



## Summary of Treasury Department's Guidance on ARPA State and Local Fiscal Recovery Funds

On May 17, the U.S. Department of the Treasury published [guidance](#) that governs the implementation of the *American Rescue Plan Act's* (ARPA) Coronavirus State and Local Fiscal Recovery Funds. While the Interim Final Rule becomes effective immediately, the Department will accept comments on all aspects of the proposal until July 16, 2021. ARPA provides \$350 billion in federal fiscal relief to local governments, with \$65.1 billion set aside for counties and another \$65.1 billion designated for cities. It should be noted that every county in the country will receive **direct aid** to help meet ongoing pandemic response and economic recovery needs.

All told, nearly \$7.7 billion will be allocated to California counties. (Note: Counties must formally request their allocation of recovery dollars through the [Treasury Submission Portal](#).) Counties will receive the funding in two tranches, with 50 percent provided this month and the balance distributed roughly 12 months later. Pursuant to the Treasury guidance, ***Fiscal Recovery Funds can be used to cover costs incurred beginning on March 3, 2021, and all funds must be obligated by December 31, 2024. All funds must be spent and all work completed by December 31, 2026.***

Treasury also will be making direct allocations to entitlement cities (generally those with a population over 50,000). Non-entitlement communities will receive their share of recovery dollars through the State. It should be noted that Treasury officials expect to provide further guidance on these distributions in the coming days.

Local fiscal relief funding can be used to:

- **Respond to the public health emergency and address its negative economic effects;**
- **Provide premium pay for essential workers;**
- **Replace lost public sector revenue; and,**
- **Invest in water, sewer, and broadband infrastructure.**

Within these broad expenditure categories, counties will have a great deal of flexibility to decide how best to use the funding to meet specific community needs. State and local governments will also have the option to transfer funds to a private nonprofit organization, a

public benefit corporation, a special-purpose unit of State or local government, etc. ***Under the Treasury guidelines, the recipient will remain responsible for monitoring, overseeing, and reporting on the sub-recipient's use of Fiscal Recovery Funds.***

## **RESPONDING TO THE PUBLIC HEALTH EMERGENCY** **OR ITS NEGATIVE ECONOMIC IMPACTS**

Funds under this category can help support the following programs or services. (***Note: This is not an exclusive list. The rule provides flexibility for recipients to use payments from the State and Local Fiscal Recovery Funds for programs or services that are not identified below.***)

### **COVID-19 Response and Prevention**

- COVID-19 vaccination programs and sites (staffing, acquisition of equipment or supplies, facilities costs, information technology or other administrative expenses)
- COVID-19-related expenses of public hospitals, clinics, and similar facilities
- COVID-19-related expenses in congregate living facilities
- Establishing temporary public medical facilities and other measures to increase treatment capacity
- Providing COVID-19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants
- Emergency medical response
- Establishing and operating public telemedicine capabilities
- Communication related to COVID-19 vaccination programs
- Acquisition and distribution of medical and protective supplies
- Disinfection of public areas and other facilities
- Technical assistance on mitigation of COVID-19
- Isolation or quarantining of individuals
- Providing paid sick and paid family and medical leave to public employees
- Treatment of long-term symptoms or effects of COVID-19
- Improvement of ventilation systems in congregate settings, public health facilities, or other public facilities
- Establishing or enhancing public health data systems
- Mental health treatment, substance misuse treatment, and other behavioral health services

### **Public Health and Safety Staff**

Counties will be able to use recovery fund dollars to cover payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID-19 public health emergency.



## **Rehiring State and Local Government Staff**

Funding can help fund payroll, covered benefit, and other costs associated with rehiring public sector staff up to pre-pandemic levels.

## **Assistance to Unemployed Workers**

Counties can use ARPA funds to provide assistance – including job training – for individuals who want to work, including those who have looked for work sometime in the past 12 months or those employed part-time but who want and are available for full-time work.

## **Contributions to State Unemployment Insurance Trust Funds**

Funding can be used to replenish unemployment insurance (UI) trust funds up to pre-pandemic levels.

## **Assistance to Small Businesses**

Counties will be able to provide assistance to small businesses, including loans, grants, in-kind assistance, technical assistance, and counseling programs to enable small businesses to rebound from the downturn.

## **Assistance to Nonprofit Organizations**

Counties can use funds to provide assistance to nonprofit organizations – including loans, grants, in-kind assistance, technical assistance or other services – to respond to the negative economic impacts of the COVID-19 public health emergency.

## **Assistance to Households**

Funding can be allocated to assistance programs – including job training; food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; and, cash assistance programs – that respond to the COVID-19 public health emergency.

## **Aid to Impacted Industries**

ARPA allows counties to provide aid to tourism, travel, hospitality, and other industries that have been impacted by the public health emergency.

## **Expenses to Improve Efficacy of Public Health or Economic Relief Programs**

State and Local Fiscal Recovery Funds can be used to pay for administrative costs associated with local COVID-19 public health emergency assistance programs.

## **Survivor's Benefits**

Funding can be dedicated to provide benefits for the surviving family members of individuals who have died from COVID-19. This includes cash assistance to widows, widowers, or dependents of individuals who died of COVID-19.

