



## Spending Your State & Local Fiscal Recovery Fund (SLFRF) Dollars: The Eligibility of Equalis Group Intergovernmental Agreements

Many state and local agencies are now receiving State & Local Fiscal Recovery Fund (**SLFRF**) dollars allocated by [The American Rescue Plan Act of 2021 \(ARPA\)](#). A frequent question is whether SLFRF dollars can be spent through intergovernmental agreements, such as the publicly procured, competitively solicited [Equalis Group Master Agreements](#).

The short answer is: **Yes**.

The U.S. Congress, the Department of Treasury, and the Internal Revenue Service have all published publicly available resources to provide compliance guidance that specifically address the viability of intergovernmental agreements for state and local governmental agencies' procurement using SLFRF dollars. Each of these resources direct SLFRF recipients to follow the requirements of [2 CFR Part 200](#) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (**Uniform Guidance**).

The use of state and local intergovernmental agreements and inter-entity agreements is explicitly encouraged for non-federal entities, such as state and local governments, receiving federal awards in [2-CFR 200.318\(e\)](#), which states:

*"To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, **the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services** [emphasis added]. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements."*

[Equalis Group](#) Master Agreements are publicly procured contracts sourced by local governmental agencies and education service centers (**Lead Agencies**) in conformity with the regulatory requirements established for non-federal entities in Uniform Guidance. These Master Agreements are made available to public agencies across the country through intergovernmental agreements in compliance with Uniform Guidance requirements.

Equalis Group Master Agreements are immediately available to existing Equalis Group members. Any public sector entity in the country can [join](#) Equalis Group and begin utilizing any Equalis Group already-procured, competitively solicited Master Agreement by completing the Equalis Group [Master Intergovernmental Cooperative Purchasing Agreement](#) in accordance with Uniform Guidance stipulations.

Equalis Group strongly encourages each agency to conduct its own due diligence when allocating federal funds. To assist in this process, Equalis Group has provided in the following pages several citations from federal publications pertaining to the procurement-related compliance requirements to which SLFRF recipients must adhere. These publications validate the viability of leveraging Equalis Group Master Agreements, as the Equalis Group Lead Agency procurement processes adhere to the contract procurement requirements of Uniform Guidance.

**Note:** Equalis Group Master Agreements are cooperative agreements made available through an intergovernmental agreement established between Equalis Group Lead Agencies and an individual public agency that joins Equalis Group. Equalis Group Master Agreements are **NOT** state term contracts or state purchasing pools, many of which are not established in compliance with Uniform Guidance requirements.



## SLFRF Expenditure Compliance Guidance: Source Text Citations

Several published documents have been made publicly available to help ensure that recipients of funds under the SLFRF program allocate spending in a compliant manner. A review of [The American Rescue Plan Act of 2021, 2 CFR Part 200 \(Uniform Guidance\)](#), [Memorandum M-21-20](#), [Memorandum M-20-21](#), [31 CFR Part 35 \(Pandemic Relief Programs\)](#), and guidance published by the U.S. Department of Treasury, establishes that SLFRF award recipients are mandated to procure goods and services in a manner that is expeditious, transparent, and in full compliance with 2-CFR Part 200.

### U.S. Department of the Treasury Compliance & Reporting Guidance

<b>Source Document:</b>	<a href="#">Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds, Version 1.1</a>
<b>Published By:</b>	U.S. Department of the Treasury
<b>Publication Date:</b>	Version: 2.1 published November 15, 2021

The U.S. Department of the Treasury (**Treasury**) developed this guide detailing the compliance and reporting responsibilities for recipients of SLFRF funds to follow when spending those funds. The guide features several Key Principles on page three, including Principle #4, which directs SLFRF fund recipients to spend these funds in compliance with Administration guidance; in other words, [2-CFR Part 200](#). Principle #4 states:

*Transparency and public accountability for SLFRF award funds and use of such funds are critical to upholding program integrity and trust in all levels of government, and SLFRF award funds should be managed consistent with Administration guidance per [Memorandum M-21-20](#) and [Memorandum M-20-21](#).*

Memorandum M-21-20 includes the following language requiring that federal funds be spent in accordance with 2-CFR Part 200, such as Equalis Group’s Uniform Guidance-compliant Master Agreements, as follows:

