

Nebraska Department of Correctional Services

Guidance Document

The following guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

Pursuant to Neb. Rev. Stat. 84-901.03



Guidance Document Pursuant to LB 1014, Section 10

Federal funds under the American Rescue Plan Act of 2021 (ARPA) appropriated to the Nebraska Department of Correctional Services in LB 1014 (sec. 12) will be used for premium pay increases which were implemented for essential front-line workers in 24-hour facilities. These increases were made in an attempt to retain staff and fill staff vacancies during the COVID-19 pandemic. The increases ensure that the NDCS is competitive in pay in the future for positions that support public health and safety.

ARPA GUIDANCE PROVIDES UNDER SLFRP FINAL RULE FAQs SECTION 2.15:

Under the increased flexibility of the final rule, SLFRF funding may be used to support a broader set of uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, including reasonable increases in compensation, and paying for ancillary administrative costs related to hiring, support, and retention.

Under the set of eligible uses for public-sector rehiring, recipients may fill vacancies and add additional employees using SLFRF funds (see pages 4385-4387 of the final rule and pages 27-28 of the Overview of the Final Rule). Recipients have two options to restore pre-pandemic employment, depending on the recipient's needs. First, if the recipient simply wants to hire back employees for pre-pandemic positions, recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021. Recipients may use SLFRF funds to cover payroll and covered benefits for such positions through the period of performance.

Second, if the recipient wants to hire above the pre-pandemic baseline and/or would like to have flexibility in positions, recipients may use SLFRF funds to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted FTEs up to 7.5 percent above its pre-pandemic baseline. Filling these roles may require recipients to increase wages and improve benefits above and beyond what they currently offer, especially in roles with historically low wages and acute staffing needs. This compensation would be an eligible use of SLFRF funds.

SLFRF funds also may be used to provide worker retention incentives, including reasonable increases in compensation to persuade employees to remain with the employer as compared to other employment options. Retention incentives must be entirely additive to an employee's regular compensation, narrowly tailored to need, and should not exceed incentives traditionally offered by the recipient or compensation that alternative employers may offer to compete for the employees. Treasury presumes that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as other requirements are met.

<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf>