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Flexible Aid in an Uncertain World: The Coronavirus State and Local Fiscal Recovery Funds Program

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# Abstract

Emergency fiscal transfers to state, local, tribal, and territorial governments have been at the core of the U.S. federal government's response to the COVID-19 pandemic. The most extensive of these transfer programs is the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) program, contained in the American Rescue Plan Act of 2021. The CSLFRF is not only larger than prior rounds of emergency aid, it was also designed to address a broader series of crises, address pre-existing inequities, and provide greater discretion to public officials in deciding how to allocate funds. In this article, we consider the extent to which this program represents a departure from what some have called “fend for yourself” federalism. We conclude that while the coordinated effort of intergovernmental organizations resulted in a greater measure of federal fiscal activism and flexibility than might have been anticipated, lingering political conflicts and legacies of austerity will continue to inflect the CSLFRF's implementation.

# Keywords

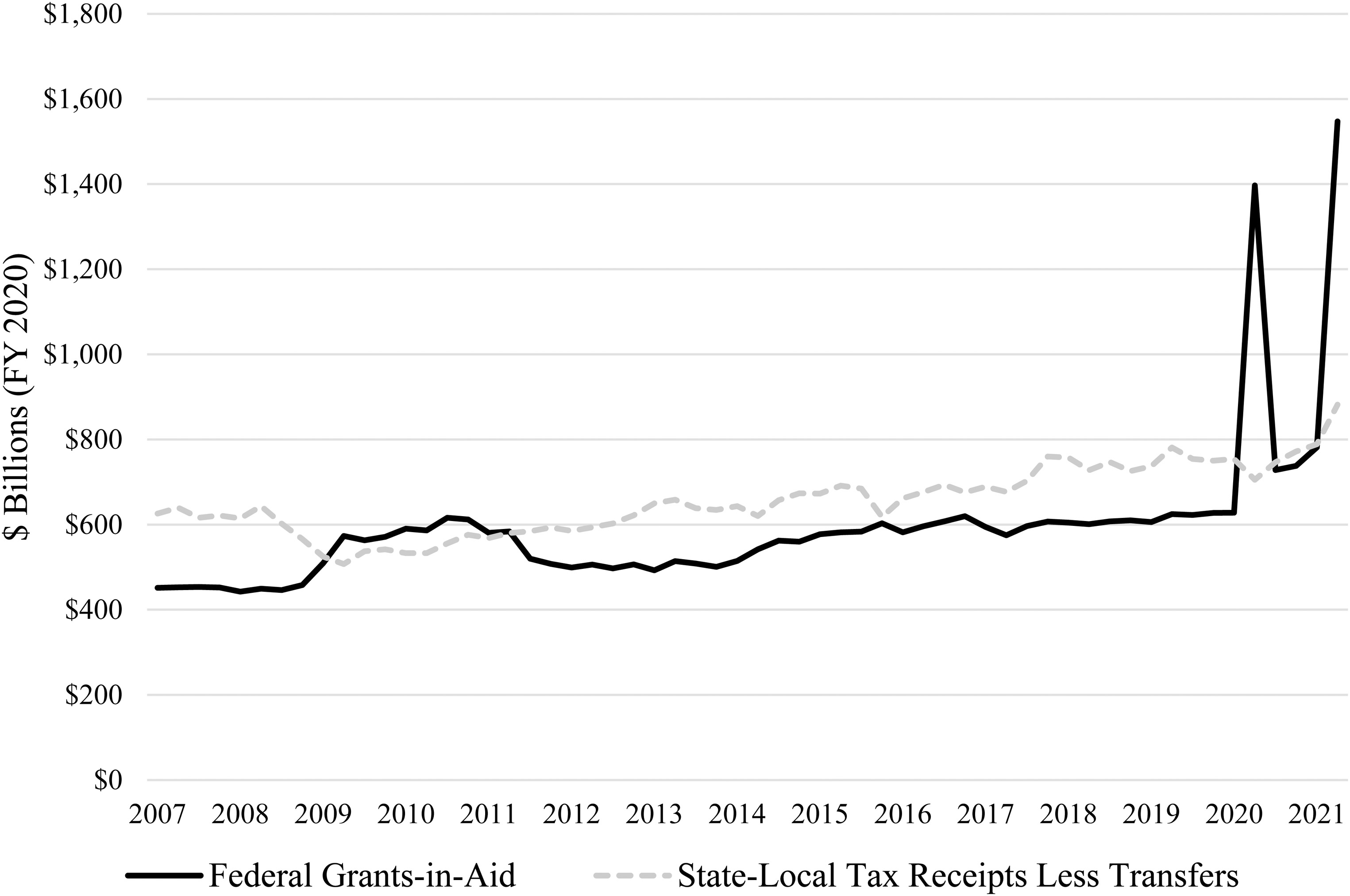
COVID-19, American recovery plan act, coronavirus state and local fiscal relief fund, intergovernmental aid, fiscal federalism

# Introduction

At the beginning of the COVID-19 pandemic, state and local governments were universally recognized as constituting the “front lines” in emergency response. Not only did these jurisdictions possess most of the critical regulatory authority necessary to prevent the spread of the disease, they also performed a significant amount of the work associated with economic and social service provision necessary to sustain residents as the economic fallout of the crisis ensued. At the outset of the pandemic, however, the crucial question was whether the federal government––to extend the metaphor––would provide sufficient reinforcements.

In a political context defined by intense partisan polarization and years of federal fiscal austerity—characteristic of what some have called “fend for yourself” federalism––it was not unreasonable to expect an anemic federal response to the pandemic (Conlan et al. 2015; Benton 2018; Benton 2020). Further, given the absence of strong institutional venues for joint-decision-making across multiple levels of government, the demands of state and local officials might have seemed easy to marginalize (Rocco, Béland and Waddan 2020). These fears were compounded by the uniquely haphazard and transactional response of the Trump administration (Bowling et al. 2020).

These dynamics no doubt contributed to delay and confusion in the delivery of federal aid, especially during the pivotal early months of the crisis (Lopez-Santana and Rocco 2021). Yet, as we argue in this Field Notes essay, the crafting and implementation of federal aid to state, local, tribal, and territorial governments in the 2021 American Rescue Plan Act (ARPA) stands in stark contrast to early expectations. As the dark line in Figure 1 shows, when it comes to federal aid delivered to state and local governments, there was no quantitative analogue to the ARPA during the Great Recession. And whereas prior rounds of aid during COVID-19 were often beset by tight restrictions, the most significant component of ARPA aid to state, local tribal, and territorial governments––the $350 billion Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) program––allowed officials an exceptional amount of flexibility in how they allocated these dollars.1



**Figure 1.** Federal grants-in-aid and state-local personal income and sales tax revenues net of nonfederal transfers, 2007–2021 ($Billions FY 2020). Source: U.S. Bureau of Economic Analysis (2021)Note: Figure based on Lopez-Santana and Rocco (2021)

The design and implementation of the CSLFRF was not obvious at the outset. Rather, we argue, both the legislative text and the final regulations governing the program reflect a robust lobbying effort coordinated across members of the “Big 7” intergovernmental organizations to emphasize that inadequate aid to state and local governments had prolonged the Great Recession and that inflexibly designed aid programs had impeded state and local responses earlier in the pandemic.2 In the end, Congress, rejected *both* a “General Revenue Sharing” approach to state and local aid, in which there were no constraints on how recipient governments spend, *and* a tightly constrained approach to aid that had hobbled state and local governments’ ability to flexibly deploy funds from prior rounds of federal aid.3

As a highly flexible (though not general-purpose) aid program, the CSLFRF does not impose the statutory restrictions on spending that had contributed to implementation lags of some Great Recession stimulus programs (Elmendorf 2009; Regan 2017). Yet this legislative choice alone did not yield rapid spending of ARPA dollars, either. It was nearly a year before the Treasury Department finalized the CSLFRF's rules. In setting the program's final regulations, Treasury was forced to navigate a tension between demands from the Big 7 and hundreds of recipient governments for flexibility and pressures for accountability measures to ensure that federal funding was being spent on the needs contemplated by the program's legislative designers. While state and local officials did not receive all the flexibility and autonomy they asked for, what emerged in the Final Rule was a program far more adaptable to unique state and local circumstances and less administratively burdensome, especially for governments with smaller populations, than had been initially proposed.

Further, while intergovernmental relations saw a greater level of policy success during the pandemic than initially anticipated, the political conflict associated with “fend for yourself” federalism continues to define the implementation of the program. As we note in our concluding section, this is in part because individual policy victories do not erase the history of fiscal austerity or undermine the forces generating political polarization, which can be expected to intensify rivalries over how CSLFRF dollars are used. The most immediate consequence of this is that “accountability” within CSLFRF will result not so much from top-down audits as from bottom-up, sometimes conflict-riven, efforts to shape spending priorities over the program's four-year performance period.

# From CARES to ARPA: Expanding the Scope of Relief

The passage of ARPA's Coronavirus State and Local Fiscal Recovery Funds program is a milestone in the history of American fiscal federalism. It is the largest transfer of multipurpose aid dollars to state and local governments since the passage of the General Revenue Sharing program in 1972, which delivered $388 billion (in current dollars) to state and local governments over 15 years (Kass and Rocco 2021b). Yet the CSLFRF is not the General Revenue Sharing program–– arguably the only truly “no strings attached” federal aid program in American history––which included only minimal accounting reporting requirements in the form of a one page report on planned (and actual) use, meant only to capture fraud. Nor is it a tightly constrained categorical grant program. Instead, the program resembles earlier block-grant programs––including some passed during the Great Recession––which aim to support state and local governments’ programmatic spending in broad areas while providing significant discretion to recipient governments to determine spending priorities (ACIR 1977; Conlan, Posner and Regan 2017; Dilger 1989; Jaroscak, Lawhorn and Dilger 2020; Johnson 2009).