*To provide the highest integrity in the management of financial assistance, agencies must apply the requirements of title 2 of the Code of Federal Regulations, Grants and Agreements (2 CFR) to Federal financial assistance funded through the ARP to the maximum extent authorized by law. This includes the existing requirement in [2 CFR part 25](#) for financial assistance recipients to register at [SAM.gov](#). Similarly, as permitted by [2 CFR § 200.101\(2\)](#), agencies should apply the provisions of 2 CFR part 200 to grants and cooperative agreements to for-profit entities, with limited exceptions.*

Memorandum M-20-21 includes language directing SLFRF recipients to issue awards rapidly, which the utilization of already-procured, competitively solicited intergovernmental agreements such as Equalis Group Master Agreements enables:

*Expediency – Agencies should **rapidly issue awards and fund programs** [emphasis added] to meet crucial needs; and*

*Transparency and accountability – Agencies must report information on awards to provide the public with information in a clear, accurate, and timely manner.*

The Uniform Administrative Requirements begin on page six of this Treasury guide. SLFRF recipients are directed to spend ARPA funds in accordance with 2-CFR Part 200 requirements, which includes the utilization of intergovernmental agreements such as Equalis Group Master Agreements, as follows:

*The SLFRF awards are generally subject to the requirements set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, [2](#)*



[CFR Part 200](#) (the “**Uniform Guidance**”). In all instances, your organization should review the Uniform Guidance requirements applicable to your organization’s use of SLFRF funds, and SLFRF-funded projects. Recipients should consider how and whether certain aspects of the Uniform Guidance apply.

1. **Allowable Activities.** Each recipient should review program requirements, including Treasury’s Interim Final Rule and the recipient’s Award Terms and Conditions, to determine and record eligible uses of SLFRF funds. Per [2 CFR 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.

2. **Procurement, Suspension & Debarment.** Recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at [2 CFR 200.317 through 2 CFR 200.327](#), as applicable. The Uniform Guidance establishes in [2 CFR 200.319](#) that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in [2 CFR 200.320](#), which allows for non-competitive procurements only in circumstances where at least one of the conditions below is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, competition is determined inadequate. Recipients must have and use documented procurement procedures that are consistent with the standards outlined in [2 CFR 200.317 through 2 CFR 200.320](#). The Uniform Guidance requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred parties. Your organization must ensure adherence to all applicable local, State, and federal procurement laws and regulations.

### U.S. Department of the Treasury Final Rule

<b>Source Document:</b>	<a href="#">31 CFR Part 35/ RIN 1505-AC77/ Rules and Regulations – Coronavirus State and Local Fiscal Recovery Funds. Final Rule. U.S. Department of the Treasury</a>
<b>Published By:</b>	U.S. Department of the Treasury
<b>Publication Date:</b>	January 6, 2022; effective April 1, 2022

Treasury issued an interim final rule May 17, 2021, which was issued January 6, 2022 as the final rule going into effect April 1, 2022. This rule provides clarity regarding the implementation of the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund authorized under ARPA. This Treasury rule provides detailed information on the types of eligible uses for federal funds awarded under ARPA, as well as restrictions on use of funds. On page **373** of the final rule, Treasury clarifies and reaffirms that recipients are to follow Uniform Guidance, which includes the utilization of intergovernmental agreements such as Equalis Group Master Agreements:

*Recipients of SLFRF funds are subject to the provisions of the Uniform Guidance (2 CFR Part 200) from the date of award to the end of the period of performance on December 31, 2026 unless otherwise specified in this rule or program-specific guidance. Costs must follow the requirements in 2 CFR 200 Subpart E, Cost Principles, including procurement standards. Recipients that receive an aggregate amount of federal financial assistance in a given fiscal year that exceeds the Single Audit threshold are subject to the requirements in 2 CFR 200 Subpart F, Audit Requirements, unless otherwise specified in program-specific guidance. SLFRF funds transferred to subrecipients are also subject to reporting and Uniform Guidance requirements.*



## Legal Disclaimer

*Please keep in mind that this information is provided as a service to Equalis Group members and supplier partners. It is designed only to give general information. This document is not intended to be a comprehensive summary of recent developments in the law, treat exhaustively the subjects covered, provide legal advice, or render a legal opinion. Equalis Group and its members are not attorneys and are not responsible for any legal advice. Equalis Group encourages political subdivisions, local governments, state agencies, and other public agencies to have legal counsel review the applicable federal legislation and associated guidance to determine their eligibility to utilize Equalis Group's competitively solicited contracts for SLFRF dollars.*