**[Note that this sample policy is intended to give NC local governments a general guide to crafting a UG Program Income Policy that is consistent with federal Uniform Guidance provision in 2 CFR 200. A local government must work with its attorney to draft a policy that is compliant with applicable laws and regulations and that can be fully implemented by the local government. Use of this sample template does not create an attorney/client relationship. Any questions about this sample policy, or suggestions for improvements, may be directed to Rebecca Badgett at** [**rbadgett@sog.unc.edu**](mailto:rbadgett@sog.unc.edu)**]**

# SAMPLE POLICY FOR PROGRAM INCOME RELATED TO THE EXPENDITURE OF AMERICAN RESCUE PLAN ACT CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS BY NORTH CAROLINA LOCAL GOVERNMENTS

**WHEREAS,** the [LOCAL GOVERNMENT NAME] has received an allocation of funds from the Coronavirus “State Fiscal Recovery Fund” or “Coronavirus Local Fiscal Recovery Fund” (together “CSLFRF”) established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (“ARPA”).

**WHEREAS,** the [UNIT] (replace “UNIT” with CITY/TOWN/VILLAGE/COUNTY, respectively) shall comply with the terms of ARPA, and the U.S. Department of Treasury’s (“Treasury”) federal regulations governing the spending of CSLFRF funds, including the [Final Rule](https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf), and Treasury’s regulations governing expenditures of CSLFRF funds, including the [Award Terms and Conditions](https://home.treasury.gov/system/files/136/NEU_Award_Terms_and_Conditions.pdf), [Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds](https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf) (together the “Federal regulations”), and any additional guidance Treasury has issued or may issue governing the spending of CSLFRF funds.

**WHEREAS**, the [UNIT] shall comply with the [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part § 200](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1) (the “Uniform Guidance”); and

**WHEREAS**, the [UNIT] shall account for program income per the requirements set forth in the Uniform Guidance, including, but not limited to, [2 C.F.R. § 200.307](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1), and as stipulated in [Compliance and Reporting Guidance for the State and Local Recovery Funds](https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf), which provides: “Recipients of CSLFRF funds should calculate, document, and record the organization’s program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.”[[1]](#footnote-1)

Now, therefore, be it **RESOLVED**, That the governing board of [LOCAL GOVERNMENT NAME] hereby adopts and enacts the following policies and procedures for the use of program income earned from the expenditure of CSLFRF funds pursuant to the ARP/CSLFRF award.

# PROGRAM INCOME POLICY

## PURPOSE AND SCOPE

[LOCAL GOVERNMENT NAME] enacts the following procedures for its use of program income earned from the expenditure of CSLFRF funds to ensure compliance with the Uniform Guidance, including, but not limited to, 2 C.F.R. § 200.307, the ARP/CSLFRF award, and all applicable Federal regulations governing the use of program income. The [CITY/TOWN/VILLAGE/COUNTY hereafter “UNIT”] agrees to administer program income according to the requirements set forth in this policy and as required by the Federal regulations and State law.

The responsibility for following this policy lies with [LIST APPROPRIATE LOCAL GOVERNMENT OFFICIALS AND EMPLOYEE POSITION TITLES HERE], who are charged with the administration and financial oversight of the ARP/CSLFRF award. Questions on the use and/or reporting of program income should be directed to [LIST APPROPRIATE LOCAL GOVERNMENT DEPARTMENT OR POSITION HERE].

## DEFINITIONS**[[2]](#footnote-2)**

1. *ARP/CLSFRF award* means the Federal program governing the use of Coronavirus State and Local Fiscal Recovery Funds as provided in the [Assistance Listing](https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view) and as administered by the U.S. Department of Treasury pursuant to the American Rescue Plan Act of 2021 (“ARPA”), Pub. L. No. 117-2 (Mar. 11, 2021).
2. *CSLFRF funds* means the portion of Federal financial assistance from the Coronavirus State Fiscal Recovery Funds and Coronavirus Local Fiscal Recovery Funds (collectively “CSLFRF”) awarded to the [UNIT] pursuant ARPA.
3. *Federal award* means the Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101. The Federal award is the instrument setting forth the terms and conditions of the grant agreement, cooperative agreement, or other agreement for assistance.
4. *Federal* awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.
5. *Federal financial assistance* means the assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions, direct appropriations, food commodities, or other financial assistance, including loans.
6. *Federal program* means all Federal awards which are assigned a single Assistance Listings Number.
7. Non-Federal entity means a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
8. Period of performance means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. The period of performance for the ARP/CSLFRF award ends December 31, 2026.
9. Program income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in [§ § 200.307(f)](https://www.ecfr.gov/current/title-2/section-200.307#p-200.307(f)).

