

## City Council – Action Request Form

**Date:** November 13, 2023

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**To:** Mayor, Mayor Pro Tempore, and Members of the City Council

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**From:** John Lawson, Assistant City Attorney  
Tiffany Oliva, Director of Intergovernmental Affairs & Strategic Initiatives

**Council Action Requested:**

Resolution Approving City Policies to Aid in Administering Federal State and Local Fiscal Recovery Funds from the American Rescue Plan Action

**Strategic Focus Area:** Livable Neighborhoods

**Strategic Objective:** No

**Strategic Plan Action Item:** No

**Key Work Item:** No



**Summary of Information:**

The money the City received pursuant to the American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Fund (ARPA/CSLFRF) is subject to the U.S. Treasury Department’s regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations of 31 C.F.R. Part 22. On January 6, 2022, the U.S. Department of the Treasury (Treasury) adopted a final rule implementing the ARPA/CSLFRF, which became effective April 1, 2022. The final rule states that the City’s ARPA/CSLFRF funds are subject to compliance requirements found in the federal Uniform Guidance, namely 2 C.F.R. 200 et seq.

As explained when this item was briefed before the Community Development/Housing/General Government Committee in October, the City intends to fully implement all of the compliance requirements required by the Uniform Guidance to ensure the institutional, managerial, and financial capability to manage its internal projects and the potential subrecipients’ projects. As a result, the City must adopt and enact the following five policies:

**Committee Action:**

<b>Committee</b>	CD/H/GG (11/13/2023)	<b>Action</b>	Approval
<b>For</b>	Unanimous	<b>Against</b>	
<b>Remarks:</b>			

- ARPA/CSLFRF Record Retention Policy
  - This policy supplements the City’s regular records retention policy to establish procedures to retain all ARP/CSLFRF-related information for at least 5 years after all grant funds are expended or returned to Treasury.
- ARPA/CSLFRF Eligibility Determination Policy
  - This is a simple policy that indicates allowable and unallowable projects, based on the expenditure categories in the ARP/CSLFRF Final Rule. It requires the City to identify staff to document and review ARP/CSLFRF expenditures. That documentation must be retained according to the record retention requirements.
- ARPA/CSLFRF Allowable Costs and Costs Principles Policy
  - This is policy requires the City to perform a general review of each cost item to ensure it is allocable, reasonable, consistently treated, and properly documented. The specific cost item regulations in the Uniform Guidance do not apply to revenue replacement expenditures; that section of the allowable cost policy will not be triggered for expenditures in this category.
- ARPA/CSLFRF Nondiscrimination Policy
  - This policy reaffirms the City’s commitment to compliance with federal civil rights laws and establishes processes for reporting potential violations and tracking complaints and resolutions. It does not contradict or abridge the City’s current Nondiscrimination Policy, which was passed in March 2021; rather, it merely supplements and reaffirms the City’s current position.
- ARPA/CSLFRF Conflict of Interest Policy
  - The Uniform Guidance requires recipients and subrecipients of federal financial assistance to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.

Additionally, after this item was presented to the Community Development/Housing/General Government Committee in October, further research by staff determined that the City also ought to enact a Program Income Policy to govern the City’s use of program income that is generated by the City’s use of ARPA/CSLFRF funds. Generally, program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federal awards, and principal and interest on loans made with federal award funds. The Program Income Policy explains how the City should calculate, document, and record program income generated by the use of ARPA/CSLFRF funds as well as how program income may be repurposed for further use by the City.

All six of these policies will apply only to expenditures made directly with the ARPA/CSLFRF funds. These policies will not apply to, for example, any City-funded projects using revenue replacement dollars.