Dear Coronavirus State and Local Fiscal Recovery Fund Contact Center Staff,

The undersigned organizations and Merced County residents are writing to express our concerns regarding misuse of SLFRF funds in Merced County, California. Merced County conducted a comprehensive outreach process in which they identified a long list of pandemic-related community needs from impacted residents across the County, only to refuse to fund any of these needs and instead allocate their entire $53,936,085 allocation towards revenue loss replacement in the General Fund without showing revenue loss replacement calculations as required by the Final Rule. We are writing to inform the US Treasury of the following violations of the Final Rule and inconsistencies with the spirit and intent of American Rescue Plan Act (ARPA) to inform an SLFRF audit of Merced County in hopes that the County will be required to reallocate their funds towards addressing pandemic-related community needs, according to the spirit and intent of ARPA.

I. Failure to Show Revenue Loss Calculations
The Merced County Board of Supervisors voted on February 8, 2022 to allocate their entire $53,936,085 SLFRF allocation towards revenue loss replacement in their General Fund without showing any revenue loss calculations as required by the Final Rule. To date, the Board of Supervisors has never presented the public with any revenue loss calculations. Furthermore, in looking at the FY 2020-21 budget, we see that Merced County had a $0 shortfall, and in the FY 2021-22 budget, Merced County has a small shortfall of $4,517,637.¹

II. Merced County Expressed Intent to Use $13.5 Million of their SLFRF Allocation Towards the Construction of a New Jail After Allocating the Funds to the General Fund Under the Guise of Revenue Loss Replacement

¹ Merced County Proposed Budget Fiscal Year 2021-22, page xix. (page 26 in the pdf).
Though Merced County placed their entire SLFRF allocation in the General Fund as “revenue loss replacement,” the Board placed the allocation in different sub-categories in the General Fund, for use on different pre-COVID board priorities in the future. One of these staff-recommended subcategories would have allocated $13.5 million dollars towards the construction of a new jail, in violation of the Final Rule.\(^2\) On February 8, 2022, staff recommended that the Board move the $13.5 million in SLFRF funds initially recommended to fund construction of this new facility into “Community Facilities” and “Public Safety” sub-categories in the General Fund for later use in order to avoid the appearance of a Final Rule violation, and “to avoid future audits.”\(^3\)

Later in the meeting, County staff acknowledged that police currently have no identified use for the $6.5 million dollars that was re-allocated to “Public Safety,” stating that they will use the funding at a later date, when a need arises. Residents who testified on February 8, 2022, explicitly stated that public safety meant taking action on urgent community needs like investment in housing and investment in a COVID-19 sick pay program that is distributed to the most vulnerable and impacted communities: farmworkers and undocumented residents of Merced County.

The Board of Supervisors’ decision to let $6.5 million dollars go unused until a need arises is a decision to refuse to provide for pandemic-related community needs for which funding is available. Because communities of color are disproportionately impacted by the COVID-19 pandemic, this refusal to fund community-identified pandemic needs creates a disparate impact on communities of color. We remind the treasury of Merced County’s obligations to equitably serve all residents under Cal. Gov. Code §§ 11154, which prohibits any form of discrimination against protected classes from agencies receiving funding from the State of California, and we remind the County that it is discriminatory practice to both “deny a person the opportunity to participate in, or benefit from an aid, benefit or service” and “to provide a person with an aid, benefit or service that is not as effective in affording an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.” In summary, the Board refused to allocate SLFRF dollars to the myriad of pandemic-related community needs that residents identified in Merced County’s outreach efforts, which include premium pay for essential workers, water, sewer, and broadband infrastructure, and access to green space and walkable streets in Qualified Census Tracts within Merced County, and this refusal creates a disparate impact on communities of color in Merced County who are disproportionately impacted by the pandemic.

### III. Merced County Acknowledges that their Use of SLFRF Dollars is for Pre-Pandemic Board Priorities

The Final Rule clearly states that SLFRF dollars are for the purpose of “responding to the public health emergency or its negative economic impacts.”\(^4\) The Merced County Board of Supervisors, however, openly acknowledged during their August 8, 2021 meeting that their intention was to put 100% of their SLFRF allocation in their General Fund as revenue replacement so that they could invest the funds in pre-COVID board priorities.\(^5\) On February 8, 2022 the Board then voted to allocate the funds according to

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\(^2\) Final Rule, pg. 199: “construction of new congregate [correctional] facilities, which would generally be expected to involve expenditures greater than $1 million, would generally not be a proportional response to mitigate or prevent COVID-19.”

\(^3\) [Merced County Board of Supervisors Meeting](https://example.com), February 8, 2022. 02:57:00 time stamp.

\(^4\) § 35.6 (b), Final Rule.

\(^5\) [Merced County Board of Supervisors, August 10, 2021](https://example.com), beginning at the 2:03:38 time stamp.
their August 8, 2021 proposal, taking none of the public feedback received from their outreach process into account.

The undersigned organizations and residents are concerned about our elected officials’ lack of regard for community health and wellness, particularly in Qualified Census Tracts hit hardest by the pandemic and by disproportionate pollution burdens which the County is failing to address.

We call on the US Treasury to promptly conduct an audit of Merced County for these violations of the SLFRF guidelines and to put the County on notice that they must reallocate their ARPA funding to address the community needs that were uplifted by staff and public commenters at the February 8, 2022 hearing. Please do not hesitate to reach out to Madeline Harris at mharris@leadershipcounsel.org should you have any questions regarding this letter.

Gratefully,

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Regional Policy Manager

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Faith in the Valley

Claudia Corchado
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Patricia Ramos Anderson
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Yesenia Maldonado
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Jaquelin Tafolla
Andrea Gonzalez
Susana Madrigal
Mariana Franco
Jesus Gonzalez
Blanca Ojeda
Cecilia Rivera
Edith Cosio
Guadalupe Preciado
Liliana Prado
Christian Vazquez
Tammy Vang
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Ramón Murillo
Gabriela Salcido
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Vianka Astorga
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Mariana Meza
Charles Warren
Maria Salazar
Alexander Boadi
Freddy Sanchez
Cecilia Escobedo
Iona Cariglio
Mayra Covarrubias
Elena Gutierrez Ramirez
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Jose Ruiz Arevalos
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Joseph castillo
Ihtzely martinez
Jeanette manzo
Cindy Villalpando
Salvador MEZA
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Ahtziry Martinez Salazar
Mario Garcia
Janet Jimenez
Jasmine Soto
Crystal Garcia
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Katya Galvez
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Gloria Alexander
Tanya Tafolla
Sade Williams
Pedro Salazar
Aristeo Gonzalez
Santana Mendivil
Adriana Gonzalez
Efren Gonzalez
Marissa Gonzalez
Erica Lomeli
Lisette Garnica
Alfredo Vasquez
Thomas Metzger
Marcela Avina
Diego Pacheco
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Esmeralda Guzman-Moya
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Manveer Gill
Adriana Meza Lemus
Yessenia Hernandez
Dayanah Rosales
Lorena Molina
Patricia Zavala
Irma Sanchez
Marissa Gonzalez
Emma Ramirez
George Lano
Nayeli Penaloza-Camacho
Laurne Robinson
Rita Vega
Denisse Gonzalez
Bryan Villalpando
Luz Terrazas
Erica Gonzalez
Erika de la Torre
Nichole Santana
Raul Santana
Camila Santana
Arturo Santana Gonzalez
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Patricio Santana
Itzel Ayala
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