## PROGRAM INCOME OVERVIEW

For purposes of this policy, program income is the gross income earned by the [UNIT] that is directly generated by a supported activity or earned as a result of the ARP/CSLFRF award during the period of performance, which closes December 31, 2026. 2 CFR 200.1.

Program income includes, but is not limited to, the following sources of income:

* The collection of fees for services performed.
* Payments for the use or rental of real or personal property.
* The sale of commodities or items fabricated under the Federal award.
* The payment of principal and interest on loans made under the Federal award.

Program income does not include fees or revenue from the following:

* The use of rebates, credits, discounts, and interest earned on any of them.
* Governmental revenues, such as taxes, special assessments, levies, or fines.
* Proceeds from the sale of real property, equipment, or supplies.[[3]](#footnote-3)

## USE OF PROGRAM INCOME

Program income earned pursuant to expenditures of CSLFRF is the property of US Treasury and shall be accounted for in one of three ways pursuant to [2 C.F.R. § 200.307(e](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/section-200.307#p-200.307(f))).

**Deduction Method**: Program income must be deducted from total allowable costs to determine net allowable costs. Program income shall be used to reduce Treasury’s obligation under the ARP/CSLFRF award rather than to increase the funds committed a project. Program income shall be used for current costs. The [UNIT] shall track and account for program income during the period of performance and shall reimburse Treasury, as required. 2 C.F.R. § 200.307(e)(1).

**Addition Method**: With prior approval, program income may be added to the total amount of the ARP/CSLFRF award, thereby increasing the total amount of the award. Program income must be expended on an eligible project or program. 2 C.F.R. § 200.307(e)(2). Pursuant to the terms of the ARP/CSLFRF award, the repayment of principal and interest on loans made with CSLFRF funds that will mature or be forgiven on or before December 31, 2026, may be accounted for using the addition method (see Section VI).

**Matching or Cost Sharing Method**: With prior approval, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award shall not change.[[4]](#footnote-4) 2 C.F.R. § 200.307(e)(3).

Unless the ARP/CSLFRF award otherwise stipulates, or the [UNIT] has received prior approval, the [UNIT] **shall apply the deduction method** to account for the use of program income. [Treasury may issue additional guidance that could potentially exempt other sources of program income from the deduction method.]

## ALLOCATION OF PROGRAM INCOME

The [UNIT] shall only expend program income on costs that are reasonable, allocable, and allowable under the terms of the ARP/CSLFRF award.[[5]](#footnote-5) To adhere to these requirements, the [UNIT] shall comply with the cost principles included in 2 C.F.R. § 200, as outlined in the [UNIT’s] [allowable cost policy]. The [UNIT] shall allocate program income to the ARP/CSLFRF award in proportion to the pro rata share of the total funding (e.g., if CSLFRF funds cover half of a project’s cost, with general revenue covering the other half, the unit shall allocate 50% of any program income earned to the ARP/CSLFRF award and account for its use pursuant to § 200.307).

[All units will need to adopt an allowable costs policy. See Kara Millonzi’ s [blog post](https://canons.sog.unc.edu/2021/12/american-rescue-plan-act-of-2021-allowable-costs-and-cost-principles-including-sample-policy-and-implementation-tools/) for an a model Allowable Costs policy.]

## REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS MADE WITH ARP/CSLFRF FUNDS

Treasury expects that a significant share of loans made with ARP/CSLFRF funds will be repaid. Accordingly, it has issued guidance on how to appropriately account for the repayment of principal and interest. The [UNIT] agrees to appropriately account for the return of loan funds according to the ARP/CSLFRF award terms, as follows:

* **For Loans that mature or are forgiven on or before December 31, 2026**: The [UNIT] may add the repayment of principal and interest (program income) to the ARP/CSLFRF award. When the loan is made, the [UNIT] shall report the principal of the loan as an expense. The [UNIT] shall expend the repayment of principal only on eligible uses and is subject to restrictions on the timing of the use of ARP/CSLFRF funds pursuant to the ARP/CSLFRF award. Interest payments received prior to the end of the period of performance will beconsidered **an addition** to the total award and may be used for any purpose that is an eligible use. *The [UNIT] is not subject to restrictions under 2 CFR 200.307(e)(1) (the deduction method) in accounting for the use of program income*.[[6]](#footnote-6)
* **For Loans with maturities longer than December 31, 2026**: The [UNIT] is not required to separately account for the repayment of principal and interest on loans that will mature after the ARP/CSLFRF award’s period of performance. The [UNIT] may use CSLFRF for only the projected cost of the loan. The [UNIT] may estimate the subsidy cost of the loan, which equals the expected cash flows associated with the loan discounted at the [UNIT’s] cost of funding. The cost of funding can be determined based on the interest rates of securities with a similar maturity to the cash flow being discounted that were either (i) recently issued by the [UNIT] or (ii) recently issued by a unit of state, local, or Tribal government similar to the [UNIT]. If the [UNIT] has adopted the Current Expected Credit Loss (CECL) standard, it may also treat the cost of the loan as equal to the CECL-based expected credit losses over the life of the loan. The [UNIT] may measure projected losses either once, at the time the loan is extended, or annually over the covered period. *Under either approach, the [UNIT] is not subject to restrictions under 2 CFR 200.307(e)(1) (the deduction method) and need not separately track repayment of principal or interest. [[7]](#footnote-7)*
* **Revolving Loan Funds**: The [UNIT] shall treat the contribution of ARP/CSLFRF funds to a revolving loan fund according to approach described above for loans with maturities longer than December 31, 2026.[[8]](#footnote-8)The [UNIT] may contribute ARP/CSLFRF funds to a revolving loan only if the loan is determined to be for eligible use and the ARP/CSLFRF funds contributed represent the projected cost of loans made over the life of the revolving loan fund.

[Note: In the Final Rule, Treasury expressly provides that the repayment of principal and interest on loans that mature on or before Dec. 31, 2026, shall be added to the award (i.e., the deduction method doesn’t apply). With respect for loans with maturities after Dec. 31, 2026, the Final Rule directs readers to Treasury’s Interim Final Rule FAQs, which was last updated January 2022. The IFR is set to expire April 1, 2022. Treasury anticipates issuing FAQs for the Final Rule at some point. It is advisable to read any additional guidance, including the Final Rule FAQ document once it is issued, for updates on the treatment of program income.]

## ADDITIONAL PROGRAM INCOME REQUIREMENTS

1. **Identifying, Documenting, Reporting, and Tracking.** To ensure compliance with the requirements of program income as outlined by the Federal regulations, the terms and conditions of the ASP/CSLFRF award, and the requirements set forth herein, each department shall identify potential sources of program income and properly report the program income for the period in which it was earned and dispersed.

Program income shall be accounted for separately. The [UNIT] shall not comingle program income earned from programs supported by ARP/CSLFRF funds with the general award of ARP/CSLFRF funds the [UNIT] received from Treasury. Any costs associated with generating program income revenue shall be charged as expenditures to the ARP/CSLFRF award.

1. **Program Income Earned After the Period of Performance**. The [UNIT] shall have no obligation to report program income earned after the period of performance (December 31, 2026). However, the [UNIT] shall report program income expended after the period of performance if that program income was earned on or before December 31, 2026.
2. **Subawards.** The [UNIT] agrees to ensure that any subrecipient of ARP/CSLFRF funds abides by the award of the terms and conditions of this policy and is aware that the subrecipient is responsible for accounting for and reporting program income to the [UNIT] on a [MONTHLY/QUARTERLY/ANNUAL/OTHER] basis.
3. **Compliance with State law.** Program income shall not be expended for purposes prohibited under State law.
4. **Subject to Audit.** The[UNIT] recognizes that its use of program income may be audited and reviewed for compliance with Federal laws and regulations, State law, and the terms of the ARP/CSLFRF award.

## IMPLEMENTATION OF POLICY

The [NAME OF FINANCE PERSONNEL] will adopt procedures to identify potential program income during the project eligibility and allowable cost review, document actual program income, and follow the requirements in this policy related to the treatment of program income.

1. Compliance and Reporting Guidance, p. 9. [↑](#footnote-ref-1)
2. Excluding the first two, the definitions in this section are found in 2 C.F.R. 200.1. [↑](#footnote-ref-2)
3. 2 C.F.R. 200.1 and 2 C.F.R. 200.307 each define and limit the sources of program income. [↑](#footnote-ref-3)
4. The Final Rule provides that a non-Federal entity may expend up to the amount of its reduction in revenue due to the pandemic to meet the non-federal cost-share or matching requirements of other federal programs. However, the Final Rule does not mention whether *program income* may be used to meet cost-sharing or matching requirements. A non-Federal entity should not allocate program income to cost share or matching requirements unless it receives prior approval from Treasury. [↑](#footnote-ref-4)
5. 2 C.F.R. §§ 200.404, 408. [↑](#footnote-ref-5)
6. [Final Rule](https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf), p. 4436 [↑](#footnote-ref-6)
7. (See question 4.11 in [Treasury’s Interim Final Rule FAQ document](https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf).) [↑](#footnote-ref-7)
8. See question 4.11 in [Treasury’s Interim Final Rule FAQ document](https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf).) [↑](#footnote-ref-8)