

Coronavirus State and Local Fiscal Recovery Funds: Interim Rule Summary

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Note: This document provides a summary of American Rescue Plan provisions relevant to cities and towns, and is intended to be strictly informational. The funding uses and restrictions provided below are expressly detailed in the [U.S. Treasury's official guidance](#) on the ARP, published May 10, 2021. This document does not offer any specific interpretation or analysis. Please consult League staff with any specific questions at arp@nclm.org.

Additionally, please note that information below is based on federal guidance, and does not account for limitations or restrictions as imposed by North Carolina state law.

FUNDING USES

Support Public Health Response

Funds can be used to meet the public health needs of those impacted by the virus and through services to address disparities in public health that have been exacerbated by the pandemic. In assessing whether a program or service is included, consider whether and how the funds would respond to the public health emergency.

Non-exclusive examples of funding use

- Services and programs to contain and mitigate the spread of COVID-19
- Services to address behavioral health needs exacerbated by the pandemic
- Payroll and covered benefits for employees providing direct COVID-19 response
- Capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospital or health clinics or adaptations to public buildings for COVID-19 mitigation tactics

Provide Premium Pay to Essential Workers

Funds can be used to provide premium pay directly to essential workers, or through grants to private employers.

Employers are both permitted and encouraged to use funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

Treasury encourages that lower-income workers be prioritized for receiving premium pay. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

Non-exclusive list of essential workers

- Staff at nursing homes, hospitals, and home-care settings
- Workers at farms, food production facilities, grocery stores, and restaurants
- Janitors and sanitation workers
- Public health and safety staff
- Truck drivers, transit staff, and warehouse workers
- Childcare workers, educators, and school staff
- Social service and human services staff

Replace Public Sector Revenue Loss

Funds can be used to provide government services to the extent of revenue loss due to the pandemic. Municipalities will need to calculate their reduction in general revenue by comparing actual revenue received since the start of the pandemic, compared to a calculation provided by Treasury of anticipated revenue in the absence of the pandemic.

Determining general revenue

Revenue loss should be calculated for all general revenue, including taxes, current charges, miscellaneous general revenue, and intergovernmental transfers between state and local government.

Treasury's definition of general revenue is based on the [Census Bureau's Annual Survey of State and Local Government Finances](#). The definitions provided by the Census Bureau are detailed below.

Taxes: Includes all taxes imposed by a government, whether the government entity collects the tax itself or relies on another government entity to serve as a collection agent. The entity who adopts the legislation or ordinance that imposes the tax is the assigned that tax revenue.

Includes refunds for taxes paid in the current or prior fiscal years are deducted from gross collections in the same year refunded. Includes taxes imposed on publicly and privately owned utilities.

Includes all taxes collected through liquor store operations, it does not include receipt from sales and associated services or products of liquor stores owned by state and local governments.

Both taxes and payments-in-lieu-of-taxes received by a government from a utility it operates are treated as an interfund transfer and are not reported as either revenue or utility expenditure.

Intergovernmental Revenue: Monies received from other government, including grants, shared taxes, contingent loans and advances, reimbursements, and shared financing of activities. This includes revenue from other governments that is used to support activities in other revenue sectors, such as utilities. Includes the transfer of federal aid through the state government to local governments.

Excludes revenue from the sale of property, commodities, and utility services to other government. This revenue is included in other revenue categories.

Excludes amounts received from other governments for support of public employee retirement or other insurance trust funds.

Current charges: Charges for providing services or sale of products in connection with general government activities. Excludes utility service charges.

Miscellaneous General Revenue: Other general revenue from the entity's own sources, excluding utility revenue, liquor store revenue, and social insurance trust revenue.

General revenue does not include utility revenue. Utility revenue is defined as receipts from sales and directly related services for water supply, electric power, gas supply, and public mass transit systems. Utility revenue includes contributions from other governments for construction of a joint utility project. The thought behind this exclusion is that public utilities typically require financial support from another government entity and all revenues generated by public utilities are typically used to support the continued operation of the public utility, rather than being a source of revenue to support general government services.

Calculating revenue loss

Treasury assumes that any reduction in revenue is due to the public health emergency. Pre-pandemic projections cannot be used to estimate revenue loss.

Treasury provides a 4-step calculation to determine the revenue loss.

Step 1: Calculate base year revenue

Municipalities should begin the calculation using the last full fiscal year prior to the public health emergency, which is considered to begin on January 27, 2020. For most municipalities, this would be FY2018 – 2019.

Step 2: Calculate counterfactual trend

The calculation assumes that municipalities would have experienced revenue growth year-over-year. Treasury provides two options for calculating revenue growth that would have been received absent the pandemic. Of the two options, municipalities should use the higher calculated counterfactual trend.

Option 1: Standard growth adjustment of 4.1 percent per year.

Option 2: Average annual revenue growth over the three full fiscal years prior to the public health emergency.

The counterfactual trend starts with the last full fiscal year prior to the COVID-19 public health emergency and then assumes growth at a constant rate in the subsequent years.

Step 3: Identify actual revenue

Total revenues that have been collected over the past twelve months as of the calculation date.

Step 4: Analyze the extent of the reduction in revenue is equal to the counterfactual revenue (Step 2) less actual revenue (Step 3). If actual revenue exceeds counterfactual revenue, there is no realized revenue loss.

Recognizing that there can be a lag in experience revenue loss, revenues can be re-calculated at four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. Municipalities may immediately calculate revenue loss experienced for the period ending on December 31, 2020 and apply funds to address any shortfall.

