

ARPA SLFRF Eligible Expenditures for NC Local Governments

31 CFR 35.6(b)(1)(i): Program, service, capital expenditure eligible if (1) identify a harm and (2) it responds to harm. Need **ALL THREE COLUMNS**:

31 CFR 35.6(b)(2) Identify a harm	31 CFR 35.6(b)(1)(ii) Responds to harm	Most restrictive of SFLRF regs or state law (below)
<p>1. Households are presumed impacted that experienced:</p> <ul style="list-style-type: none"> • Unemployment • Food or housing insecurity • Qualify for certain fed programs (CHIP, Medicaid, child care) • For affordable housing programs, qualify for HTF or HOME <ul style="list-style-type: none"> • HTF safe harbor: primarily 30% AMI, max 50% AMI • HOME safe harbor: 60% AMI (up to 10% can be 80% AMI) • Low and moderate income households (300% FPL, 65% AMI) <p>OR</p> <p>2. Disproportionately impacted households</p> <ul style="list-style-type: none"> • Residing in QCT • Low income households (185% FPL, 40% AMI) • Qualify for certain fed programs (TANF, SNAP, SSI, WIC, etc.) 	<p>1. “reasonably designed to benefit” those harmed AND</p> <p>2. “related and reasonably proportional” to the harm</p> <ul style="list-style-type: none"> • 31 CFR 35.6(b)(3) Responses presumed reasonably proportional “unless such use is grossly disproportional to the harm”: <ul style="list-style-type: none"> • Assistance to households and individuals <ol style="list-style-type: none"> 1. Emergency housing 2. Home repairs or weatherization 3. Developmnt, repair and oper. of aff. housing 4. Svcs to increase long term housng security • For disproportionately impacted: <ol style="list-style-type: none"> 1. Housing vouchers 2. Relocation assistance <p>87 Fed. Reg. 4366-67 (Jan. 27, 2022)</p> <ul style="list-style-type: none"> • Treasury will presume that <u>any</u> projects that would be eligible for HTF or HOME are eligible uses of SLFRF • Down payment assistance also presumed eligible: <ul style="list-style-type: none"> • contribute to homeowner’s equity at origination • post-closing, mortgage reserve account on behalf of borrower available during the life of the loan • CDBG Homeown’ship - 24 CFR 507.201(n) <ul style="list-style-type: none"> ○ Subsidize interest rates, provide financing ○ pay up to 50% down or closing costs <p>4/27/22 FAQ 2.14</p> <p>Affordable housing projects must be responsive and reasonably proportional.... This test may be met by affordable housing projects [if they] <i>increase the supply of long-term affordable housing for low-income households</i></p>	<ul style="list-style-type: none"> • Who can be served? <ul style="list-style-type: none"> • Low Income: 60% AMI • Mod Income: 80% AMI <ul style="list-style-type: none"> • <i>Low-interest loans</i> • No authority to aid over 80% AMI • Rental subsidy only for low income (60% AMI or below) • Set asides for low income <ul style="list-style-type: none"> • Any “housing project” with “other than low and moderate income” persons must set aside 20% of units for “exclusive use of persons of low-income” • If subsidize multi-family rental, must set aside 20% of units for “exclusive use” of low-income for 15 years <ul style="list-style-type: none"> • HTF: 30 years • HOME: 20 years for new construction • Units set aside for “exclusive use” must be “within financial reach” <ul style="list-style-type: none"> • HOME: rents below 30% of 65% AMI

