Key Conversation Points –

- *Framing the Risk* – How U.S. Treasury is conducting CRF Desk Reviews and assessing risk related to SLFRF use

- *Mapping & Monitoring Fund Use Performance Risk* – Tactics for real-time risk management ahead of SLFRF deadlines and Desk Reviews

- *Prevailing SLFRF Risks in Focus* – Reading SLFRFs "tea leaves" on proper use documenting, avoiding duplicating benefits and fraud & reducing subrecipient misadventures

- *Seeing the Finish Line* – Considerations in maximizing SLFRF use and prepping for U.S. Treasury's visit

Presenter –

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Framing the Risk

How U.S. Treasury is conducting CRF Desk Reviews & Assessing risk related to SLFRF use

U.S. Treasury Desk Reviews & Audits anticipated for all pandemic funding programs, covering all state and territorial grantees and targeted counties, cities, tribes…

Acronym	Program Name	Single Audit	Compliance Supplement
ESF	Exchange Stabilization Fund (Loans to Air Carriers, Cargo Air Carriers, and Businesses Critical to National Security)	No	N/A
PSP	Payroll Support Program (Pandemic Relief for Aviation Workers)	No	N/A
CRF	Coronavirus Relief Fund	Yes	Yes
ERA	Emergency Rental Assistance Program	Yes	Yes
HAF	Homeowner Assistance Fund	Yes	Yes
SLFRF	Coronavirus State and Local Fiscal Recovery Funds	Yes	Yes
CERTS	Coronavirus Economic Relief for Transportation Services Program	No	N/A
CPF	Coronavirus Capital Projects Fund	Yes	Yes
SSBCI	State Small Business Credit Initiative & Technical Assistance	Yes (for TA)	No
ECIP	Emergency Capital Investment Program	No	N/A
LATCF	Local Assistance and Tribal Consistency Fund	Yes	In Review

Treasury OIG has conducted over 50 CRF desk reviews, with 25 published. One-third were focused on counties and cities directly.

U.S. Treasury Risk Indicators in Determining Desk Review Targets, Scale & Topics

Treasury is employing an **ensemble risk modeling and scoring technique** to prioritize risks associated with prime and sub-recipients. Twenty-seven risk indicators are used to help prioritize reviews. General indicators include: **federal grant use history, grant size, fund use complexity, subrecipient pool size, and reporting deficiencies**.

The following other indicators are **recommended for simulating desk reviews** to test documentation accuracy, clarity, and thoroughness…

➤ **Negative audit findings** w/in past 3 years (e.g., "Growing Concern; "Material Weakness;" "Reportable Condition;" or "Material Non-Compliance")

➤ **Subrecipients on "SAM sensitive file"** (federal delinquent debts, shared bank accounts, debarments); Federal Awardee Performance and Integrity Information System (FAPIIS); or not based in the U.S.

➤ Departments or subrecipients **subject to Treasury OIG Hotline complaints**

➤ Departments or subrecipients that are **Small Business Innovation Research (SBIR) or Small Business Technology Transfer (STTR) program recipients**

➤ Departments with transactions differing significantly from what was budgeted

➤ Transactions identified as **potentially duplicative**

➤ Transactions that **do not report exact cents** (in this case, the risk is attributed to the subrecipient for not reporting exact expenditure details)

➤ Transactions identified as **moderate or high risk during internal assessments**

➤ Top 10% of CRF use among departments that is disbursed **to aggregate recipients**

➤ Top 10% of CRF use among departments that is disbursed **to individual recipients**

➤ Top 10% of CRF use among departments that is **disbursed to subrecipients for "small business assistance"**

➤ Top 10% of CRF use among departments that is disbursed to subrecipients for **"Items Not Listed Above" expenditure category**

➤ Subrecipients with expenditure category of **"Item Not Listed Above**" or containing keywords: **miscellaneous, various, n/a, null, payroll, hazard pay, tourism, construction, renovations, infrastructure, patrol, security, vehicle, truck, FEMA, acquisitions, financial assistance**

When the Desk Reviewers "knock," they come quick and ask for a lot…

Feedback from CRF recipients to date indicates that Treasury OIG's contracted desk review firm contacts the targeted grantee or subrecipient directly and with funding use documentation requests that have been already calibrated based on risk modeling using **quarterly reported data** and other sources including **other audit reports; National Association of State Auditors, Comptrollers, and Treasurers newsletters; and Office of Investigations, Pandemic Response Accountability Committee (PRAC), and Office of Counsel leads** on issues that may pose risk or impact the recipient's uses of CRF.

➢ From there, Reviewer requests production of targeted information with deadlines reported as being only 2-3 weeks for a **judgmental samples of contracts, grants, loans, transfers to other governments, direct payments, and aggregate reporting (ranges observed include 20-70 transactions totaling upwards of over $250M in CRF use)**.

➢ Reviewer then evaluate submitted documentation and reported data, **requesting additional information as warranted**.

➢ Reviewer will also **interview project use data and documentation preparers** and certifier as deemed appropriate;

➢ Reviewer will also potentially **interview auditors and other applicable oversight agency personnel**; and

➢ Reviewer will also conduct site visits as deemed necessary.

➢ Based on assessment, **Reviewer scores relative risks** and recommends actions to Treasury OIG including **obtaining missing documentation and determining feasibility of focused or full-scale OIG audits**

Targeted transactions and areas of examination during Desk Reviews include…

Using CRF/SLFRF as Loans Exceeding $50,000
- Does the documentation **sufficiently support the selected loan's obligation and expenditures, loan date, and project**, if any?
- Does the documentation **support the selected expenditure/payment category**?
- Are **loan repayment proceeds** used or plan to be **used for other allowable uses or returned to Treasury**?
- Are there **internal control deficiencies** in Single Audit and other audit reports suggesting risk to recipient using the funds for loans?

Transfers of CRF/SLFRF to Other Government Entities Exceeding $50,000
- Does the documentation **sufficiently support the selected transfer's obligations, expenditures, transfer date, and project**, if any?
- Does the documentation **support the selected expenditure category**?
- Are there **internal control deficiencies** in Single Audit and other audit reports suggesting risk in use of CRF for transfers?

CRF/SLFRF as Direct Payments Exceeding $50,000
- Does the documentation **support the selected direct payment's obligations, expenditures, payment date, and associated project**?
- Does the documentation **support the selected expenditure category**?
- Are there **internal control deficiencies** in Single Audit and other audit reports suggesting risk in use of CRF as payments?