In this sense, the CSLFRF represents a noteworthy shift even from its 2020 predecessor, the CARES Act's Coronavirus Relief Fund (CRF). Not only does the CSLFRF guarantee a far larger allocation of federal funds to a larger number of jurisdictions than the CRF, the 2021 legislation provides far greater discretion in how governments can use these funds (see Table 1). Whereas only 154 cities received CRF aid, tens of thousands of local governments are eligible for CSLFRF aid.4 The CRF aid to state and local governments proved cumbersome to use because the program rules required officials to show that funds were used for necessary expenses tied directly to COVID-19's health and economic impacts. Importantly, the funds could not be used to replace revenue and maintain existing spending levels even though tax collections were adversely impacted by the pandemic. Since funds used for ineligible expenses could be clawed back, governments often sought clarification from Treasury that their spending plans would meet the program's requirements. Between April of 2020 and January of 2021, Treasury revised its frequently asked questions (FAQ) document for the CRF a total of eight times. Government finance officers reported that confusion over spending rules was a central reason for not allocating CRF money (NAPA 2021). In addition, CRF aid originally had to be spent by December 30, 2020, which compressed timelines for decision making and deploying funds. All of this resulted in delays in spending and changes in spending plans (NAPA 2021; Kass and Romano 2020). Researchers at the National Academy of Public Administration found that the CARES Act's restrictions on aid led to administrative burdens that delayed the effective use of these dollars (NAPA 2021).

**Table 1.** Comparison of CARES and ARP Recovery Funds.

|  |  |  |
| --- | --- | --- |
| **Legislation and Fund Name** | CARES: Coronavirus Relief Fund | ARP Act: Coronavirus State And Local Fiscal Recovery Funds |
| **Total Amount of Aid** | $150 billion | $350 billion |
| **Amount By Unit of Government ($ Billions)** | *State + Local Gov*: $139  *Tribal Governments*: $8  *DC + U.S. Territories*: $3 | *States + DC:* $195.3  *Local Governments*: $130.2  *Tribal Governments*: $20  *U.S. Territories*: $4.5 |
| **Criteria for Local Government Receiving Funds** | Population of at least 500,000 | All counties, metropolitan cities, and nonentitlement units of local government |
| **Formula for Aid Allocation** | Population | *States*: $500 million per state plus share of $169 billion. The $169 billion is allocated on each state’s share of national unemployment  *Counties*: population  *Metropolitan cities*: Community Development Block Grant criteria  *Other towns and cities*: population |
| **Deadline for incurred expenses** | December 31, 2021 | December 31, 2024 |

Source: Authors’ analysis of Congressional Research Service (2021); Department of the Treasury (2021c, d, e, f, g, i)

Concerns about inflexibility, and the inability to use funds for revenue replacement in particular, animated the redesign of state and local relief funds in the wake of the CARES Act. The text of the CARES Act came together quickly and messily in Congress, in an attempt to stimulate an economy ravaged by unprecedented job losses and flagging consumer spending. Indeed, the CARES Act was signed into law on March 27, 2020, less than two months after COVID was declared a national public health emergency (CDC 2022). Unlike their counterparts in other federations, U.S. state and local officials had little formal access to top-level officials in Washington. Instead, they were forced to lobby alongside other sectoral interests for support and faced coordination challenges (Downey and Myers 2020). Moreover, the CARES Act came together in the context of an urgent public-health crisis, and thus well before most states had even produced revised revenue estimates and in the midst of significant uncertainty in professional forecasters’ quarterly GDP predictions. As Rocco, Béland and Waddan (2020) have shown, even after the passage of the law, the number of states with these revised estimates crept up rather slowly. Rather than designing a program to take into consideration all of the fiscal and economic challenges and societal needs state and local governments might face during the pandemic, Congress created one focused on the immediate public health impact of the emergency.

Following the passage of the CARES Act, state and local officials developed a far more coordinated approach to pressing for flexible aid to insulate against not only projected revenue shortfalls but also unexpected service needs, ranging from hazard pay for essential workers to unprecedented demand for housing assistance. Throughout the fall of 2020, state and local officials from the Big 7 intergovernmental organizations worked to form the “COVID RELIEF NOW” Coalition, an intersectoral partnership of 300 organizations—including a number of major business organizations—to highlight the “devastating impacts of the coronavirus pandemic without additional relief” (NACo 2020). Core to intergovernmental organizations’ messaging was not only the current needs of state and local governments but evidence that inadequate federal support for governments had prolonged the Great Recession, creating gaps in public services that made responding to COVID-19 more difficult (Anthony 2021; National League of Cities 2021).

