



## American Rescue Plan Act State and Local Fiscal Recovery Funds

### Why OCA did this project:

The City of Tulsa received \$87,826,517 in State and Local Fiscal Recovery Funds from the United States Department of the Treasury. These funds must be spent quickly and in compliance with numerous complex requirements. Recognizing the importance and complexity of this grant, Mayor Bynum requested this audit to gain assurance the grant is being processed correctly.

### Project Scope

This audit focused on activities completed March 31, 2021 through August 31, 2022.

Evaluate compliance with requirements in five areas:

- Grant agreement
- Cash management
- Grant reporting
- Sub-awards
- Subrecipient monitoring

### How OCA did this project

Project procedures included:

- Locating and understanding grant requirements
- Reviewing procedures performed in the five scope areas
- Reviewing reports submitted to United States Department of the Treasury

### Key observations

1. Potential conflicts of interest were not reported
2. Risk assessments were not conducted for subawards
3. No strategy, goals or plans exist
4. Premium pay was reported incorrectly
5. Grant reports had differences and missing information

# American Rescue Plan Act State and Local Fiscal Recovery Funds Audit Report

## Introduction

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program, a part of the American Rescue Plan Act (ARPA), delivers \$350 billion to state, local, and tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency.

The program provides the resources needed to:

- Fight the pandemic and support families and businesses struggling with its public health and economic impacts
- Maintain vital public services, even amid declines in revenue resulting from the crisis
- Build a strong, resilient, and equitable recovery by making investments that support long-term growth and opportunity

The SLFRF grant allows substantial flexibility for each jurisdiction to meet local needs within these four separate eligible use categories:

1. Replace lost public sector revenue, using this funding to provide government services up to the amount of revenue lost due to the pandemic
2. Respond to the far-reaching public health and negative economic impacts of the pandemic by supporting the health of communities, and helping households, small businesses, impacted industries, nonprofits, and the public sector recover from economic impacts
3. Provide premium pay for essential workers, offering additional support to those who have and will bear the greatest health risks because of their service in critical sectors
4. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, to support vital wastewater and stormwater infrastructure, and to expand affordable access to broadband internet

Recipients of SLFRF grants must comply with:

- SLFRF interim and final rules,
- Grant agreement between the City of Tulsa (“City”) and the US Department of the Treasury (“Treasury”), and
- Federal regulations in 2 CFR 200, referred to as “Uniform Guidance”

This audit’s scope was to evaluate compliance with requirements in five areas including:

- Grant agreement
- Cash management
- Grant reporting
- Sub-awards
- Subrecipient monitoring

## **Audit Findings and Management Responses**

### **FINDING 1: Disclosure of potential conflicts of interest**

#### **SUMMARY**

The grant agreement between the City and Treasury requires the City to disclose in writing to Treasury any potential conflicts of interest affecting the awarded funds.

City officials who made decisions on funding awards disclosed and recused when a potential conflict of interest existed. These disclosures were not reported to Treasury.

#### **RECOMMENDATIONS**

1. Request written disclosure of potential and actual conflicts of interest from City officials involved in the review, evaluation, and recommendations for how SLFRF funds will be spent. File these disclosures in City records in a place where they can be readily located.
2. Document the disclosures and abstentions that occurred in the past review, evaluation and recommendations for funding. Ensure a process to record potential conflicts of interest is used going forward.
3. Report to Treasury all potential and actual conflicts of interest that have occurred and others that occur going forward.

#### **RESPONSE**

Grants Administration agrees, in part, with this finding.

Staff understands that decisions concerning SLFRF funds must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. Committee members recused verbally which is documented in meeting notes.

For previous ARPA processes, staff reviewed a sample of meeting notes and confirmed documented voting abstentions or recusals. Documentation will be kept in Finance Department ARPA files and with the City Clerk, if applicable.

Grants Administration has a process, including a form, that requires staff and external application reviewers to disclose any real or perceived conflicts of interest with any agency that has submitted an application for HUD grant funding.

For future ARPA review and allocation processes, a Conflict of Interest statement, in compliance with 2 CFR Part 200, Treasury guidance, and City policy will be signed by Elected Officials and City Staff to document any real or perceived conflict. Staff will report disclosed Conflicts of Interest to Treasury in accordance with guidelines.

## **FINDING 2 - Risk assessments were not conducted for subawards**

### **SUMMARY**

Risk assessments of potential subrecipients were not conducted before the first award of SLFRF funds. Uniform Guidance states:

- “Generally, recipients must develop and implement policies and procedures, and retain records, to determine and monitor implementation of criteria for determining the eligibility of beneficiaries and/or subrecipients.”
- “Implementing risk-based due diligence for eligibility determinations is a best practice to augment your organization’s existing controls.”

Grants staff completed risk assessments of subrecipients after contracts were awarded to them. Although a risk assessment is not a determinant on whether a potential subrecipient receives funding or not, it should be a determinant on whether the subrecipient should receive training and technical assistance, frequency or need for site visits or procedure review.

### **RECOMMENDATIONS**

1. Risk assessments should be conducted when deciding which applicants will receive a contract.
2. Grants staff should do post-contract risk assessment on a timely basis to provide subrecipients with the proper monitoring and technical assistance before the beginning of subrecipient activities.
3. Finance Department management should use risk assessments to inform decisions about the staffing level needed to monitor high risk subrecipients.

### **RESPONSE**

Grants Administration agrees with this finding.

Staff in place during the initial allocation of ARPA funding is no longer with the City. New staff hired to oversee ARPA had to quickly enter into written agreements of previously selected subrecipients. The City was able to utilize its Manpower contract to hire a temporary employee with years of experience administering federally funded subrecipient agreements.

Grants Administration conducts organizational capacity and risk assessments for HUD grant subrecipients. Staff will utilize these two assessment tools in future ARPA allocation processes. The organizational capacity review will be conducted before applicants are selected to receive funding. Staff will provide concerns regarding

organizational capacity and risk to decision makers prior to projects being selected for funding. Additional risk evaluation will be conducted after subrecipient selection to determine immediate needs for training or early onsite monitoring. This will assist in reducing the city's risk of potentially providing ineligible activities or expenditures.

Staff capacity to administer high risk subrecipients will be addressed in Finding 4.

### **FINDING 3: No strategy, goals or plan exists for management of SLFRF grant funds**

#### **SUMMARY**

Treasury requires an annual Recovery Plan report that includes an executive summary. In this section, recipients are required to provide an overview of intended and actual use of SLFRF funds. This summary must include strategy, goals and plan for using grant funds. The annual Recovery Plan reports for 2021 and 2022 did not include an Executive Summary and there was no strategy, goals or plan elsewhere in the report.

This is an important part of accurate reporting because all other parts of the Recovery Plan need to tie to the strategy, goals, and plan. Projects funded should align with the goals set out to be achieved. It is difficult for grants staff to produce an accurate report without these elements.

#### **RECOMMENDATION**

The ARPA Working Group should formulate the strategy, goals, and plan for SLFRF funds.

#### **RESPONSE**

Grants Administration agrees, in part, with this finding.

Previous Treasury Recovery Plan reports did not have a label, Executive Summary, however, we believe the required elements are included.

The Mayor and ARPA Working Group prioritized a plan of community funding needs, including:

1. Public Safety
2. Public Health and Human Services
3. Economic Development and Tourism
4. Justice Reform
5. Public Facilities and Infrastructure
6. Nonprofit community partners on the front line of citizen interaction
7. Housing Stability
8. Food Security

Additionally, to aid in an informed strategy, the City conducted a community wide survey that allowed citizens to express their challenges throughout the pandemic as well as where they thought future dollars should be spent. Over 1300 responses were received with a sampling of citizens that was a fair match for the city's demographics.

Categories of need included:

- Children and Youth Services
- Financial Stability
- Food Security
- Healthcare
- Housing Assistance
- Mental Health
- Public Health
- Public Safety

Corrective Action:

Staff will ensure that future Treasury Reports will include all required elements, including an overall strategy and expected goals.

## **FINDING 4: Subrecipient monitoring activities need to be increased**

### **SUMMARY**

A sample of 17 of the 74 subrecipient contracts was selected to evaluate subrecipient monitoring. The primary issues noted with monitoring included:

- Many subrecipients are not submitting required monthly reports on expenditures and performance. (64% of the subrecipient contracts in the sample had either not submitted reports or had submitted incomplete reports.)
- Many grant files do not include records of monitoring activities. This does not mean monitoring did not occur, but there are no records to prove it was done. (82% of the files in the sample had missing documentation.)

Monitoring of subrecipients is essential, especially those unfamiliar with federal laws and regulations. Monitoring helps reduce the risk of the City being noncompliant with grant requirements and being liable for paying Treasury the expended funds.

Six of the subrecipients selected for testing had a status of “No Contract” or recipient “Declined Funding.” The audit team noted these contracts still had funding encumbered for the projects.

## **RECOMMENDATIONS**

1. The City should consider hiring additional monitoring staff. Monitoring can be completed through review of monthly expenditure and performance reports, and site visits. Monitoring helps ensure timeliness in spending grant funds, project goals are met, and compliance with grant and contract requirements. Staff salaries for monitoring grant compliance is an allowable expense for SLFRF funds.
2. All current subrecipient contracts with encumbered funds that will not be expended should be unencumbered and made available for other SLFRF projects. In addition, Grants staff should periodically review subrecipient projects and release funds that will not be needed for project completion. The amounts should be communicated to the ARPA Working Group, so they can redirect the funds to other projects. Action is needed as soon as possible because funds must be obligated before December 31, 2024 and fully expended by December 31, 2026.

## **RESPONSE**

Grants Administration agrees, in part, with this finding.

Staff has had difficulty in receiving timely reports and reimbursement requests from some subrecipients. Staff has worked continuously with subrecipients to encourage submission of reports. Communication with subrecipients has primarily occurred via email or phone conversations, although there has been on-site monitoring. Documentation to support this monitoring has been kept in the email and one drive files.

Contracts for organizations that have declined funding have been closed.

Corrective Actions:

1. Effective March 27, 2023, four Senior Grants Compliance Monitors are in place and dedicated to the ARPA program. The Grants/Contracts Administration Manager is 80% dedicated to ARPA with the remainder of time spent on another Treasury funded program, Emergency Rental Assistance Program. Additionally, the Grants Manager contributes approximately 25% of her time assisting the ARPA staff.

2. Staff is closely monitoring the subrecipient contracts and closing upon final payment of reimbursement requests. Staff regularly evaluate available funds and will provide updates to the Mayor and ARPA Working group for consideration to fund additional projects. Staff understands the timelines associated with the ARPA program and is diligently working to ensure that all available funding is obligated by the required deadline of December 31, 2024. Staff will provide a regular report that includes available funding to the Mayor and ARPA Working Group beginning in June 2023.
3. A Monitoring file, by subrecipient, is maintained in the ARPA One Drive. Monitoring communication and documentation is compiled and saved in the appropriate file by the end of the performance period.

## **FINDING 5: Premium pay was reported incorrectly**

### **SUMMARY**

Expenditures were incorrectly reported under the category of Premium Pay. Treasury's definition of premium pay refers to "essential work," and includes the following information:

Verify that the eligible worker performs "essential work," meaning that:

- Is not performed while teleworking from a residence; and
- Involves either:
  - a. Regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or
  - b. Regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work.

Some non-sworn employees do not qualify as essential workers (for example, information technology and internal audit staff), and should not be included in premium pay calculations. Other employees in departments such as Working in Neighborhoods and public works-type departments may qualify as essential workers and should be included in this calculation.

Premium pay information reported to Treasury includes a retention bonus for non-sworn employees and hiring stipends. These types of expenditures do not qualify as premium pay. Salary stipends paid to employees who are not essential workers or were not employed at the time of the pandemic do not qualify for premium pay.



## **RECOMMENDATION**

Finance staff should review the calculation of premium pay to ensure both the amounts recorded in accounting records and amounts reported to Treasury are accurate and in compliance with grant requirements. Any amount incorrectly recorded as premium pay may be reclassified to another allowable grant expenditure category.

## **RESPONSE**

Grants Administration agrees, in part, with this finding.

Staff has reviewed the ARPA Final Rule and agree that the hiring stipends should not have been categorized as Premium Pay. The Expenditure Category for these two projects has been changed effective with the Quarter 1, 2023 report submitted April 28, 2023.