Aggregate Reporting of CRF/SLFRF Exceeding $50,000
- Does the documentation sufficiently **support the selected payment type's obligations, expenditures, and payment dates**?
- Are there **internal control deficiencies** in Single Audit and other audit reports suggesting risk in use of CRF as aggregate?

Aggregate Payments to Individuals Using CRF/SLFRF (in any amount)
- Does the documentation sufficiently **support the selected payment type's obligations, expenditures, and payment dates**?
- Are there **internal control deficiencies** in Single Audit and other audit reports suggesting risk in use of CRF for aggregate payments?

Common CRF Desk Review Findings to Date…

➢ Expenditures outside period of performance (before/after the allowable periods to obligate funds)

➢ Lack of supporting documentation for aggregated payments, direct payments to individuals, and asset purchasing

➢ Non-compliance with procurement policies, including a lack of vetting vendors for suspension or debarment

➢ Inadequate Sub-recipient monitoring

➢ Inaccuracies in the Schedule of Federal Expenditure Awards

➢ Payroll Expenses – Inadequate documentation supporting expenses as related to public health and safety <u>or</u> substantially dedicated to COVID-19 response

➢ Ineligible expenditures on capital assets, infrastructure, and other items

Resulting in…

➢ Consistent conclusions that corrective actions are needed and findings would likely occur in other programs if uncorrected

➢ **12/25 high risk**, (7 with full audit recommended) (5 with focused audit recommended)

➢ **4/25 moderate risk**, focused audit recommended

➢ **9/25 lower risk**, no audit recommended

Mapping & Monitoring Fund Use Performance Risk

Tactics for real-time risk management ahead of SLFRF deadlines and Desk Reviews

Map, Measure, Monitor & Evolve Performance and Compliance Aims in Using Regulated Monies

1. Set Your Performance & Compliance Risk Metrics

- Map mandates for all funds in use and gauge their burden-ease
- Align rule compliance metrics with policy and other performance aims to streamline data gathering
- Evaluate applicable Code of Federal Regulation elements and other federal rules (DOB, Davis-Bacon, NEPA, QCT/LMI alignment, equity, etc.)

5. Monitor!

- Conduct ongoing monitoring of sampled agencies and subrecipients
- Monitoring will be an iterative process based on agency and subrecipient level of risk and initial monitoring results

7. Correct, Improve & Train

Assist with implementing recommended improvements through program and process design, trainings, document drafting, and performance tracking

Process cycle (center wheel)
- Record findings
- Sample reviews
- Statistical samples
- Corrective action plans
- Recommend changes

Process flow arrows
- Step 1. Establish Compliance Metrics
- Step 2. Review Current-State
- Step 3. Assess Risk
- Step 4. Tailor Monitoring
- Step 5. Monitor
- Step 6. Report Findings & Suggestions
- Step 7. Enhance & Correct
- Step 8. Evolve Focus

2. Interview & Review

- Meet with program implementing teams and partners
- Review department capacity, capabilities, and processes related to funds to be used
- Review subrecipient agreements, communication processes, and training and guidance materials
- Integrate observations into Risk Assessment framework

3. Assess Risk

- Craft Risk Assessment based on findings from Steps 1-2
- Perform Assessment via submitted responses and follow-up sessions
- Develop risk score to identify high-risk agencies and subrecipients and related programs for monitoring priority
- Propose substantive and process improvements based on identified risks

4. Shape Monitoring Based on Assessed Risk

- Develop tailored monitoring plans based on graded risk findings and client input
- Include processes for statistical sampling (random and judgmental), tools, questionnaires, checklists, etc.

6. Communicate Findings & Recommendations

- Flag risks for potential clawbacks, negative audit, performance deficiencies, and corrective action recommendations
- Outline training and process recommendations for realizing improvements

8. Adapt, Evolve & Close

Evolving Compliance Risk Assessments Towards Compliance Capability & Assurance

Ongoing *SLFRF Use Performance & Compliance Risk Assessments* can reveal opportunities to meet immediate mandates while helping "future-proof" departments' capabilities in using and managing other federal monies.

| Assessing active SLFRF use among departments to identify performance and compliance strengths and challenges | Assist Departments to improve aspects of funding use that would enhance capability for future federal funding use | Assist Departments in Bolstering Monitorships & Augment Subrecipient Monitoring as Warranted |

Assessments reveal areas for improvement common to any regulated funding use aspects –

✓ Need for processes to track and resolve fund use pace and performance outcomes against statutory and rule mandates

✓ Need for implementation and compliance assurance work plans commensurate with fund use complexities and nature

✓ Need for fund use documentation and record compiling in real time to fund use

✓ Need for more uniform and comprehensive subrecipient management

✓ Need for project-specific DOB and fraud mitigation processes Responsiveness of controls to avoid duplicating benefits and fraud

Based on observations for each department in terms of funding use capabilities, workshops and other means of performance assistance center on -

• Assisting departments with designing quality assurance protocols for tracking and addressing spend pace and performance metric challenges

• Assisting departments with crafting active fund use documentation templates, advising on completion, and helping organize files to be desk-review and audit ready in real-time

• Assisting departments with crafting and standing-up DOB and fraud mitigation processes into active and planned programs
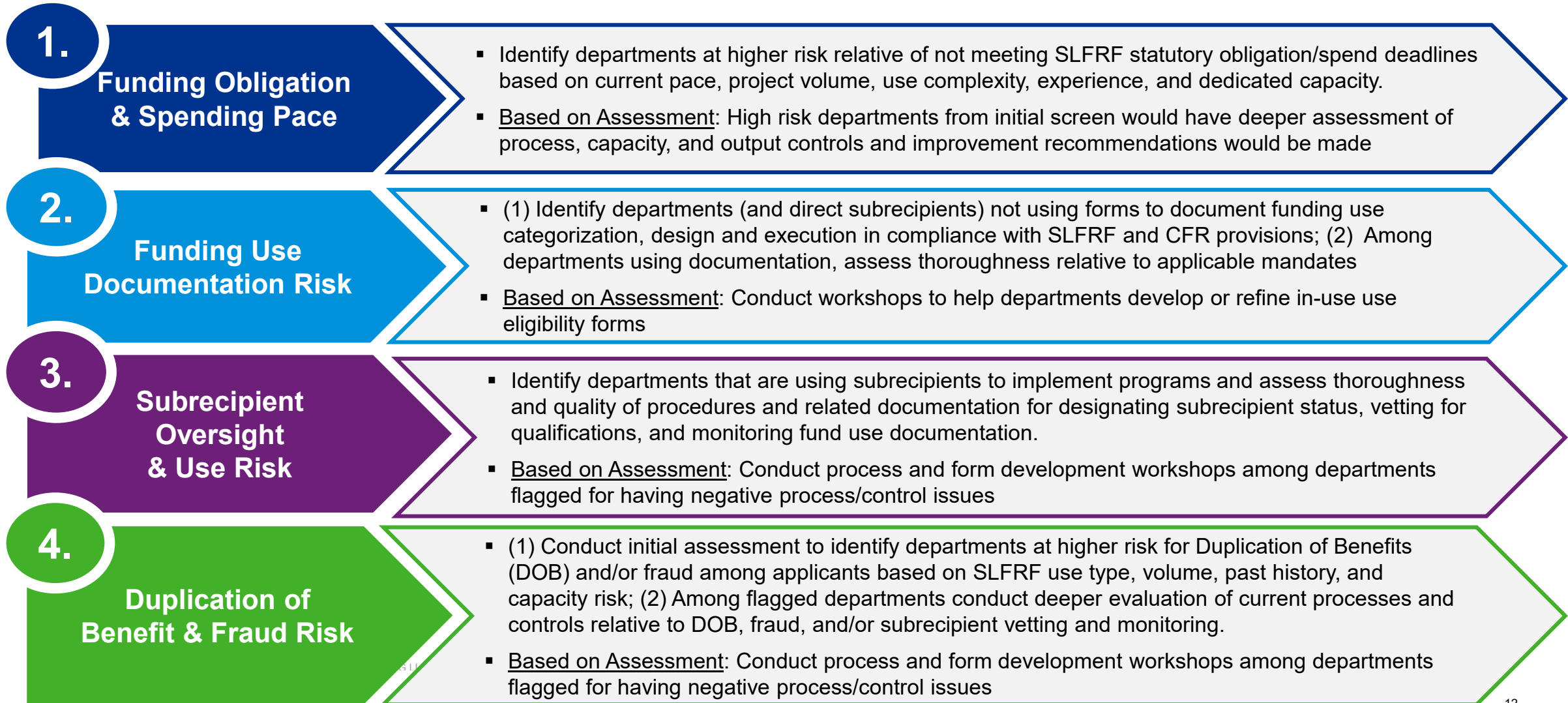
For those Departments that serve as pass-throughs for federal funding, provide assistance to assure long-term stability in their monitorships

• Review departments' current monitoring organizational structures and capacity for Tier I/II monitoring

• Conduct "boot camp" training of program/fiscal monitors in departments and Tier I subrecipients for more comprehensive subrecipient management tactics

• As requested, assist with Tier I/II monitoring as augmentation and hands-on training

Risk Assessment Focus for SLFRF Already in Use

Whereas prior to using regulated monies, risk assessments focus primarily on the strength of policies and procedures to be in designing and implementing funding uses; assessing risk "mid-stream" in funding use should reflect more how departments are carrying out that effort. Below is full range assessment optimal when regulated monies are being used for a wide spectrum of programs and projects.

1.

Funding Obligation & Spending Pace

- Identify departments at higher risk relative of not meeting SLFRF statutory obligation/spend deadlines based on current pace, project volume, use complexity, experience, and dedicated capacity.

- Based on Assessment: High risk departments from initial screen would have deeper assessment of process, capacity, and output controls and improvement recommendations would be made

2.

Funding Use Documentation Risk

- (1) Identify departments (and direct subrecipients) not using forms to document funding use categorization, design and execution in compliance with SLFRF and CFR provisions; (2) Among departments using documentation, assess thoroughness relative to applicable mandates

- Based on Assessment: Conduct workshops to help departments develop or refine in-use use eligibility forms

3.

Subrecipient Oversight & Use Risk

- Identify departments that are using subrecipients to implement programs and assess thoroughness and quality of procedures and related documentation for designating subrecipient status, vetting for qualifications, and monitoring fund use documentation.

- Based on Assessment: Conduct process and form development workshops among departments flagged for having negative process/control issues

4.

Duplication of Benefit & Fraud Risk

- (1) Conduct initial assessment to identify departments at higher risk for Duplication of Benefits (DOB) and/or fraud among applicants based on SLFRF use type, volume, past history, and capacity risk; (2) Among flagged departments conduct deeper evaluation of current processes and controls relative to DOB, fraud, and/or subrecipient vetting and monitoring.

- Based on Assessment: Conduct process and form development workshops among departments flagged for having negative process/control issues

Assessing SLFRF Performance Risk: Recommended SLFRF *Funding Use Documentation for Focus*

Program Design	Program Implementation	Grant Closeout

Supporting Documentation:

- Project Profiles
- Eligibility & Compliance Documents
- Project Work Plans
- Project eligibility checklists
- Interagency Agreements
- Subrecipient Agreements

Supporting Documentation:

- Fund use eligibility checklists
- Subrecipient monitoring checklists
- Supporting documentation requirement checklists
- Documentation demonstrating approval workflows for fund usage
- Duplication of benefits monitoring documentation
- Fraud, waste, abuse monitoring documentation
- Fund use reporting

Supporting Documentation:

- Closeout financial reporting
- Closeout performance reporting
- Closeout certifications
- Subrecipient financial and performance reporting
- Other documentation demonstrating closeout and post-closeout requirements met, per 2 CFR 200.344-346

Assessing SLFRF Performance Risk: How U.S. Treasury views Internal Controls "Best Practices"

Best Practice	Description	Example
Written policies and procedures	Formal documentation of recipient policies and procedures	Documented procedure for determining worker eligibility for premium pay
Written standards of conduct	Formal statement of mission, values, principles, and professional standards	Documented code of conduct / ethics for subcontractors
Risk-based due diligence	Pre-payment validations conducted according to an assessed level of risk	Enhanced eligibility review of subrecipient with imperfect performance history
Risk-based compliance monitoring	Ongoing validations conducted according to an assessed level of risk	Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics
Record maintenance and retention	Creation and storage of financial and non-financial records.	Storage of all subrecipient payment information.

