

SUMMARY OF U.S DEPARTMENT OF TREASURY AMERICAN RESCUE PLAN ACT INTERIM FINAL RULE GUIDELINES

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This document was created to highlight the high-level applicable rules, considerations and guidance from the [U.S. Department of Treasury's Interim Final Rule](#). This brief walks through the material in the same order as it is presented in the Interim Rule.

Eligible uses of these funds were pulled from the Interim Final Rule and categorized in an '[Allowable Use Matrix](#)'. Please note, there are portions of the Interim Final Rule which do not provide specific examples or offer vague guidance and details. In the instances where no precise examples were provided, or vague direction was given, the guidance language section of the [Allowable Use Matrix](#) was left 'blank'.

Background

On March 11, 2021, the American Rescue Plan Act (“ARPA”) of 2021 was signed into law. Two signature programs of the ARPA are the Coronavirus State Fiscal Recovery Fund (“SFRF”) and the Coronavirus Local Fiscal Recovery Fund (“LFRF”). The following information is a high-level review of the Interim Final Rule issued by the U.S. Department of Treasury for these two programs on May 10, 2021. ¹

Primary Uses for ARPA Funds (Per Sec. 602(c)(1) and 603(c)(1):

Considerations: The primary difference between the two ARPA sections is that Section 602 refers to State, Territories, and Tribal Governments, and Section 603 pertains to metropolitan cities, non-entitlement units of local government, and counties. Both sections speak to the same four categories of eligible uses. (See pp. 7)

Four Categories of Eligible Uses

1. To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
3. For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and,
4. To make necessary investments in water, sewer, or broadband infrastructure. (See pp. 7)

Two Categories of Ineligible Use:

Under 602(c)(2)(B), the following are specifically ineligible:

- Depositing funds into any pension fund (See pp. 7)
- Directly or indirectly offset[ing] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation. (See pp. 7)

Under Section 603(c)(2), ineligible expenses include:

- Depositing funds into any pension fund (See pp. 7)

Use of Funds Discretion and CRF Applicability:

Considerations:

- Built into the eligible use categories is a wide amount of discretion provided to State, local and Tribal governments for determining best use of ARPA funds. (See pp. 8)
- These uses build on eligible expenditures under the CRF, including some expansions in eligible uses to respond to the public health emergency, such as vaccination campaigns (See pp. 8)

¹ [Department of the Treasury Interim Final Rule Guidelines](#)

Public Health and Economic Impacts

Rules: Determination of Whether a Program or Service is Included in Public Health/Economic Impact Category

- a. "In order to determine whether a program or service is included in the public health and economic impact category, the recipient must determine "whether and how the use would respond to the COVID- 19 public health emergency." (See pp. 10)
- b. In order to determine whether a program or service "responds to" the public health emergency, recipients must conduct a **two-pronged test**: "First, identify a need or negative impact of the COVID-19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact." (See pp. 10)

Considerations: Additional Considerations for Assessing Use under Public Health and Economic Impact

- a. "Recipients should assess the connection between the negative economic harm and the COVID-19 public health emergency, the nature and extent of that harm, and how the use of this funding would address such harm". (See pp. 11)
- b. Eligible uses listed under this section of public health build and expand upon permissible expenditures under the CRF but take into consideration the differences between ARPA and CRF. (See pp. 17)
- c. To assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID-19 on public health, "including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need." (See pp. 17)

Eligible Uses: Eligible uses found on pages 17 – 18 and in [Appendix 1: Eligible Use Matrix](#)

Responding to Public Health Impacts

Medical Expenses may include (See pp. 19):

Consideration: General Medical Expense Assessment

The near- and long-term needs may continue and therefore, State and Local governments may need to provide care and service to address these needs.

Rule/Ineligibility: Medical expenses may not serve as a State or locality's contribution of certain Federal funds (See pp. 19)

Behavioral Health Care (See pp. 19): See [Appendix 1: Eligible Use Matrix](#)

Public Health and Safety Staff

Rule: For Determining if Health and Safety Employee Time is Entirely Devoted to Mitigating or Responding to COVID-19.

