AGENCY OF ADMINISTRATION ARPA WRAP UP

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BACKGROUND

- With the State of Vermont since 2011, 10 years in various roles at the Department of Taxes
- Experience with building security structures, internal controls, and implementing new programs
- Responsible for pandemic federal funds since Sept. 2021
- Responsible for bulletin 3.5 and 5 (grants and contracts) waivers and approvals

Identify lessons learned about implementation of a new federal program

Identify how to perform risk assessments under State Fiscal Recovery Fund Process and Policy Guidance V.7

Identify how to reconcile federal and state regulations and ensure compliance

Recall best practices for program construction, allowable costs, maintaining accountability, closing out, and audit results

LEARNING OBJECTIVES

LESSONS LEARNED ABOUT IMPLEMENTATION OF A NEW FEDERAL PROGRAM

The federal reaction to the pandemic created many short-term federal funds, three of which funded in programs in multiple agencies and required centralized coordination by the Agency of Administration:

- Coronavirus Relief Fund (CRF)
- Emergency Rental Assistance Fund (ERAF)
- State and Local Fiscal Recovery Fund (SLFRF)

Vermont received $1.25B of CRF funds early in 2020 to facilitate short-term pandemic response

- Broad sections of Uniform Guidance waived
- Guidance primarily issued through Frequently Asked Questions (FAQs) with narrow options for use
- Established through a mix of legislative appropriations and excess receipts requests in the executive branch under limited authority
- Vermont created 235 programs in 66 state entities, most designed and launched in less than three months with limited or brief statutory language
- Over $1.1B was expended by 12/31/2020 (original expenditure deadline) and all $1.25B expended ahead of the 12/31/2021 deadline

LESSONS LEARNED - CRF

- The Agency of Administration (AoA) and Vermont Emergency Management jointly determined that the State of Vermont did not have the centralized capacity to support rapid design and deployment
  - Procured policy support services to navigate pandemic response and recovery
  - Helped head off uses of funds on ineligible programs
  - Ensured a standard interpretation of federal terms
- Standard assurances were developed and applied to every subrecipient program
- An award classification tool was created due to issues with relationship classification (contractor/grantee/beneficiary)
  - Broad lack of familiarity with beneficiary programs outside of the Agency of Human Services

LESSONS LEARNED - CRF

- Programs were operated by many business units without prior experience with federal funds (or uniform guidance)
  - Significantly disrupted single audit review processes
  - Large number of errors or omissions in grant tracking
- Reinforced unrealistic expectations for how quickly a program can be launched
- Still subject to internal controls, subrecipient monitoring, compliance, and Subpart F audit requirements
- Unique definition (as far as I’m aware) of beneficiary

LESSONS LEARNED - CRF

- A questionnaire was developed to help programs justify program eligibility
  - Response to the questionnaire developed with vendor support and issued by AoA
  - Documented the justification for the expenditure prior to spending authority being established
    - Some questionnaires initiated after spending was approved for emergency uses
    - Signed by AOA and used to release appropriations
- Nearly all programs had to be modified from the original state legislative intent due to details in Treasury guidance
- Essentially a stress test of current controls and procedures – primarily achieved through re-deployment of existing staff for 12 to 18 months

LESSONS LEARNED - CRF

LESSONS LEARNED - ERAF

Vermont received $352M of ERAF funds between 2020 and 2022 to assist low-income households with rental expenses

- Small state minimums benefitted Vermont financially
- High volume and high dollar beneficiary programs created a tempting target for fraud
- Most of Uniform Guidance approved, with cash management waived
- 6 programs created through 4 state entities

LESSONS LEARNED - ERAF

- Extremely aggressive spending timelines published by Treasury
  - Necessitated multiple rounds of programmatic adjustments and improvements
  - Spending targets created a high burn rate (over $100m / year peaking at $20m / month) which limited ramp-down options
  - Short program timelines limited options and opportunities to identify and correct issues
  - Rapid program construction led to data management issues and reconciliation challenges
- Distribution of payments through third parties (landlords and utilities) complicated processes and documentation

LESSONS LEARNED - ERAF

- Currently ramping down direct beneficiary programs
- Program ramp-down was designed to leave a small reserve to allow for corrections
- Prior to program sunset a program review is being completed with random sampling
- Two tranches of funding allows for limited reconciliation curing

Vermont received $1.05B of SLFRF funds in 2021 and 2022 to assist with pandemic recovery

- Programs were first created under an Interim Final Rule and later a Final Rule
- Much greater flexibility than CRF in some ways, more closely defined and restricted in some methods (e.g., income definitions)
- Over 80 programs created through 36 state entities

LESSONS LEARNED - SLFRF

SFR - State Fiscal Recovery

The Vermont fund established to hold the State's portion of the State and Local Fiscal Recovery Fund

FFP - Federally Funded Projects

Infrastructure style projects with a physical location and the possibility of interacting with other projects

Questionnaire – two versions of the questionnaire were published, standard and revenue loss, to capture the eligibility categories under the Final Rule