Post-Assessment Execution Improvement Approaches with Compliance & Performance in Mind

Session #1

Program Update & Session Overview

- Outline applicable federal policy and process mandates relevant to project

- Discuss current status of project scope and implementation

- Identify priority design and execution needs and risks for focus in sessions

- Review Project Profile content for completion over course of sessions

- Discuss recommended internal controls for development

Session #2

Program Execution Practices

- Discuss process approaches to addressing priority design and execution needs and risks

- Recommend processes and templates for documenting beneficiary eligibility, subrecipient use, and other relevant Treasury Rule compliance

- Review draft content for sections of Project Profile relevant to program scope and execution

Session #3

Equitable Outcome & Performance Metrics

- Discuss Treasury's mandated metrics for program type and

- Propose equitable outcome goals and metrics based on Treasury aims and department feedback

- Discuss practical key performance metrics by which to measure output and outcomes based on program aims

- Recommended processes for generating and tracking metrics data as part of program execution

Session #4

Fund Use Documenting Controls

- Present recommended internal policy and procedure formats for guiding compliance with 2 CFR 200 requirements

- Discuss any in-place controls related to use of federal funding and recommend enhancements

- As applicable, discuss recommended approach to monitoring Duplication of Benefits and fraud

- Present recommended approach for acting on suggestions

Session #5

Transition to Reporting

- Revisit priority issues from earlier sessions as warranted

- Review final draft of Project Profile and establish timeline for finalization

- Present checklist of recommended internal controls for development and recommended timeline

- Discuss quarterly performance and cost tracker and processes for Treasury reporting requirements

Prevailing SLFRF Risks in Focus

Reading SLFRFs "tea leaves" on –

- Proper fund use & documenting

- Avoiding duplicating benefits & fraud

- Minimizing subrecipient misadventures

Key SLFRF
Use Data
Trends & Steps
to Take in
Leveraging
SLFRF

Signposts for New York Counties Based on Treasury's SLFRF Use Tracking Data

➤ Average SLFRF Award Size: **$21 Million**

➤ Average Reported Projects: **27**

➤ Average Obligation Pace (as of 12/31/23): **68% (44% at end 2022) (3 Counties fully obligated; 6 counties under 50%)**

➤ Average Spend Pace (as of 12/31/23): **51% (26% at end of 2022) (2 Counties above 90%; 15 counties under 50%)**

➤ Average EC1 Use (Public Health): **3%**

➤ Average EC2 Use (Economic Recovery): **7%**

➤ Average EC3 Use (Public Sector Investments): **1%** (0.72% for EC 3.4 – Effective Service Delivery – 5 counties)

➤ Average EC4 Use (Premium Pay for Essential Workers): **0.5%**

➤ Average EC5 Use (Broadband or Water Infrastructure): **5%**

➤ Average EC6 Use (Government Services): **25%**

➤ Average EC7 Use (Grant Administration): **1%**

➤ Uncategorized: **57.5%**

Anticipated Areas of Enforcement Focus for State & Local Coronavirus Fiscal Recovery Funding…

➢ Proof of **obligations by 12/31/24** and **spending by 12/31/26**

➢ Expenses for **"government services" exceeding cap set by revenue loss** calculations

➢ Proper documentation evidencing that **uses were reasonable and proportional responses** to actionable harms or other purposes **as defined by applicable Expenditure Categories**

➢ Proper documentation evidencing that individual **costs are allocable, reasonable and necessary, and allowable** relative to otherwise eligible program and project uses based on applied Expenditure Categories

➢ Evidence that **contractors and subrecipients were effectively defined** for reporting purposes and actively monitored to assure compliance and receipt of funding use documentation

➢ Evidence that **SLFRF when used as aid to beneficiaries did not duplicate prior aid** derived from other government, insurance, or philanthropic funds

➢ No indications that **SLFRF funds used to offset reductions in net tax revenue** resulting from changes in law, regulation, or administrative interpretation – or – **service debt, judgments, settlements, pensions, or "rainy day" funds**.

➢ No indications that outside of "revenue loss" uses, **SLFRF was used to meet non-federal cost-share or matching requirements of other federal programs absent a waiver or as authorized by statute** (except for certain Surface Transportation funded by other federal transportation funds and Title I projects eligible under CDBG and ICDBG programs).

# SLFRF Brings Heightened Scrutiny Over Avoiding *Duplication of Benefits*

What is a *Duplication of Benefits*?

A duplication occurs when a person, household, business, or other entity receives federal assistance from multiple grant sources for the same purpose, and the total assistance received for that purpose is more than the total need. **The amount of the *Duplication of Benefit* (DOB) is the amount received in excess of the total need for the same purpose.**

When total need for eligible activities is more than total assistance for the same purpose, the difference between these amounts is an **"unmet need."** Grantees of federal grants must limit their assistance to unmet needs for eligible activities to prevent a DOB.

A DOB Heat Map of Recent Federal COVID-19, Infrastructure & Climate Change Funding
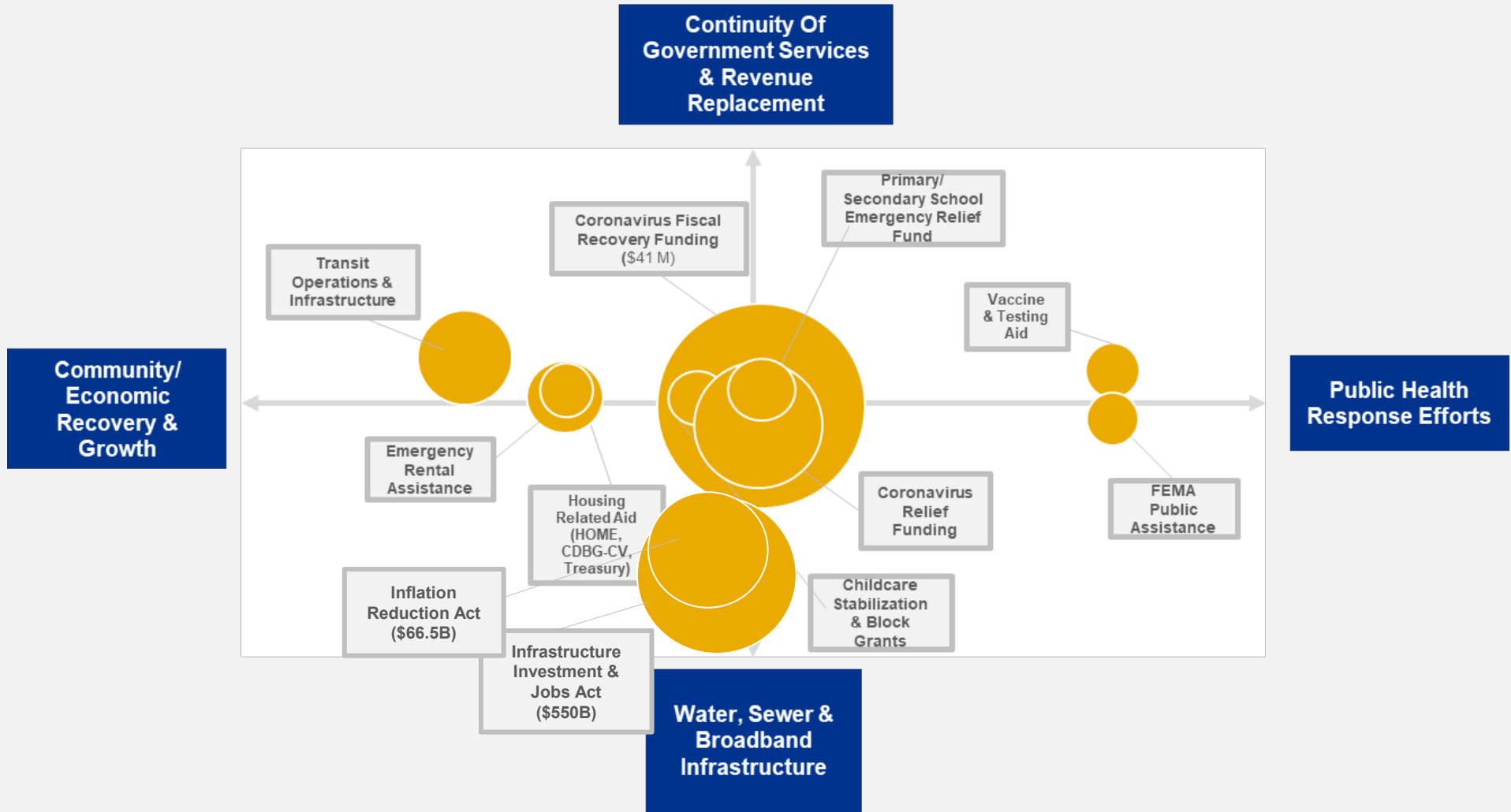
SLFRF Expenditure Categories with Higher *Duplication of Benefits* Potential