"For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID-19 public health emergency." (See pp. 20)

Considerations: Assessing Health and Safety Employee Time: "Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID-19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from

supervisors or staff, or regular work product or correspondence demonstrating work on the COVID-19 response. Recipients need not routinely track staff hours.” (See pp. 19 – 20)

Eligible Expenses: For covered expenses for payroll and covered benefits see [Appendix 1: Eligible Use Matrix](#)

Eligible Uses to Address Disparities in Public Health Outcome

Rule: Regarding Presumption of Eligibility of Services for Populations in Qualified Census Tracts

There is a presumption of eligibility for services when the population served is in a Qualified Census Tract (QCT).² The most recent mapping information pertaining to QCTs can be found at: https://www.huduser.gov/portal/sadda/sadda_qct.html.

Rule: Services Addressing Health Disparities

“Services to address health disparities are presumed to be responsive to the public health impacts of the pandemic.” (See pp. 21 – 22)

Considerations: Disproportionately Impacted Populations Other Than Those in Qualified Census Tracts

If using funds for other populations disproportionately impacted by the pandemic, recipients should be able to fully support “their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations.” (See pp. 22)

Eligible Expenses: For covered expenses for payroll and covered benefits see [Appendix 1: Eligible Use Matrix](#)

Responding to Negative Economic Impacts:

Impacts on Households and Individuals:

“Rates of unemployment are particularly severe among workers of color and workers with lower levels of educational attainment... “As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential.” (See pp. 23 – 24)

Impacts on Businesses:

“The pandemic has also severely impacted many businesses, with small businesses hit especially hard.” (See pp. 26)

Impacts to State, Local, and Tribal Governments

“As noted above, State, local, and Tribal governments have faced significant revenue shortfalls and remain over 1 million jobs below their pre-pandemic staffing levels. These reductions in staffing may undermine the ability to deliver services effectively, as well as add to the number of unemployed individuals in their jurisdictions.” (See pp. 27)

Exacerbation of Pre-existing Disparities:

“The COVID-19 public health emergency may have lasting negative effects on economic outcomes, particularly in exacerbating disparities that existed prior to the pandemic.” (See pp. 27).

“Low- and moderate-income jobs make up a substantial portion of both total pandemic job losses, and jobs that require in-person frontline work, which are exposed to greater risk of contracting COVID-19.” (See pp. 27 – 28).

² Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents.

“The pandemic’s disproportionate economic impacts are also seen in Tribal communities across the country...”. (See pp. 30)

Eligible Expenses: For eligible expenses please see [Appendix 1: Eligible Use Matrix](#)

Ineligible Expenses: Include, but are not limited to:

- a. Rainy Day Fund
 - “Would not address [pandemic response and relief] needs or respond to the COVID-19 public health emergency but would rather constitute savings for future spending needs.” (See pp. 42)
- b. Payment of Interest or Principal on Outstanding Debt Instruments
 - “Fees or issuance costs associated with the issuance of new debt would also not be covered... because such costs would not themselves have been incurred to address the needs of pandemic response or its negative economic impacts.” (See pp. 42 – 43)

Premium Pay

Fiscal Recovery Funds may be used by recipients to provide premium pay to eligible essential workers during the COVID-19 public health emergency or to provide grants to third-party employers with eligible essential workers.

“...Because premium pay is intended to compensate essential workers for heightened risk due to COVID-19, it must be entirely additive to a worker’s regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker’s normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID-19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.” (See pp. 50) Where possible, the U.S. Treasury encourages recipients to prioritize providing retrospective premium pay.

- Although Treasury does require further justification for premium pay to most essential workers, it would require higher scrutiny for provision of premium pay to higher earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic.
- Eligible workers must have regular in-person interactions or regular physical handling of items that were also handled by others.