Checklist – Federal Award Classification Checklist

A tool created to capture the facts of the relationship(s) used to operate a program to determine if they are contractor, subrecipient, or beneficiary relationships

SFR Process and Policy Guidance

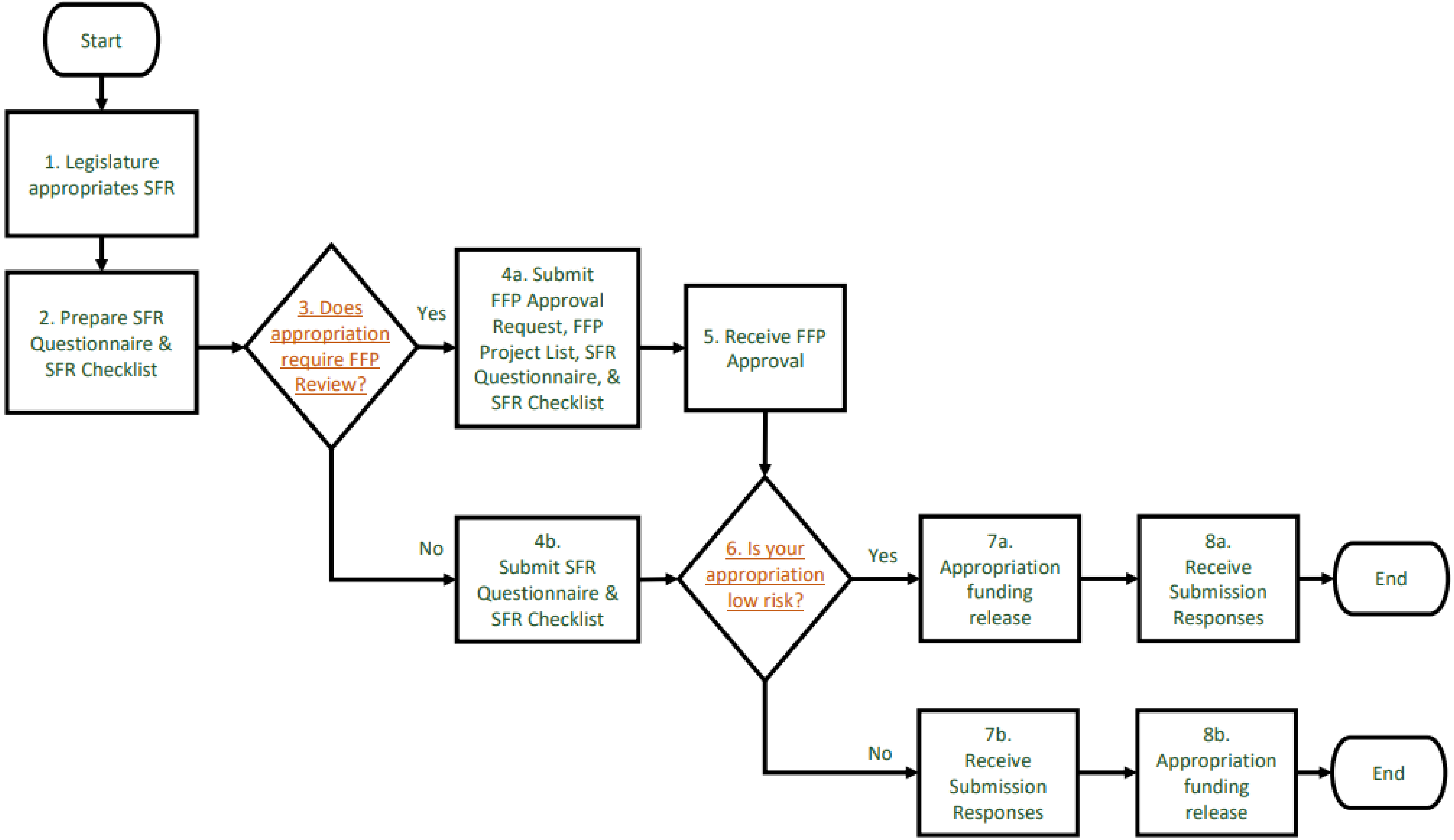
Centralized document published by AOA which captures Vermont's approach to the deployment of SFR funds

SLFRF TERMS

General Traits of SFR

- Longer period of performance (4+ year programs)
- Nearly all Uniform Guidance except cash management
- ~50% appropriated in 2021, ~50% in 2022
- Broad eligibility categories (e.g., water/sewer, broadband, public health emergency response, revenue replacement) recorded through expenditure categories
- Greater details available in Interim Final Rule and then Final Rule than CRF FAQs
- Over 80 limited-service positions created to handle both direct and indirect workload

Process Map – Funding Release for SFR Appropriations



PROGRAMMATIC RISK ASSESSMENTS

- Program level risk assessment (not sub-recipient risk assessment)
  - Start with a plain language review of enabling legislation
    - Identify common terms and definitions, or conflict in definitions
    - Identify mismatches in programmatic scope and intended limitations
      - E.g., covid paid sick leave program where Vermont intended to launch a broad-based program assuming covid paid sick leave would be eligible for anyone who missed work due to covid-19
    - Begin with a preliminary risk assessment using low, moderate, or high-risk ratings for deploying as written

- Consult with program staff to advise on potential mitigation strategies and clarify significant elements (e.g., income limits)
- Receive questionnaire from program staff thoroughly documenting program structure
  - Archived in SharePoint list for audit purposes
  - Programs evaluated as low risk are approved to launch prior to full review
- Align program with expenditure/eligibility categories and develop mitigation strategies as necessary
- Communicate eligibility and mitigation strategies to program staff through questionnaire response, signed by AOA and appointing authority or delegee with administrative requirements
- Programs created through grants to component units or other statutorily created entities (e.g., Vermont Housing & Conservation Board or Vermont Veterans' Home) complete questionnaire

PROGRAMMATIC RISK ASSESSMENTS

State legislation often included either undefined terms with a known, local understanding, or a definition which conflicted with the Federal guidance or rules

CRF had reasonable latitude on income limits and premium pay, but required a much stronger link to immediate pandemic response

SFR contained many paths to eligibility, but they were more strictly defined

- Pandemic mitigation, while mentioned in the Final Rule, is vague and difficult to justify investments

Federal definitions could be applied to limit State intent, but not expand it

RECONCILING FEDERAL AND STATE REGULATIONS

Example Programs – Climate Change

- Electric Vehicle Charging Stations
  - Final Rule contained no language enabling climate change mitigation directly
  - Benefits must be targeted to disproportionally impacted populations, broad measures prohibited in multiple areas
  - Real property requirements in Uniform Guidance are burdensome and apply as long as the federal investment remains in place

RECONCILING FEDERAL AND STATE REGULATIONS

Example Programs – Climate Change

- Weatherization
  - Two major programs designed, one for low-income and one for moderate
  - Treasury created a unique definition of low- and moderate-income involving both Area Median Income and Federal Poverty Level
  - Low-income program able to function under the Final Rule assistance to households
  - While involving real property, the beneficiary nature of the final investment allows for reasonable administration

Revenue Loss Replacement ($242m)

- Based on Fiscal Year 2020 sharp and steep revenue losses from public health measures
- Eligibility category relieves Vermont of majority of Uniform Guidance, including subrecipient relationships
- Used to mitigate highest risk, highest administrative burden, and programs where we could not achieve Vermont legislative intent
  - Electric vehicle charging stations
  - Municipal energy resilience investments
  - Household weatherization above 80% Area Median Income
  - Programs involving long term or permanent capital investments
- Deployment significantly mitigated programmatic risk in Vermont’s portfolio

RECONCILING FEDERAL AND STATE REGULATION

Payroll Replacement (up to $47m annually through 2026)

- Based on pre-pandemic staffing levels with up to 7.5% growth
- Positions must be hired (not created) after March 1, 2021
- May be used to alleviate timing concerns (e.g., high amounts remaining to be expended in 2024-2026) or in the event curing is necessary
- Vermont has experienced between 12% and 15% turnover rate since the beginning of the pandemic

RECONCILING FEDERAL AND STATE REGULATIONS

State of Vermont is a decentralized system for grant controls and partially centralized for contracting

Possibly informed by 1-to-1 federally funded programs and the primary agency system

Broad spectrum of organizational familiarity with Uniform Guidance

Can be compensated for with a strong culture of internal controls

Emphasized need for standardized toolkits, processes, and training opportunities

While the discretion in deploying CRF and SLFRF funds is certainly convenient, it dramatically increases the chances for ineligible expenses

LESSONS LEARNED - SUMMARY

Inclusion of administrative authority in each year's budget allowed programs to operate to the extent permitted under federal guidance

Imposition of a general administrative cost standard even when not required (5% with exceptions considered)

Introduction of quarterly reconciliation process between VISION accounting and Treasury reports

Vermont surveyed program staff to determine the levels of experience, staff to workload ratio, and availability of standard tools and training

RECALL BEST PRACTICES FOR PROGRAM CONSTRUCTION, ALLOWABLE COSTS, MAINTAINING ACCOUNTABILITY, CLOSING OUT, AND AUDIT RESULTS

Created the mechanism for programs to acquire additional resources for monitoring and compliance work

Conducting a more in-depth needs assessment this summer to ensure program oversight is adequate

Similar approach to subrecipient risk assessment

Considering additional trainings on allowability for direct and indirect costs

Close-out for CRF and ERAF beneficiary programs highlighting issues with returned or uncashed payments for short-term programs

RECALL BEST PRACTICES FOR PROGRAM CONSTRUCTION, ALLOWABLE COSTS, MAINTAINING ACCOUNTABILITY, CLOSING OUT, AND AUDIT RESULTS

Thank You!

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