The following ECs present higher risk due to the ability to create applicant base programs where beneficiaries would have possibly received government or philanthropic monies for the same purpose and/or the SLFRF grantee could be using multiple funds for salaries or administrative expenses.

Expenditure Category	EC[28]
Household Assistance: Rent, Mortgage, and Utility Aid*^	2.2
Household Assistance: Cash Transfers*^	2.3
Household Assistance: Internet Access Programs*^	2.4
Household Assistance: Paid Sick and Medical Leave^	2.5
Household Assistance: Health Insurance*^	2.6
Household Assistance: Services for Un/Unbanked*^	2.7
Household Assistance: Survivor's Benefits^	2.8
Unemployment Benefits or Cash Assistance to Unemployed Workers*^	2.9
Assistance to Unemployed or Underemployed Workers (e.g. job training, subsidized employment, employment supports or incentives)*^	2.10
Healthy Childhood Environments: Child Care*^	2.11
Healthy Childhood Environments: Home Visiting*^	2.12
Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System*^	2.13
Healthy Childhood Environments: Early Learning*^	2.14
Long-term Housing Security: Affordable Housing*^	2.15
Long-term Housing Security: Services for Unhoused Persons*^	2.16
Housing Support: Housing Vouchers and Relocation Assistance for Disproportionately Impacted Communities*^	2.17
Housing Support: Other Housing Assistance*^	2.18
Social Determinants of Health: Community Health Workers or Benefits Navigators*^	2.19
Social Determinants of Health: Lead Remediation*^	2.20
Medical Facilities for Disproportionately Impacted Communities^	2.21
Strong Healthy Communities: Neighborhood Features that Promote Health and Safety^	2.22
Strong Healthy Communities: Demolition and Rehabilitation of Properties^	2.23
Addressing Educational Disparities: Aid to High-Poverty Districts^	2.24
Addressing Educational Disparities: Academic, Social, and Emotional Services*^	2.25
Addressing Educational Disparities: Mental Health Services*^	2.26
Addressing Impacts of Lost Instructional Time^	2.27
Contributions to UI Trust Funds^	2.28

Assistance to Small Businesses	
Loans or Grants to Mitigate Financial Hardship^	2.29
Technical Assistance, Counseling, or Business Planning*^	2.30
Rehabilitation of Commercial Properties or Other Improvements^	2.31
Business Incubators and Start-Up or Expansion Assistance*^	2.32
Enhanced Support to Microbusinesses*^	2.33
Assistance to Non-Profits	
Assistance to Impacted Nonprofit Organizations (Impacted or Disproportionately Impacted)^	2.34

3: Public Health-Negative Economic Impact: Public Sector Capacity	
General Provisions	
Public Sector Workforce: Payroll and Benefits for Public Health, Public Safety, or Human Services Workers	3.1
Public Sector Workforce: Rehiring Public Sector Staff	3.2
Public Sector Workforce: Other	3.3
Public Sector Capacity: Effective Service Delivery	3.4
Public Sector Capacity: Administrative Needs	3.5
4: Premium Pay	
Public Sector Employees	4.1
Private Sector: Grants to Other Employers	4.2

7: Administrative	
Administrative Expenses	7.1
Transfers to Other Units of Government	7.2
Transfers to Non-entitlement Units (States and territories only)	-

The Legal Basis for *Duplication of Benefits* Policy

To understand federal *Duplication of Benefit rules*, grantors should understand the underlying principles behind this policy and what sources to access for program specific rules as to what constitutes DOBs for particular fund uses.

The following sources detail DOB principles and rules:

1) Federal Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards, 2 Code of Federal Regulations (CFR) § 200.400-405 *(DOB is neither reasonable nor necessary!)*

2) Section 312, Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. § 5155)(44 CFR § 206.191) *(applies to federal funds in response to federally declared disasters and emergencies)*

3) Other statutes, Congressional appropriations, and related regulations involving federal funding used in whole or part as assistance to persons, businesses, or other entities (**DOB can occur among government or private interests**)

Federal COVID-19 Funding is Disaster Funding & Stafford Act Rules and Penalties Apply

Stafford Act, § 312(a): "[E]ach Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive **such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.**"

Section 312(b)(4)(a) authorizes the President to waive DOB prohibitions when: 1) a Governor requests a waiver and 2) the President determines waiver is in public interest and will not result in waste, fraud, or abuse.