In response to essential workers’ needs, a grant to an employer may provide premium pay to eligible essential workers, as defined in the Interim Final Rule. The rule imposes some additional reporting requirements for grants to third-party employers to ensure any grants “respond to the needs of essential workers and are made in a fair and transparent manner.” (See pp. 51)

“Pursuant to Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient’s reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.” (See pp. 52)

Government Services/Revenue Loss

ARPA allows recipients facing budget shortfalls to use Fiscal Recovery Funds to avoid cuts in government services. The Interim Final Rule establishes a definition of “general revenue” for calculating a loss in revenue and provides a methodology for calculating revenue lost due to COVID-19.

General Revenue

General Revenue Definition: The term “general revenue” includes:

1. Revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services. In calculating revenue, recipients should sum across all revenue streams covered as general revenue. (See pp. 54)
2. Consistent with the Census Bureau’s definition of “general revenue from own sources,” the definition of general revenue in the Interim Final Rule would exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions. (See pp. 55)
3. The definition of general revenue also would exclude revenue generated by utilities and insurance trusts. In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity. (See pp. 55)
4. Finally, the term “general revenue” includes intergovernmental transfers between State and local governments, but excludes intergovernmental transfers from the Federal government, including Federal transfers made via a State to a local government pursuant to the CRF or as part of the Fiscal Recovery Funds. (See pp. 56)

Calculation of Loss

1. In general, recipients should compute the extent of their reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic.
2. This approach measures losses in revenue relative to the most recent fiscal year prior to the COVID-19 public health emergency by using the most recent pre-pandemic fiscal year as the starting point for estimates of revenue growth absent the pandemic.
3. To minimize the administrative burden on recipients and taking into consideration the devastating effects of the COVID-19 public health emergency, any diminution in actual revenues relative to the counterfactual pre-pandemic trend should be presumed to have been due to the COVID-19 public health emergency.
4. For purposes of measuring revenue growth in the counterfactual trend, recipients may use a growth adjustment of either 4.1 percent per year or the recipient’s average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency, whichever is higher.

Recipients are permitted to calculate the extent of reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. This approach recognizes that some recipients may experience lagged effects of the pandemic on revenues. Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services.

Government Services Inclusions: [Appendix 1: Eligible Use Matrix](#) for listing of government services inclusions.

Government Services Exclusions:

- Interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes;
- Fees or issuance costs associated with the issuance of new debt;
- Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services; and,
- Replenishing financial reserves (e.g., rainy day or other reserve funds) would not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.

Investments in Infrastructure

ARPA recognizes the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Governments have wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure.

Under 602(c)(1)(C) or 603(c)(1)(C), recipients may use funds for maintenance of infrastructure or pay-go spending for building of new infrastructure as part of the general provision of government services, to the extent of the estimated reduction in revenue due to the public health emergency.

Under 602(c)(1)(A) or 603(c)(1)(A), a general infrastructure project typically would not be considered a response to the public health emergency and its negative economic impacts unless the project responds to a specific pandemic-related public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact of the pandemic (e.g., affordable housing in a Qualified Census Tract).

The Interim Final Rule generally aligns eligible uses of the Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF). The CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health standards.

DWSRF Eligible Project: For eligible uses see [Appendix 1: Eligible Use Matrix](#)

Construction can continue past December 31, 2024, if funds have been obligated prior to that date. Projects must be completed by December 31, 2026.

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.

The National Environmental Policy Act (NEPA) does not apply to Treasury's administration of the Funds. Projects supported with payments from the Funds may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

Broadband Infrastructure

The COVID-19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

Eligible Expenses: For eligible expenses, please see [Appendix 1: Eligible Use Matrix](#)

Recipients are also encouraged to prioritize investments in fiber optic infrastructure where feasible, as such advanced technology enables the next generation of application solutions for all communities. Eligible projects are expected to focus on locations that are unserved or underserved. The Interim Final Rule treats users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering minimum speeds of at least 25 Mbps download and 3 Mbps upload. Households and businesses lacking this level of access are generally not viewed as being able to originate and receive high-quality voice, data, graphics, and video telecommunications.

Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved households and businesses, recipients are encouraged to focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections. Treasury also encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

Other Provisions

Deposit into Pension Funds

Eligible Expenses: For information on pension fund eligibility, see [Appendix 1: Eligible Use Matrix](#)

The statute provides that recipients may not use Fiscal Recovery Funds for “deposit into any pension fund.” Treasury interprets “deposit” in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the Interim Final Rule does not permit this assistance to be used to make a payment into a pension fund if both:

1. The payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and
2. The payment occurs outside the recipient’s regular timing for making such payments.

Note: Under this interpretation, a “deposit” is distinct from a “payroll contribution,” which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees’ wages and salaries. (See pp. 79)

Offset a Reduction in Net Tax Revenue

For States and territories (recipient governments), section 602(c)(2)(A)—the offset provision—prohibits the use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue resulting during the covered period. If a State or territory uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the State or territory must repay to the Treasury an amount equal to the lesser of:

- i. the amount of the applicable reduction attributable to the impermissible offset; **and**,
- ii. the amount received by the State or territory under the ARPA.

Note: A State or territory that chooses to use Fiscal Recovery Funds to offset a reduction in net tax revenue does not forfeit its entire allocation of Fiscal Recovery Funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-ARPA funding received. (See Section IV of the Supplementary Information and pp. 81)

The Interim Final Rule recognizes three sources of funds that may offset a reduction in net tax revenue other than Fiscal Recovery Funds — organic growth, increases in revenue (e.g., an increase in a tax rate), and certain cuts in spending.

ARPA uses a step-by-step process for determining whether, and the extent to which, Fiscal Recovery Funds have been used to offset a reduction in net tax revenue. Based on information reported annually by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process.
- Second, the Interim Final Rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a *de minimis* level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.
- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which they are reporting. If the recipient government’s actual tax revenue is greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.

- Fourth, if the recipient government's actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any sources of funds that have been used to permissibly offset the total value of covered tax changes other than Fiscal Recovery Funds. These are:
 - State or territory tax changes that would increase any source of general fund revenue, such as a change that would increase a tax rate; and,
 - Spending cuts in areas not being replaced by Fiscal Recovery Funds. The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that, is, how much of the tax change has not been paid for.
- Fifth, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts. This process is discussed in greater detail in Section IV of this Supplementary Information. (See pp. 83 – 84)

The Interim Final Rule includes several definitions that are applicable to the implementation of the offset provision:

Covered Change	The offset provision is triggered by a reduction in net tax revenue resulting from “a change in law, regulation, or administrative interpretation.” A covered change includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. (pp. 85)
Baseline	For purposes of measuring a reduction in net tax revenue, the Interim Final Rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline will be calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator. (pp. 86 – 87)
Reporting Year	The Interim Final Rule defines “reporting year” as a single year within the covered period, aligned to the current fiscal year of the recipient government during the covered period, for which a recipient government reports the value of covered changes and any sources of offsetting revenue increases (“in-year” value), regardless of when those changes were enacted. For the fiscal years ending in 2021 or 2025 (partial years), the term “reporting year” refers to the portion of the year falling within the covered period. (pp. 87 – 88)
Tax Revenue	The Interim Final Rule's definition of “tax revenue” is based on the Census Bureau's definition of taxes, used for its Annual Survey of State Government Finances. It provides a consistent, well-established definition with which States and territories will be familiar and is consistent with the approach taken in Section II.C of this Supplementary Information describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, regarding revenue loss. Consistent with the approach described in Section II.C of this Supplementary Information, tax revenue does not include revenue taxed and collected by a different unit of government (e.g., revenue from taxes levied by a local government and transferred to a recipient government). (pp. 88)
Framework	The Interim Final Rule provides a step-by-step framework, to be used in each reporting year, to calculate whether the offset provision applies to a State's or territory's use of Fiscal Recovery Funds includes: <ol style="list-style-type: none"> (1) Covered Changes that reduce tax revenues; (2) In excess of the de minimis; (3) Safe harbor;