Mechanics of Using SLFRF for Affordable Housing

Activity	SLFRF considerations	State law considerations
Acquire land for housing development	<ul style="list-style-type: none"> • Complete SLFRF capital expenditures justification • Real property - UG 2 CFR 200.311, .316, .330 <ul style="list-style-type: none"> ○ Calculate federal share and record lien/notice ○ Conduct real property monitoring ○ Return federal share at disposition • No land banking, must develop housing <ul style="list-style-type: none"> ○ HOME safe harbor: begin construct in 12 mos. ○ SLFRF: obligate end 2024, expend by end 2026 	Authority: G.S. 160D-1316, G.S. Ch. 157 <ul style="list-style-type: none"> • Counties must hold public referendum prior to appropriating state or local tax revenues for subsidy or other activities outside of G.S. 160D-1316. <p style="text-align: right;"><i>G.S. 160D-1311(d)</i></p>
Ground lease to third party at fair market rate (after accounting for restrictions)	<ul style="list-style-type: none"> • Real property - UG 2 CFR 200.311, .316, .330 <ul style="list-style-type: none"> ○ Calculate federal share and monitor as described for land acquisition above. • Lease payments recv'd are program income, add to award and expend (SLFRF 4/27/22 FAQ 13.11) <ul style="list-style-type: none"> ○ After period of performance, program income need not be tracked. 2 CFR 200.307(f). 	Authority: G.S. 160A-278 <ul style="list-style-type: none"> • Ground lease contains requirements • Fair market lease rate (but appraise with income approach to account for affordability restrictions) • 20% set aside for low income if any units serve "other than" LMI
Convey or lease land to third party with non-monetary consideration to offset sale price	<ul style="list-style-type: none"> • Real property - UG 2 CFR 200.311, .316, .330 <ul style="list-style-type: none"> ○ Calculate federal share and monitor as described for land acquisition above. • If sale: return proceeds to Treasury (200.311) • Lease payments recv'd are program income, same as ground lease above. 	Authority: G.S. Ch. 157 <ul style="list-style-type: none"> • Non-monetary consideration: enforceable promise to serve LMI • Property reverts back to govt if no longer used by recipient for purpose • Any subsidy must flow to LMI • 20% set aside for low income for 15 years (G.S. 157-9.4)
Construction or rehab of housing by subrecipient of local govt (housing not to be owned by local govt)	<ul style="list-style-type: none"> • Complete SLFRF capital expenditures justification • Real property - UG 2 CFR 200.311, .316, .330 <ul style="list-style-type: none"> ○ Calculate federal share and monitor as described for land acquisition above. • UG procurement rqmts: 2 CFR 200.317 - 200.327 <ul style="list-style-type: none"> ○ Davis-Bacon does NOT apply when wholly funded by SLFRF (SLFRF 4/27/22 FAQ 6.15) 	Authority: G.S. Ch. 157 <ul style="list-style-type: none"> • Subrecipient follows UG only unless subaward also imposes state rules • Enforceable promise to serve LMI • Property reverts back to govt if no longer used by recipient for purpose • 20% set aside for low income for 15 years (G.S. 157-9.4)
Subrecipient rents units to LMI	<ul style="list-style-type: none"> • Eligible beneficiary income lesser of (1) state law limits or (2) federal eligible incomes under applicable HTF or HOME guidance. • Rent established by HTF or HOME guidance • Rent payments recv'd are program income, same as ground lease above. 	Authority: G.S. Ch. 157 <ul style="list-style-type: none"> • Payment of rent subsidies only for low income (60% AMI or below) • Rents to be "within financial reach" • Income cannot be diverted to other purposes. All subsidy flows to LMI.
Convey housing to LMI owners	<ul style="list-style-type: none"> • See HTF or HOME guidance for eligibility and price • Upon sale: return proceeds to Treasury (200.311) 	<ul style="list-style-type: none"> • G.S. 160D-1316 at appraised value • G.S. Ch. 157 if subsidized
Financing for LMI or third party (SLFRF 4/27/22 FAQ 4.9)	<ul style="list-style-type: none"> • Loans funded by SLFRF revenue loss category <ul style="list-style-type: none"> ○ For any maturity date, not program income • Loans funded by SLFRF economic impacts category <ul style="list-style-type: none"> ○ Mature after 2026, only fund projected cost • UG applicability different for borrowers (200.101) 	Authority: G.S. Ch. 157 <ul style="list-style-type: none"> • 20% set aside for low income if any units serve "other than" LMI • Multifamily rental: 20% set aside for low income for 15 yrs (G.S. 157-9.4)