The **following aid cannot be waived** from DOB consideration:

✓ FEMA Public Assistance Grants
✓ FEMA Individual Assistance Grants
✓ **Insurance money**
✓ **Overlapping money from non-disaster related programs**

Federal Grantee & Subgrantee Responsibilities to Avoid and Recoup DOB

Grantees must require any person or entity receiving federal aid (including sub-recipients and direct beneficiaries) **to agree to repay assistance** that is determined to be duplicative.

This may be documented through a subrogation agreement or similar clause in a funding agreement.

Grantees should establish protocols to monitor compliance based on the risk of duplication for each activity. For federal disaster aid, **the granting agency will assess whether grantee is following adequate remedial procedures in the event of duplicated aid**, and provide opportunity for the agency to take the required corrective action.

If the agency cannot fulfill remedial actions, the granting agency will directly notify the recipient of the excess assistance and, if determined that the likelihood of collection is feasible and in the best interests of the Federal Government, collection proceedings will commence.

Beneficiary Obligation to Return a DOB

Stafford Act Section 312(c) states that any persons, business concerns, or other entities that are the recipient of duplicative assistance is **liable to the United States for the amount of duplicated aid and that the agency that provided the duplicative assistance is responsible for debt collection.**

Grantees of the DOB (state, county, city, etc.), along with as necessary the originating federal agency, will

> ➢ notify the recipient of the excess assistance
>
> > ➢ examining the debt and if it is determined that the likelihood of collecting the debt and the best interests of the Federal Government,
> >
> > > ➢ will taking legal action to recovery the DOB.

Prevailing Types of Resources Considered Duplicating Benefits

Grantees should conduct individualized applicant reviews to assess potential DOB because of the wide range of assistance types potentially available to any given applicant. The following sources are typically construed as being potential **DOB if given for the "same purpose" as disbursed aid in moment**:

➢ Cash Awards

➢ Insurance Proceeds (specific to aid purpose even if not acted upon or and non-specific if used towards purpose)

➢ Approved Government Subsidized and/or Guaranteed Loans (non-forgivable) (waivable) (front funding not DOB) (up to full amount of loan if a DOB)

➢ Other Federal, State, and/or Local Government Grants or Loans (that could have been reasonably received or is approved but not yet in hand)

➢ Nonprofit/Charitable Funding

Total assistance for DOB review does not include personal assets (excluding insurance proceeds or government aid deposited into an applicant's account); retirement accounts; credit cards and lines of credit; in-kind donations; and private loans.

Steps in Determining Potential Duplication of Benefit

Typically, the steps to assessing the presence of a DOB are:

1) Determine the entity (applicant)'s **total need**

2) Verify total assistance available from all **prior DOB funding sources (use a "downstream flow" approach and proof over attestation if feasible)**

3) **Exclude non-duplicative assistance** from total assistance

4) **Reduce total award** that entity was to receive by the amount of DOB **or change purpose of aid** to be given to avoid duplication

5) **Provide notice** to beneficiary of **obligation to attest** to no DOB or accurately **declare DOB,** and **inform of right to recoup**

6) **Execute agreement with beneficiary** to repay duplicative assistance

Internal Checklist for Assessing Quality of DOB Processes

The following is recommended as an **internal checklist** for assessing the thoroughness of and conducting DOB examinations for funding disbursal:

➢ Description/definition of DOB in program rules (preferably within application)

➢ Process for identifying applicant's total need

➢ Process for identifying sources of assistance provided to applicant (in-hand or that which should have been reasonably pursued)

- o Verify charitable support (letter from applicant or provider)
- o Verify any short-term emergency public funding (e.g., FEMA) (data from applicant or gov't issuer)
- o Verify any funding from other federal, state, or local sources for same purpose as what SLFRF would be offered
- o Verify insurance proceeds (letter/data from insurer)
- o Verify SBA or subsidized loan products (letter/data from lender)
- o Verify grants or other aid from other public sources for same purpose

➢ Award calculation

➢ Subrogation agreement

➢ Recapture policies & procedures

Recommendations for spotting (and minimizing) subrecipient misadventures with your regulated funding

Framing the Mission – How the Feds view a Subrecipient versus Beneficiary

Subrecipient

- An entity that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award.

- The entity is responsible for compliance with terms and conditions of the agreement that flow down from the Federal award.

- **Example: Local education agency receiving federal funds from state department of education.**

Beneficiary

- A person, group of people, or entity that benefits from the outcome of the award.

- Beneficiaries include individuals and/or entities that directly or indirectly receive an advantage through the operation of a federally assisted program.

- Beneficiaries are not required to comply with terms and conditions of the Federal award.

- **Example: Student in school.**

Subrecipient Monitoring Procedures

Subrecipient monitoring is more granular than at the department level. A sampling of entities is created based on a risk profile type but then every transaction involving the use of sub-granted monies among that cohort is evaluated to assess compliance with grant terms, other applicable rules, and leading subrecipient management practices. Key monitoring measures may include, but are not limited to, the following:

If Subrecipient received another loan/grant, did they attest to and/or demonstrate there was no duplication of benefit?

Does the dollar amount within the supporting documentation reconcile to the amounts entered by the subrecipient?

Are rent, mortgage, or other expenses necessary for the provider's business less than or equal to allowable expenses?

Does supporting documentation show proof of payment by the subrecipient? (*Procedure applied to each individual expenditure.*)

Is the sum of the dollar amounts entered by the subrecipient greater than or equal to the total award amount?

Is the provider's attendance less than or equal to the provider's licensed capacity for each of the three most recent months?

Does documentation show the grant award was spent on/incurred for an allowable expenditure? (*Procedure to be applied to each expenditure*).

Was payment made for costs incurred within period of performance? (*Procedure applied to each individual expenditure*)

Supporting Documentation Examples

- ✓ Paid invoices, receipts, checks
- ✓ Payroll registrar or payroll records
- ✓ Employer payments for benefits
- ✓ Employer payroll taxes
- ✓ Summary report from payroll company
- ✓ Attendance reports from past 3 months
- ✓ Budget to actual files and general ledgers
- ✓ Award letter
- ✓ Documentation of subrecipient spending

Recommended Approach to Subrecipient Monitoring

Step #1	**Create a risk assessment for selecting subrecipients for monitoring. The risk assessment should ideally select approximately 25% of possible providers using the State's subgranted monies.**

To identify the 25% sample population of providers subject to monitoring, we would first develop a risk assessment customized to program aims, mandates, and complexities. This risk assessment will help determine an overall score for each provider that represents the risk of potential noncompliance or nonperformance.

For example, one approach of conducting this risk assessment may:

– Identify relevant and readily-available data points (such as existing metrics, performance measures, etc.) that may impact the risk of potential noncompliance.

