 - b. Identification of ARP/CSLFRF Expenditure Category (EC) (A list of ECs is in the Appendix to the [US Treasury Compliance and Reporting Guidance](#).)
 - c. Required justifications for applicable Projects, according to the requirements in the Final Rule. Employees or any applicant seeking ARPA funding should review the [Final Rule](#) and [Final Rule Overview](#) prior to submitting a proposal.
 - d. Proposed budget, broken down by cost item, in accordance with the Town of Apex’s Allowable Cost Policy.
 - e. A Project implementation plan and estimated implementation timeline (All ARP/CSLFRF funds must be fully obligated by December 31, 2024, and fully expended by December 31, 2026.)
2. Requests for funding must be submitted to a representative from the Office of Budget, Performance & Strategy. All requests will be reviewed by the Office of Budget, Performance & Strategy for ARP/CSLFRF compliance and by the Finance Director for allowable costs and other financial review. A representative from the Office of Budget, Performance & Strategy will communicate requests with the Legal Department as needed to ensure compliance with federal, state, and local law.
3. No ARP/CSLFRF requests for funding may be obligated or expended before final written approval by a representative from the Office of Budget, Performance & Strategy as detailed in Section III(2) of this policy. Obligations or expenditures requiring a budget amendment require Town Council approval. For the purposes of this policy, written approval may be provided through electronic mail.
4. If a Project proposal does not meet the required criteria, it will be returned to the requesting party for revision and resubmittal.
5. Following all required approvals, 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 a representative from the Office of Budget, Performance & Strategy and may require a budget amendment approved by the

Town Council before proceeding. Any delay in the projected Project completion date shall be communicated to a representative from the Office of Budget, Performance & Strategy or designee(s) immediately.

6. A representative from the Office of Budget, Performance & Strategy must collect and document required information for each EC, for purposes of completing the required Project and Expenditure reports.
7. A representative from the Office of Budget, Performance & Strategy must maintain written project requests and approvals, all supporting documentation, and financial information at least until December 31, 2031.

Severability. If any provision of this policy or any rule, regulation, or order thereunder of the application of such provision to any person or circumstances is held invalid, the remainder of this policy and the application of such remaining provisions of this policy or such rules, regulations, or orders to any person or circumstances other than those held invalid will not be affected thereby.

Amendments. The Town Council has the authority to amend, revise, or repeal all or any portion of this policy as it sees fit.

Effective Date. This policy shall go into effect on April 12, 2022.