Yet there was intense political debate as to the necessity of further aid for state and local governments. With federal fiscal and monetary policy interventions implemented during the spring of 2020 pulling the country back from the brink of total economic collapse, congressional leaders faced less pressure in the latter part of the year to provide state and local governments with fiscal aid that exceeded the CRF program. Advocates of greater state and local aid faced arguments from congressional conservatives about the “moral hazards” involved with “bailouts” (Nicholson 2020). Fiscal hawks often pointed to data on unspent CRF dollars and improvements in revenue forecasts to suggest that state and local governments no longer needed aid (Kass and Rocco 2021a). These claims were, to be sure, based on misinterpretations and misrepresentations of available CRF data. Expenditure reports on CRF spending not only lagged reality, since they were published on a quarterly basis, but they only included incurred costs neglecting state and local governments’ planned allocations of relief fund dollars as well as ongoing conflict over how best to allocate these funds. The uncertainty of the pandemic's trajectory and related economic volatility also meant that state and local officials had to make budget decisions without a clear forecast of the future and amidst rapidly changing conditions. In the second quarter of 2020, income and sales tax collections fell sharply, decreasing by 30.5 percent and 14 percent respectively, but revenue collections then bounced back during the third quarter that year (GAO 2021). A murky fiscal future combined with experiences of the Great Recession may be factors behind why state and local unemployment remind high even after governments’ tax collections bounced back from the sharp declines that occurred in the pandemic's early months (Sheiner 2020; Rosewicz and Maciag 2021)

These reductive descriptions of fiscal reality further minimized the urgency of state and local aid. Major legislative packages containing more flexible intergovernmental aid routinely died during the latter half of 2020. House Democrats’ $1.1 trillion package for state and local aid, for example, was dead on arrival when it reached the Senate in May. In November that same year, a legislative logroll among a small bipartisan group of Senate moderates killed a far smaller proposal for $160 billion in flexible aid (Lopez-Santana and Rocco 2021).

Yet despite these failures, the politics of state and local relief soon changed for two reasons. First, a shift to unified Democratic control at the federal level––despite razor-thin margins in both chambers––slightly widened the window for expansionary fiscal policy. Second, and perhaps equally important, state and local officials found a more prominent role in national political affairs. In November of 2021, President-elect Joseph R. Biden attempted to signal that his administration would engage more directly and proactively than his predecessor; speaking at an annual summit of the National League of Cities, he told local officials that they would “always have a seat at [his] table in the White House” (Wilson 2021). Among other changes to intergovernmental relations following Biden's inauguration, the Treasury Department aimed to enhance the coordination of state and local recovery funds through its creation of a formal Office of Recovery Programs (Department of the Treasury Press Release 2021a).

By the time that Biden's signature piece of relief legislation was being debated in Congress, state and local officials were ready to aggressively press their case. On the one hand, their advocacy illustrated the need for a greater amount of aid. Member surveys conducted by the National Governors Association illustrated that the vast majority of CARES dollars had already been allocated by the spring of 2020 (NGA 2020). The National Association of Counties and the National League of Cities presented Congress not only with quantitative data but qualitative, contextual information on the consequences of inadequate federal spending (Anthony 2021; NACo 2021a). These organizations also demonstrated the importance of flexibility in aid. In a survey conducted by the Government Finance Officers Association (GFOA), over 70 percent of prime recipients of CARES Act dollars reported that cumbersome restrictions were the largest barrier to the allocation of federal funds (GFOA 2020).

Taken together, this advocacy produced a fiscal aid package of $350 billion, far larger than those proposed during the Fall of 2020 (though still smaller than the $1.1 trillion included in the scuttled HEROES Act). Generally speaking, the CSLFRF also significantly widened the categories of allowable spending when compared to the CRF (see Table 2 for spending criteria).

**Table 2.** Comparison of CARES and ARP Recovery Funds’ Eligible Spending Categories.

|  |  |
| --- | --- |
| **Law and Fund Name** | **Eligible Spending Categories** |
| CARES: Coronavirus Relief Fund | Necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (Coronavirus Aid, Relief and Economic Security Act, 2020, 503). |
| ARP Act: Coronavirus State And Local Fiscal Recovery Funds | * Spending tied to the public health emergency from COVID-19 or its “negative economic impacts” * Premium pay for essential workers * Revenue replacement and government services otherwise impacted by revenue losses * Water, sewer, or broadband infrastructure projects (American Rescue Plan Act, 2021, 236-237). |