Although some work groups, that did not telework during the pandemic, may have been eligible to be classified as Premium Pay, the decision was made to use the category for public safety (sworn) personnel. An initial review of expenditure details within this project does not show ineligible expenses based on employee groups. Staff continues to review to ensure costs were not reported inaccurately. If subsequent review determines costs have been reported incorrectly, staff will make appropriate corrections with the Quarter 2 2023 report due to Treasury on July 30, 2023.

## **FINDING 6: Grant report information had differences from accounting information and missing required information**

### **SUMMARY**

Report accuracy and completeness is paramount to the City's reputation and credibility in managing federal funds. Auditing noted differences from accounting information and missing required information in grant reports submitted to Treasury. Grants staff did not retain the accounting reports used to prepare the financial information submitted to Treasury. There was no reconciliation of the differences between accounting and reported information.

### **RECOMMENDATIONS**

1. Grants procedures should require a quality review of all reports before submitting them to Treasury. This review will help improve report clarity, accuracy and completeness.

2. Grants staff should contact Treasury to inquire about submitting revised reports. If allowed, prepare revised reports with correct information, perform a quality review and re-submit. If not allowed, prepare and retain a record of what should have been reported to answer questions from auditors and other interested parties.
3. Grant records should be retained in accordance with the requirements of 2 CFR 200.334.

## **RESPONSE**

Grants Administration agrees with this finding.

### **Corrective Action:**

Prior to the transition of ARPA Staff to the Finance Department, the Grants Manager implemented an increase in internal controls including validation to ensure accurate reporting to Treasury. Staff reviews life to date expenditures in the financial accounting system and compares the generated report to the cumulative expenditures reported on the previous quarter Treasury report. Using Life to Date, rather than monthly expenditures allows for any adjustments made in the quarter to project expenditures that are accurately accounted for overall.

Treasury does not allow revision of previous reports. Quarterly as well cumulative expenditures are required. Staff will prepare and retain reports as recommended. Files will be maintained as required by 2 CFR Part 200 and city policies.

## **Other Observations**

### **Required language not included in contracts**

The City agreed in the grant terms and conditions to require sub-grantees, contractors, sub-contractors, successors, transferees, and assignees to comply with Title VI of the Civil Rights Act of 1964. Contracts or agreements with these parties must include specific language about Title VI.

Required Title VI language was not included in subrecipient contracts. In addition, Purchasing Division personnel had not been informed of the requirement.

### **PLANNED CORRECTIVE ACTION**

Staff confirmed that the required Title VI language was included in the standard subrecipient agreement template. Shown here in a snip from contract 136894.

#### **XI. CROSS-CUTTING FEDERAL REQUIREMENTS**

Subrecipient shall comply and cause each of its own subrecipients or subcontractors to comply with all of the cross-cutting federal requirements listed in this Article XI. Subrecipient shall cause all of the provisions in this Article to be included in and made a part of any subcontract or purchase order, specifically or by reference, so that such provisions will also be binding upon each of its own subrecipients or subcontractors.

##### **A. Civil Rights**

##### **1. Compliance**

Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 CFR Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

The Legal Department advised the Purchasing Division of the requirement to include Title VI language.

### **Complaint log not established**

The grant agreement requires the City to collect and maintain a complaint log. Complaints must be provided to Treasury. The City does not have a complaint log.

### **PLANNED CORRECTIVE ACTION**

Grants staff will contact the Mayor's Office for Resilience and Equity to inquire about complaint tracking.

## **Policy for management of SLFRF interest earnings**

Deposits totaling \$87,826,517 have been received from Treasury and recorded in a City accounting fund designated for this purpose. The City pools all the funds it holds and invests them, including the SLFRF funds. Interest earnings are recorded to each accounting fund proportionate to the fund's share of invested funds. The City does not have a policy for management of SLFRF investment earnings.

Treasury rules state recipients:

- can place funds in interest-bearing accounts,
- do not need to remit interest to Treasury, and
- are not limited to using interest earnings for eligible uses under the SLFRF award.

Consideration should be given to reserving funds for:

- Potential ineligible expenditures that must be repaid to Treasury
- Administrative costs for winding down ARPA-SLFRF grant administration after the grant activities end.

## **PLANNED CORRECTIVE ACTION**

Staff will prepare and submit a plan to the Mayor for consideration during the fall of 2023.