Non-exclusive examples of funding use

- Maintenance of infrastructure, including roads
- Building new infrastructure, including roads
- Modernization of cybersecurity, including hardware, software, and protection of critical infrastructure
- Health services
- Environmental remediation
- School or educational services
- Police, fire, and other public safety services

Funds may be used for maintenance of infrastructure or pay-go spending for building new infrastructure to the extent of the calculated reduction in revenue.

Infrastructure Spending

Spending on necessary investments in infrastructure includes projects that are required to maintain a level of service that, at a minimum, meets applicable health-based standards, considers climate change resilience, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to remotely work or attend school.

There is an interest that infrastructure projects use strong labor standards for wages and local hiring provisions to promote strong employment recovery. Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Reporting guidance and instruction will be provided at a later date.

Water and Sewer Infrastructure

The Interim Final Rule provides wide latitude for identifying highest priority investments in drinking water and sewer infrastructure. Funding can be used for privately-owned infrastructure projects. Types of eligible projects are aligned with the wide range of projects that can be supported by the Environmental Protection Agency's [Clean Water State Revolving Fund](#) (CWSRF) and [Drinking Water State Revolving Fund](#) (DWSRF).

Recipients may not use funds as a state match for the CWSRF and DWSRF due to prohibitions in utilizing federal funds as a state match in the authorizing statutes and regulations of the CWSRF and DWSRF.

Examples of drinking water infrastructure projects include building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines.

Examples of sewer infrastructure projects include constructing publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works.

Treasury encourages the use of funds for green infrastructure investments and projects to improve climate change resilience. For example, projects that respond to increased stormwater runoff, water pollution, and flooding include rain gardens and green streets. Funds can also be used to provide water infrastructure relief from a natural disaster, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Treasury is interpreting the requirement that costs be incurred by December 31, 2024 to only require that recipients have obligated the funds by such date. The period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with Fiscal Recovery Funds.

Broadband Infrastructure

Broadband investment should be made in unserved or underserved areas that lack a reliable minimum delivery speed of 25 Mbps download and 3 Mbps upload. Projects that achieve last-mile connections should be prioritized.

Projects that establish broadband infrastructure are expected to provide reliable 100 Mbps

download and upload speeds, unless prohibited by geography, topography, or excessive cost. Preference should be provided to fiber optic investments.

Funds can also be used to provide digital literacy training and promote internet access to households facing negative economic impacts due to COVID-19.

RESTRICTIONS ON FUNDING USES

Ineligible uses

- Deposit into a pension fund to reduce an accrued, unfunded liability
 - *This restriction does not apply to routine payroll contributions for employees whose wages and salaries are an eligible use of funds.*
- Interest or principal of outstanding debt
- Replenishing rainy day or other reserve funding
- Settlement or judgements
- Non-federal match for other Federal programs and grants whose statute or regulation bars the use of Federal funds to meet matching requirements

FEDERAL REPORTING REQUIREMENTS

Recipients should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

If premium pay is provided to third-party employers or contractors, there are additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided.

Financial records and supporting documents related to the award must be retained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. This includes those which demonstrate the award funds were used for eligible purposes in accordance with the ARPA, Treasury's regulations implementing those sections, and Treasury's guidance on eligible uses of funds.

Interim Reporting – Entitlement units

Entitlement units will be required to submit one interim report that includes a summary of expenditures by category.

The interim report will cover activity from the date of the award to July 31, 2021 and must be submitted to Treasury by August 31, 2021.

Non-entitlement units of local government are not required to submit an interim report. States are required to report distribution to non-entitlement units.

Quarterly Project and Expenditure Reports – Entitlement Units

Entitlement units will be required to submit quarterly project and expenditure reports that include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of award funds.

The initial interim report is due on August 31, 2021 and covers two calendar quarters from the date of award to September 30, 2021. The initial report must be submitted to Treasury by October 31, 2021.

Subsequent quarterly reports must be submitted to Treasury within 30 days after the end of each calendar quarter.

Annual Project and Expenditure Reports - Non-entitlement Units

Non-entitlement units will be required to submit annual project and expenditure reports.

The initial annual Project and Expenditure report for non-entitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

Recovery Plan Performance Reports - Entitlement Units

Entitlement units are required to submit an annual recovery plan performance report to Treasury. This report includes information on projects utilizing program funding and how the local government is planning to ensure project outcomes are achieved.

Required information includes key performance indicators identified by the local government and Treasury, programmatic data in specific eligible use categories, and specific reporting requirements

identified by Treasury. Additional guidance and instructions will be shared at a later date. If minimum information required by Treasury is included, there is flexibility in the form and content of the report.

The initial report will cover the period from the award date to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Subsequent reports will cover a 12-month period and must be submitted within 30 days after the end of the 12-month period.

Each annual Recovery Plan Performance report must be posted on the municipality's public-facing website.

Non-entitlement units are not required to develop a Recovery Plan Performance report.

MISCELLANEOUS

If assets purchased with Fiscal Recover Funds are disposed prior to December 31, 2024, the proceeds would be subject to the restrictions on the eligible use of payments.

Recipients may use funds to cover the portion of payroll and benefits of employees

corresponding to timespent on administrative work necessary due to the COVID-19 public health emergency and its negative economic impacts. This includes, but is not limited to, costs related to disbursing payments of Fiscal Recovery Funds and managing new grant programs established using Fiscal Recovery Funds.