# Implementing CSLFRF: Searching for Flexibility and Clarity

The experience of state and local officials also took center stage as the Treasury Department began implementing the CSLFRF (Department of the Treasury 2021h). While Treasury published its Interim Final Rule in May of 2021 prior to a formal notice and comment phase, it was already apparent that the rule's authors had been paying careful attention both to legislative action on the relief fund and to evolving situations around the country. The rule began by citing evidence on the “myriad needs” experienced by state, local, tribal, and territorial governments (Department of the Treasury 2021b, 26786). These not only included direct service demands and revenue shortfalls emerging during the pandemic, but also needs springing from “pre-existing social vulnerabilities” that “magnified the pandemic” and its effects in “low-income communities, people of color, and Tribal communities” (Department of the Treasury 2021b, 26787). These diverse needs, Treasury suggested, persuaded Congress to create a statute with “considerable flexibility” for recipients to use payments from the fund for programs and services that, even if not identified by name in the law, fall under one of the four broad groups provided in the legislation, so long as spending does not fall into one of the two uses (tax cuts and paying for unfunded pension liabilities) specifically targeted by the law as ineligible.

Reflecting on the Interim Rule's text, as well as their experiences with Treasury's interpretation of the CARES Act, state and local officials weighed in––accounting for the majority of the more than 1,500 comments Treasury received during the notice-and-comment period (Regulations.gov 2021). While their concerns were diverse, they tended to fall into at least four broad categories. First, given that Treasury estimated that complying with the interim rule required, collectively, as much as 1.2 million hours for recipients to implement, governments sought to minimize administrative burdens, not only through greater flexibility in how federal funds could be used but also via greater *clarity* on the eligible uses for responding to the pandemic's public health and economic impacts (Department of the Treasury 2021b; North Carolina Pandemic Recovery Office 2021; State of New Hampshire 2021; USCM 2021). For example, intergovernmental organizations questioned whether, given the ongoing opioid crisis, addiction support services would count as “activities addressing behavioral health and well-being” (NLC 2021, 3). Similarly, local governments’ comments asked whether both acute and chronic care, as well as support groups, would be eligible uses for relief funds. Since the rule emphasizes that programs and services for low-income residents should be prioritized, governments wanted clarity on which households count as “low income” (NACo 2021b; NLC 2021; USCM 2021). Further, local officials asked why non-federal match payments were not an eligible expense, especially given that local and state governments had spent extensive matching funds through emergency programs like the Stafford Act to respond to the pandemic (NACo 2021b, 10).

Second, state and local officials sought to expand the list of workers who are presumed to be eligible for premium pay support under the program. In the interim rule, jurisdictions could provide premium pay to individuals performing one of a limited number of categories of “essential work” without justification. If workers did not fall into those categories the jurisdiction would have to obtain Treasury's written approval. This could, county officials worried, produce greater administrative burdens in providing premium pay to some essential employees who worked from home (e.g. 911 dispatchers or behavioral health providers) during the pandemic (NACo 2021b).

Third, recipient jurisdictions sought greater flexibility on the eligibility of infrastructure projects for support under the law. In the interim rule, Treasury had required that water and sewer investment projects be aligned with rules in the Environmental Protection Agency's Clean Water Drinking Water State Revolving Funds. Recipient jurisdictions pushed for expanding the list of eligible projects to include support for, among other things, lead pipe replacement and projects to address climate change (NACo 2021b; NLC 2021; NCSL 2021). There were also comments requesting modification to Treasury's interim rules for broadband infrastructure projects. Treasury initially adopted a rule limiting eligibility for broadband investment to households and businesses without reliable wireline 25/3 Mbps service. Yet, as the National League of Cities noted, this narrow definition might discourage use of the funds for broadband replacement even where it was needed. The 25/3 Mbps standard itself, was “not reflective of the minimum speeds necessary to conduct normal activities of daily life” (NLC 2021, 10). Nor did it take into account other barriers to service, including service affordability.

Last, and perhaps most importantly, state and local officials pushed back on the rules relating to revenue replacement and how they were supposed to calculate their COVID related revenue losses. The law explicitly authorized governments to use recovery funds for the provision of government services (except those prohibited in the law) to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency. Yet the formula the Treasury developed proved problematic to recipient jurisdictions for a variety of reasons. Among these, it defined annual “general revenue” using a fixed end-date of December 31st rather than the end of jurisdictions’ own fiscal years (City of San Jose 2021; GFOA 2021). While some state and local governments either drew on reserves or borrowed money to weather the effects of the pandemic, the interim rule prohibited recipients from using recovery funds to replenish rainy-day funds or pay debt service for borrowing specifically done to deal with revenue losses and avoid spending cuts (NACo 2021b). Similarly, the interim rule did not take into consideration governments’ levying of new taxes to compensate for revenue shortfalls during the pandemic. Hence local officials frequently pushed the Treasury to allow recipient jurisdictions to “exclude new taxes or revenue sources in the base year when calculating revenue loss” (NLC 2021, 8).

Importantly, state and local officials did not restrict their lobbying to the Treasury Department itself, they also worked to develop a bipartisan coalition for flexibility within Congress. This resulted—among other things—in the introduction by Sens. John Cornyn (R–TX) and Alex Padilla (D–CA) of the “State, Local, Tribal, and Territorial Fiscal Recovery, infrastructure, and Disaster Relief Flexibility Act,” which articulated and expanded on the kind of flexibility intergovernmental organizations had pushed for in their Treasury filings. The legislation passed the Senate unanimously in October of 2021 and was subsequently included in the bipartisan budget (*Congressional Record* 202*1*, S7079; NACO 2022).

Treasury contemplated state and local governments’ suggestions in a context of intense political scrutiny. It was clear that state and local governments should be able to begin planning processes for spending relief dollars with some certainty about what would count as a permissible use of funds. Yet not only Treasury's interpretation of the ARPA statute, but the statute itself was subject to continuous legal and political attacks (Yost et al. 2021). Republican Attorneys General had filed lawsuits in federal court alleging that ARPA's ban on the use of recovery funds to support tax cuts was tantamount to an unconstitutional mandate (Associated Press 2021). Simultaneously, fiscal conservatives continued to remain skeptical that state and local officials even needed the funds and that enhancing spending flexibility by revising the program's rules was tantamount to a massive amount of waste (Center for Economic Accountability 2021). At the other end of the political spectrum, progressive organizations critiqued proposals to use the aid to pay off debt, arguing that this benefitted Wall Street at the expense of communities hardest hit by the pandemic (ACRE 2021).

Faced with these competing pressures, Treasury attempted to strike a balance. In January of 2022, it released a final rule that made major changes to the IFR (Department of the Treasury 2022). Most importantly, the final rule made significant changes to the relief fund's provisions on revenue replacement, creating a “standard allowance” that lets governments use up to $10 million in CSLFRF aid on revenue replacement without having to calculate revenue loss (Department of the Treasury 2022, 4402–4403). This provided far more extensive flexibility in the use of revenue replacement dollars, especially for smaller nonentitlement units of local government, many of which received grants of $10 million or less. Treasury has encouraged nonentitlement units with a CSLFRF “grant of less than $10 million to elect the standard allowance” (Gleeson 2022).

In response to local government requests, the final rule included additional sources of revenue to be included for the purpose of lost-revenue calculations, including revenue from utilities (Department of the Treasury 2022, 4404). Further, the final rule clarified that funds under the lost revenue provision can be used as a non-federal match for other programs, with the exception of Medicaid and the Children's Health Insurance Program (Department of the Treasury, 2022, 4416–4417). Still, despite government officials’ requests, the rule did not expand eligible uses of relief funding to be used directly for items like direct debt service payments or rainy-day fund replenishment. The flexibility of revenue replacement and fungibility of money, however, means governments can shift funds around so that CSLFRF aid is used indirectly for purposes it cannot directly be applied to. Further, consistent with the statute, the final rule maintained a prohibition on offsetting reductions in net tax revenue (Department of the Treasury 2022, 4430).

Treasury's balancing act could also be seen in other policy domains. In the case of premium pay, the final rule allows recipient jurisdictions to offer pay increases to a larger range of employees for hourly, part-time, or salaried work. Yet, in contrast to the request of some intergovernmental organizations, Treasury's final rule still requires that these workers must perform in-person work (Department of the Treasury 2022, 4396–4400). The rule also clarified that local governments could use funds to support capital expenditures related to public health, including support for affordable housing, childcare facilities, schools, and hospitals (Department of the Treasury 2022, 4354).

While staying within the bounds of the statute, the final rule took state and local governments’ concerns about flexibility seriously. For example, Treasury both simplified reporting requirements for spending on census tracts “disproportionately impacted” by the pandemic, and provides a far more extensive list of uses when it comes to public health and economic impacts (Department of the Treasury 2022, 4345–4350). Beyond public health, this includes assistance to households, businesses, and nonprofits. The rule also broadened recipients’ options on infrastructure spending. Not only did Treasury allow governments to invest in locations without reliable wireline up to 100 /20 Mbps, the final rule also allows governments to define need through other means, including lack of access to reliable high-speed broadband and lack of affordable broadband (Department of the Treasury 2022, 4417–4422). Similarly, the rule greatly expanded the range of possible water and sewer infrastructure projects eligible for relief funding, including lead remediation, culvert repair, and retrofitting of storm sewers (Department of the Treasury 2022, 44018–4417).