– Define scales for each data point (for example: if the data point is provider capacity, we will develop a scale to define small/medium/large) and assign weights to these scales.

– Pull data and apply the methodology described above to the data to determine overall risk score of that provider.

– Develop a methodology to select the sample 25% of providers leveraging the results of this risk assessment and other considerations (for example: a sample can be selected by choosing the providers with the highest score, a mix of scores, etc. and can also be pulled using a statistical sampling methodology that considers specific results from the risk assessment).

Case Study: Monitoring Childcare Providers using Childcare Stabilization Funding

Example data points that may be considered for the risk assessment and the rationale for the impact are provided in the table below:

Example Data Point	Rationale
Sum of Grant Awards	Higher grant award amount received may equal increased difficulty in expenditure tracking or increased likelihood of federal audit for child care providers
Licensed Capacity of Provider	The outliers on both the larger or smaller side may increase likelihood of noncompliance
Capacity Percentage of Facility in Use	Under-capacity providers may indicate they are not fulfilling the requirement to stay open and enrolling children
Denied Application	Denied applications may represent inaccurately reported data from child care providers
Currently Closed	Child care providers may not want to reopen their facility (since open/closed status may not impact their award amount)

Recommended Approach to Subrecipient Monitoring

Step #2	Communicate with selected providers and issue engagement letters and requests for documentation.

Understanding that States and Counties have diverse groups of providers and subrecipients, not only in the languages they speak, but also in their familiarity with grant funding and methods for tracking grant expenditures; we would establish a communication plan so that providers receive timely and transparent communication about their monitoring from start to finish.

Any such Communication Plan should include draft templates for initial outreach, documentation and information requests, ongoing follow ups, and closure reports based on communication providers are already used to seeing from the department. Templates would also be tailored to reflect different types of providers and their functions.

Ultimately the goal of the Communication Plan is to be **minimal in disruption, clear in conveying requests, and reliable in providing guidance and instruction throughout**.

Recommended Approach to Subrecipient Monitoring

Step #3	Review and approve all documentation provided by program providers and other subrecipients.

The core approach to monitoring subrecipients is to establish test procedures related to the allowability of use, documentation of use, and general management of entrusted funds by each provider selected for review. The process begins with a monitoring plan that should include the following elements for each of the selected transactions:

— The criteria (usually from a regulation or leading practice) that is driving the test procedure (i.e., specific regulatory requirements for how the funds may be spent)

— The objective of the test procedure

— The specific activities our reviewers will follow to meet the objective

— The supporting documentation reviewed to conduct the test procedure

— The results of the test procedure (such as pass, fail, or pass with exception)

— Notes or explanations to support the test procedure results

— Opportunities for improvement

In addition to transaction-specific test procedures, monitoring should identify supplemental information that may apply more holistically to the provider (e.g., reconciliation of total spend against records of funds awarded, DOB evidence, internal control quality related to grants in use)

Recommended Approach to Subrecipient Monitoring

Step #4	Conduct special inquiries of any subrecipients reported for potential fraud (perform fact finding and initial monitoring and turn over to department for further review for substantiated fraud)

Multi layered fraud detection can be integrated into the monitoring process to help the department identify potential suspicious behavior among program participants. This should involve leveraging data to identify potential instances of fraud, waste, and abuse that is separate from any provider specific test procedures that are incorporated within the monitoring plan.

This approach can include:

— Working with the department to identify risk factors that may indicate potential for fraud, waste, or abuse.

— Identifying if the department has data readily available or if data can be obtained as part of the monitoring efforts of this engagement, that will provide these risk factors.

— Finalizing the list of risk factors that can be leveraged from data available

— Applying the risk factors to our internal fraud decision methodology to flag any providers that meet the criteria of at least one risk factor.

— Sharing with the department, information related to the providers that were identified as part of the fraud decision solution.

Mapping and addressing fraud, waste and abuse

From the headlines recent pandemic fraud cases

The federal government has charged **1,500 people across the U.S. with defrauding pandemic-aid programs, and more than 450 people have been convicted so far.** Defendants that have been charged — including doctors, medical business executive **caused nearly $1 billion in false billing to federal programs,** and fake vaccination card manufacturers. In addition, the Justice Department is investigating other cases involving $6 billion more.

A former contract employee for the State of Michigan Unemployment Insurance Agency conspired with two other people to fraudulently release government funds that were intended to support individuals who lost their jobs during the pandemic. The conspiracy resulted in the fraudulent disbursement of at least $2M.
https://www.youtube.com/watch?v=r51t7lGvBS4

A former employee of Washington state's Employment Security Department pleaded guilty to three federal felonies for exploiting his employment for personal enrichment and fraudulently distributing at least $360,000 in pandemic-related unemployment benefits.
https://www.youtube.com/watch?v=A6Zm7DWOWDQ

The federal government has funded billions of dollars in aid for students because of the pandemic — and so-called fake students have taken aim at the money.
https://www.youtube.com/watch?v=0Jrp1kvCwhY

What procedures should be implemented to prevent, detect and respond to fraud, waste and abuse

Create an organizational culture and structure conducive to fraud risk management.

— Demonstrate senior-level commitment to combat fraud and involve all levels of the program in setting an antifraud tone.

— Designate an entity within the program office to lead fraud risk management activities.

— Ensure the entity has defined responsibilities and the necessary authority to serve its role.

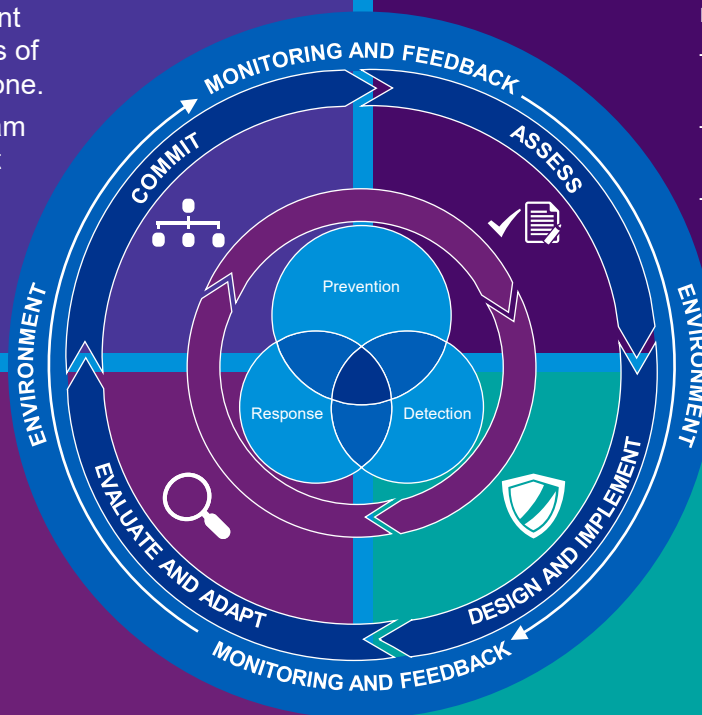**Plan regular fraud risk assessments and assess risks to determine a fraud risk profile.**

— Tailor the fraud risk assessment to the program. and involve relevant stakeholders.

— Assess the likelihood and impact of fraud risks and determine risk tolerance.

— Examine the suitability of existing controls, prioritize residual risks, and document a fraud risk profile.

Evaluate outcomes using risk-based approach and adapt activities to improve risk management

— Conduct risk-based monitoring and evaluation of fraud risk management activities with a focus on outcome measurement.

— Collect and analyze data from reporting mechanisms and instances of detected fraud for real-time monitoring of fraud trends.

— Use monitoring results. evaluations, and investigations to improve fraud prevention. detection, and response.

Design and implement a strategy with specific control activities to mitigate assessed fraud risks and collaborate to help ensure effective implementation.

— Develop, document, and communicate an antifraud strategy, focusing on preventive control activities.

— Consider the benefits and costs of controls to prevent and detect potential fraud, and develop a fraud response plan.

— Establish collaborative relationships with stakeholders and create incentives to help ensure effective implementation of the antifraud strategy.


MONITORING AND FEEDBACK · COMMIT · ASSESS · ENVIRONMENT · ENVIRONMENT · EVALUATE AND ADAPT · DESIGN AND IMPLEMENT · MONITORING AND FEEDBACK

Prevention · Response · Detection

Source: GAO. | GAO-15-5938P

Preventative and detective controls

Preventative controls

— Active monitoring of AP and systems

— Proper segregation of duties of accounts payable, accounting, purchasing and receiving functions

— Maintaining and reviewing an approved vendor master list

— Controls instituted to prevent unapproved vendors from receiving payments without appropriate authorizations and confirmations

— Retention of all necessary supporting documentation such as invoices, purchase orders and receiving reports
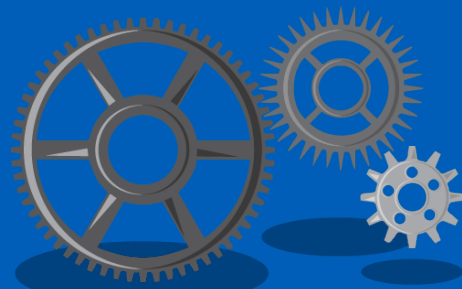
Detective controls

— Periodic screening of employees who participate in the vendor selection process

— Analysis of the vendor master file to identify potential conflicts of interest when compared to the employee master file

— Analysis of the vendor master file to identify fictitious vendors

— Performance of background searches on random vendors

— Review of bidding documentation and purchase files

— Make sure program teams can make informed decisions through the identification of hidden factors or red flags by performing risk-based integrity due diligence of third-party relationships. Approaches to this end include analyzing publicly available information and assessing risks associated with vendors, consultants, subrecipients and beneficiaries and other partners (e.g., researching U.S. online public records in conjunction with reviewing vendor provided documentation

Seeing the Finish Line (and that desk review) –

Considerations in maximizing SLFRF use and prepping for U.S. Treasury's visit

Considerations for Maximizing Use of SLFRF in Waning Time & Being Audit Ready in Real-Time…

➢ **Re-evaluate obligation amounts** based on Treasury's new interpretation related to payroll and the ability to extend obligations for compliance assurance costs

➢ **Perform a pace analysis among "slow spenders"** to identify opportunities for efficiencies or needs for redirecting

➢ **Consider redirecting SLFRF to investments in "effective service delivery"** (EC 3.4) with quicker up-front obligations and longer-term return on investment

➢ **Test quality of documentation among subrecipients** both in terms of documenting project design and the tie-back of eligible costs to those programs in line with applied Expenditure Categories

➢ **Reassess use of "government services" categorization** for projects that are directly in line with other Expenditure Categories **(Remember Treasury's "fit" test)**

➢ **Consider using SLFRF for immediate or anticipated disaster resilience and recovery needs** as faster-track funding than applicable FEMA and HUD funding

➢ **Map the DOB universe** relative to any instance of SLFRF being used as material aid to beneficiaries

Suggested Simulated Desktop Review Approach

Applying U.S. Treasury OIGs own playbook for desktop reviews, the following activities are recommended as a simulated review:

Apply Treasury's Risk Indicators to Anticipate Control Weaknesses & Targeted Uses	**Select a Judgmental Sample to Simulate Review**	**Simulate the Review & Course Correct**

Apply Treasury's Risk Indicators to Anticipate Control Weaknesses & Targeted Uses

- Based on prior assessments, department feedback, and fund use complexities, map areas that would be likely areas of focus for Treasury reviews.

Key Assessment Questions:
- ✓ **Does documentation sufficiently support obligations and expenditures, period of performance, and project?**
- ✓ **Does documentation sufficiently support selected expenditure category?**
- ✓ **Are there internal control deficiencies that pose a risk to recipient's use of CRF?**
- ✓ **Does documentation describe any circumstances for noncompliance?**

Select a Judgmental Sample to Simulate Review

- Select **judgmental sample** of contracts, loans, grants, transfers, direct payments, and aggregate reporting to undergo CRF desktop review
- Judgmental categories to be based on reviews of quarterly Treasury submissions, expenditure reports, other audit reports or applicable OIG reports, previous audit or negative findings, risk factors, etc.
- Based on judgmental sample, conduct **statistical analysis** to **select specific expenditures** within the selected categories
- Develop **monitoring plans**/assessment criteria based on final selected sample of expenditures

Simulate the Review & Course Correct

- Conduct **review of sampled expenses** against set of standardized criteria
- Obtain and **evaluate documentation** and records used to support quarterly submissions
- **Conduct interviews** with the recipient, report preparers, etc. and follow-up with questions
- Conduct interviews with State Auditors and other applicable oversight agency personnel
- Develop **desktop monitoring report** that summarizes findings and identifies **corrective actions**, as needed
- Deliverable would be a desktop monitoring report and list of corrective actions