## **Disproportionately Impacted Populations and Communities**

Counties may use Local Recovery Funds to support programs, services, or other types of assistance provided within a Qualified Census Tract (a low-income area as designated by the Department of Housing and Urban Development) or to other households, businesses, or populations disproportionately impacted by the COVID-19 public health emergency, including:

- ***Programs or services that facilitate access to health and social services***
  - Assistance accessing or applying for public benefits or services.
  - Remediation of lead paint or other lead hazards.
  - Community violence intervention programs.
  
- ***Programs or services that address housing insecurity, lack of affordable housing, or homelessness***
  - Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless.
  - Development of affordable housing to increase the supply of affordable and high-quality living units.
  - Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity.
  
- ***Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education***
  - New or expanded early learning services, including pre-kindergarten and Head Start
  - Assistance to high-poverty school districts to advance equitable funding across districts and geographies.
  - Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students.
  
- ***Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare***
  - New or expanded childcare.
  - Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development.
  - Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

## **PROVIDING PREMIUM PAY TO ELIGIBLE WORKERS**

Counties may use ARPA funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers. Eligibility is limited to employees who must be physically present at their jobs (i.e. not performed while teleworking from a residence).

Eligible employees:

- Any employee of a state, local, or tribal government
- 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

Treasury's Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. It should be noted that premium pay would be capped at \$13 per hour (in addition to regular wages) and cannot exceed \$25,000 per employee. Furthermore, 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. In addition, employers are both permitted and encouraged to use State and Local Fiscal Recovery Funds to offer retrospective premium pay.

## **REPLACING LOST PUBLIC SECTOR REVENUE**

State and local governments that are facing budget shortfalls may use recovery funds to avoid cuts to government services or to replace lost revenue. Treasury's rule establishes a methodology that each recipient can use to calculate its reduction in revenue. For the sake of administrative convenience, the rule allows recipients to presume that any reduction in actual revenue relative to the expected trend is due to the COVID-19 public health emergency. Once a shortfall in revenue is identified, recipients will have broad latitude to use this funding to support government services.

## **INVESTING IN WATER, SEWER, AND BROADBAND INFRASTRUCTURE**

### **Water and Sewer Infrastructure**

Recipients may use Fiscal Recovery Funds to invest in necessary improvements to their water and sewer infrastructure. To help expedite these investments, Treasury's guidance aligns types of eligible projects with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving

Fund. This will allow counties to invest in an array of drinking water infrastructure projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines. Funding can also be dedicated to wastewater infrastructure, including projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.

### **Broadband Infrastructure**

ARPA provides recipients with flexibility to use State and Local Fiscal Recovery Funds to invest in broadband infrastructure. The Interim Final Rule provides that investments in broadband must be made in areas that are currently unserved or underserved (communities lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload). Recipients are also encouraged to prioritize projects that achieve last-mile connections to households and businesses. Projects generally should aim to deliver services offering reliable 100 Mbps download and 100 Mbps upload speeds, unless impracticable due to topography, geography, or financial cost. In addition, recipients are encouraged to pursue fiber optic investments. In view of the wide disparities in broadband access, assistance to households to support internet access or digital literacy is an eligible use of funds.

### **Labor Standards**

The Interim Final Rule encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.

## **INELIGIBLE USES**

ARPA specifies several ineligible uses of funds:

- States may not use ARPA Recovery Funds to directly or indirectly offset a reduction in net tax revenue due to a change in law, regulation, or administrative interpretation. If a state does cut taxes, it must demonstrate how it was paid for from sources other than State Fiscal Recovery Funds. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be paid back to the Treasury.
- No recipient may use this funding to make a deposit to a pension fund. Treasury's guidance defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, counties may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds.

- Fiscal Recovery Funds may not be used as a non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements.
- Treasury’s rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves.

## **REPORTING REQUIREMENTS**

Recovery Fund recipients will be required to submit an interim report, quarterly project and expenditure reports, and, in some cases, an annual recovery plan performance report.

### ***Interim report***

Counties will be required to submit one interim report, which will include the county’s expenditures by category at the summary level. The interim report will cover spending from the date the county receives Recovery Funds to July 31, 2021. Interim reports are due by August 31, 2021.

### ***Quarterly project and expenditure reports***

Counties will be required to submit quarterly project and expenditure reports, which will include financial data, information on contracts and sub-awards over \$50,000 and other information regarding utilization of funds. These reports will be similar to those required for the CARES Act’s Coronavirus Relief Fund. The first report – which is due October 31, 2021 – will cover spending from the date the county receives Recovery Funds to September 30, 2021.

### ***Recovery plan performance reports***

Counties will be required to submit annual recovery plan performance reports, which will include descriptions of projects funded and information on performance indicators and objectives of each award. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The first report, which is due by August 31, 2021, will cover activity from the date the county receives Recovery Funds to July 31, 2021. ***Local governments with less than 250,000 residents are not required to develop a Recovery Plan Performance Report.***

If you have any questions or comments, please feel free to contact us.