Due to these changes and other administrative simplifications, the estimated reporting burden on state and local officials fell from as much as 1.5 million hours to 236,735 hours––with most of the decline coming from reduced reporting burdens on smaller governments and less cumbersome quarterly and annual project and expenditure reports (Department of the Treasury, 2021b, 26818; Department of the Treasury 2022, 4445). This reduction corresponded to an estimated $45 million savings in reporting costs for state and local governments––a projection that was surely eagerly received by grant recipients, especially those in smaller jurisdictions with lower levels of administrative capacity. In the end, these changes did not convert the CSLFRF into General Revenue Sharing 2.0, but they nevertheless greatly reduced administrative burden compared to the interim rule.

# Flexible Relief and the Decentralized Politics of Accountability

As discussed above, the robust presence of state and local governments in the development and implementation of the CSLFRF appears to mark a departure from the policy outcomes of gridlock and “fend for yourself” federalism (Benton 2018, 2020; Conlan et al. 2015). At the same time, however, the CSLFRF did not itself reverse the political dynamics that generate partisan polarization. Nor did it erase the history of fiscal austerity that placed many state and local governments in a challenging position even prior to the pandemic. As such, we should expect the next four years of CSLFRF implementation to be defined not by a top-down politics of bureaucratic accountability, but by conflict between rival partisan logics and competing material demands over how to use one-time federal funds.

Thus far, the evidence has borne out this prediction. Even before Treasury's final rule was in place, conflicts over the CSLFRF sprang up at multiple levels of government. Legislatures in states like Wisconsin and Indiana contested, not always successfully, governors’ control of federal funds (Conklin 2021; Mackellar 2021). In January of 2022, Treasury threatened to claw back billions in Arizona's relief aid because of the state's explicit attempt to direct federal funds at schools that ignored CDC guidelines on mask-wearing (Lawder 2021). At the local level, city councils, mayors, and nonprofit groups clashed over the process of making allocational decisions. In Chicago, for example, the conflict centered around Mayor Lori Lightfoot's proposal to use nearly half of the city's CSLFRF to pay off short-term debt that the city took out in the early stage of the pandemic as means of avoiding spending cuts (Albright and Singh 2021)**.** In April of 2021, prior to the release of the Treasury's Interim Rule, Mayor Lightfoot's administration told city council members of its plan to use a portion of the city's CSLFRF aid to pay off that borrowing (Spielman 2021). The Lightfoot administration, as well as officials from the State of Illinois, lobbied Treasury to revise the prohibition of using CSLFRF dollars on debt that was borrowed to avoid spending cuts and address revenue losses that occurred early in the pandemic (Shields 2021). Some Chicago City Council members opposed the Mayor's proposal and encouraged the Treasury Department to keep the prohibition (Sigcho-Lopez 2021).

At a national level, partisan conflict continued to linger over whether the aid was even necessary. These conflicts, in part, reflect the very flexibility that is built into the CSLFRF's design, both the flexibility to choose between spending categories and the revenue replacement category (especially under the Treasury's standard allowance), which allows CSLFRF aid to become like general revenue. While this flexibility allows state and local officials to tailor spending to their particular community needs, it also allows for multiple interpretations as to the purpose of the program and how aid *should* be spent.

If the past is any guide, CSLFRF's size and scope will draw conflict not only over who controls relief aid and whose spending priorities win out––but also over whether the program is appropriately accomplishing its goals (Dilger 1989, 153–170; Tortola 2015). Several features of the context for implementing the program magnify this conflict. First, recipient governments face a multiplicity of unmet needs, especially in jurisdictions that have weathered the most severe consequences of not one but two fiscal crises over the last fifteen years. Naturally, how one evaluates the appropriateness of a jurisdiction's allocation strategy will depend in large part on how one rank-orders its priorities. While the Treasury Office of Inspector General may track whether relief funds were used in the service of allowable expenses, these sorts of audits do not judge whether or not the allocations met local needs (NAPA 2021). Rather, evaluations of CSLFRF spending will be subject to conflict between factions who perceive themselves to have been winners and losers in the allocation process.

Second, the tension between flexibility and accountability in the CSLFRF's design has already invited conflict over the appropriateness of jurisdictions’ funding strategies. While the Treasury's final rule prevented the City of Chicago from directly using fiscal aid to pay off its short-term borrowing, it was able to do so indirectly and this was ultimately approved by the City Council as part of the 2022 budget cycle (Authors analysis of City of Chicago's “Recovery Plan” and 2022 Budget Overview; Cherone 2021). This is because Chicago allocated a large portion of its CSLFRF aid to revenue replacement, which then freed up general fund revenue that was used to pay off the debt. This maneuver seems to square with the parameters of the CSLFRF program given the flexibility of the revenue replacement category and fungibility of revenue more generally. Nevertheless, Chicago alderperson Rossana Rodriguez and activists requested federal officials investigate the city's actions and, potentially, claw back the money (Ramos 2022).

When intergovernmental programs afford recipients significant discretion in deciding how best to meet their needs, accountability tends to emerge through a bottom-up political process rather than top-down scrutiny of how recipients meet pre-specified targets or accomplish desired potential outcomes. Yet because CSLFRF was not in fact a general revenue sharing program, state and local uses of the planned funds are necessarily subject to a greater level of federal oversight, heavily influenced by federal performance management reforms, the most of important of which is the Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, frequently referred to as the “Uniform Guidance.” The Uniform Guidance requires, among other things, that federal agencies “measure the recipient's performance to show achievement of program goals and objectives, share lessons learned, improve program outcomes, and foster adoption of promising practices” (Office of Management and Budget, 2020: 49506). The Treasury thus faced a challenge: how to balance the need for local flexibility and minimize administrative burdens with federal performance requirements.

To accomplish the task of performance evaluation, Treasury tiered reporting requirements to governments’ size. Of the more than 40,000 governments receiving CSLFRF aid, only 430 recipients––including states, territories, and metropolitan cities and counties with a population greater than 250,000––are required to submit extensive Recovery Plan Performance reports to Treasury (Department of the Treasury, 2021a). These reports must take into account “key performance indicators” that recipients establish for each project undertaken with CSLFRF funds as well as a suite of mandatory performance indicators documenting the effects of funding related to negative economic impacts; education assistance; healthy childhood environments; as well as household assistance and housing support. Similarly, while all units of government must submit Project and Expenditure Reports, the frequency of these reports varies by the governments’ size and the scope of federal funding. For example, metropolitan cities and counties with a population below 250,000 residents which received less than $10 million in CSLFRF funding, as well as tribal governments that received less than $30 million, only have to submit these reports annually, whereas larger jurisdictions must submit them quarterly (Department of the Treasury 2021a, 13).

These measures aside, top-down accountability is likely to remain a fraught enterprise. As local jurisdictions varied considerably in their needs, emergent efforts to use a one-size-fits all set of benchmarks to adjudicate the appropriateness of allocation decisions across the country will find only limited successes. Further complicating efforts to speedily analyze the “performance” of state and local funding decisions are both the relatively long performance period for the program (four years as opposed to one year for the CARES Act), as well as the fungibility of CSLFRF money itself, which easily can be reallocated to purposes that diverge from the initial plan. Finally, analyzing CSLFRF expenditures alone–without attention to actual changes in total budgets–will also miss the indirect effects on state and local spending (Nathan, Manvel and Calkins 1975).

As half a century of experience with block grants should teach us, when intergovernmental programs allow for a great level of flexibility, performance evaluation––especially at the national level––is often perilous (Theodos, Stacy and Ho 2017). Understanding and evaluating how CSLFRF dollars are spent will require analysts to do something more than scrape data to create ready-made fifty-state comparison charts. They will need a deep, contextual understanding of local budgeting processes, pre-existing local needs, and institutional landscapes. At minimum, they will require a rough approximation of local governments’ apparent needs and fiscal conditions during the performance period. Indeed, thoroughgoing policy evaluation studies may be both more valid and more practically useful when focused on a limited number of jurisdictions, or even a single jurisdiction (Nathan and Dommel 1978). While these studies might be able to employ performance metrics provided by large metropolitan governments in their reports to Treasury, they must nevertheless pay careful attention to whether the allocation of funds is correlated, however crudely, to local needs (Brooks and Sinitsyn 2014).

All of this suggests that accountability will be the product not of top-down oversight or even of scholarly analysis, but of a highly decentralized political process. The allocation of ARPA dollars will hinge not merely on Treasury rules, but also on the distribution of power at the state and local level and the processes that governments use to make allocation decisions (Bruch and White 2018; Wong and Peterson 1986). If anything, how ARPA aid is ultimately spent––and whether or not that spending is correlated with local needs––may be less an index of the success of a federal program as it is a reflection of the quality of representative democracy in jurisdictions around the country.

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# Footnotes

1. Of the $350 billion, approximately $324 billion went to state and local governments.
2. This included the National Governors Association (NGA), United States Conference of Mayors (USCM), National League of Cities (NLC), National Association of Counties (NACo), International City County Managers Association (ICMA), National Conference of State Legislatures (NCSL), and the Council of State Governments (CSG).
3. The General Revenue Sharing program was enacted in 1972 and lasted until 1986.
4. Under the CRF, while all state governments received funds, only local governments with a population of at least 500,000 were guaranteed funds, and only 154 local governments directly received funds from Treasury. State governments could but were not required to share CRF funds with local governments that did not directly receive aid. In contrast, the CSLFRF allocates aid to all counties, metropolitan cities, and “nonentitlement units of local government” (typically, local governments that serve a population that is less than 50,000). ​Entitlement units of government receive those funds directly from the Treasury Department, while state governments are responsible for distributing CSLFRF aid to the nonentitlement units within their state.

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