- (4) Consideration of other sources of funding (consisting of two categories: (a) Tax and other increase in revenue, and
(b) Covered spending cuts; and,
(5) Identification of amounts subject to recoupment. (pp. 88)

Other Restrictions on Use (See pp. 96)

- Payments from the Fiscal Recovery Funds are subject to the provisions of 2 CFR 200
- Payments from the Fiscal Recovery Funds may not be used as non-Federal match for other Federal programs (example: Fiscal Recovery Funds may not be used for the State share of Medicaid)

Timeline for Use of Fiscal Recovery Funds (See pp. 97)

- Payments from the Fiscal Recovery Fund can only be used to cover costs incurred by December 31, 2024. Treasury is interpreting the requirement that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by that date.
 - The Interim Final Rule uses a definition of "obligation" that is based on the definition used for purposes of Uniform Guidance
- The use of Fiscal Recovery Funds is forward looking
 - The Interim Final Rule permits funds to be used to cover costs incurred beginning on March 3, 2021.
 - Recipients are not permitted to use funds to cover pre-award costs (those incurred prior to March 3, 2021)
 - The period of performance will run until December 31, 2026.

Recoupment Process (See pp. 100)

Under the ARPA, failure to comply with the restrictions on use contained in sections 602(c) and 603(c) of the Act may result in recoupment of funds.

Recoupment Process:

Identification and Notice of Violations

- Treasury will collect information regarding eligible uses on a quarterly basis and on the tax offset provision on an annual basis. If a violation is identified, Treasury will provide written notice to the recipient including an explanation of such amounts.

Request for Consideration

- A recipient may submit a request for reconsideration of any amounts identified in the notice from Treasury within 60 calendar days of receiving the notice, including the opportunity to submit additional information that supports the recipient's request.
- Treasury's decision to affirm, withdraw, or modify the notice of recoupment will be provided within 60 calendar days of the recipient's request for reconsideration.

Repayment

- Amounts subject to recoupment must be repaid within 120 calendar days of receipt of final notice of recoupment.

Payments in Tranches to Local Governments and Certain States (See pp. 102)

Local Governments

- The Secretary will make payments to local governments in two tranches, with the second being paid twelve months after the first payment.

State Governments

- The Secretary may withhold payment of up to 50% of total allocated amount to each State and territory for up to 12 months from certification date based on the unemployment rate in the State or territory as of the date of the certification.
- This threshold will result in majority of States being paid in two tranches, however, if there is an increase in their unemployment rate over a specified threshold, States and territories may receive a single payment, rather than split in two.

Fiscal Recovery Funds are not subject to the requirements of the Cash Management Improvement Act (CMIA)

Transfer (See pp. 105)

- The Statue authorizes State, territorial, and Tribal governments to transfer amounts paid from the Fiscal Recovery Funds to the following entities (subrecipients):
 - Private nonprofit organizations
 - Tribal organizations
 - Public benefit corporation involved in the transportation of passengers or cargo
 - Special-purpose districts (fire, water, sewer, mosquito abatement districts)
 - List is not exclusive
- Recipients remain responsible for monitoring and overseeing subrecipients' use of funds and activities. Recipients are also responsible for reporting to Treasury on their subrecipients' use of payments from the Funds.
- Transfers must qualify as an eligible use of Fiscal Recovery Funds by the transferor.

Non-entitlement Units of Government (NEUs) (See pp. 108)

- States and territories are required to distribute Fiscal Recovery Funds to NEUs based on population within 30 days of receipt unless granted an extension by the Secretary.
- States and territories are required to allocate funding to NEUs in the amount that bears the same proportion as the population of the NEU bears to the total population of all NEUs in the State or territory (subject to a cap).
- No additional requirements or conditions may be placed on NEUs by States and territories beyond the requirements in ARPA and Treasury's regulations and guidance.
- Distributions to NEUs may not exceed 75% of the NEU's most recent budget (as of January 27, 2020).

Reporting Schedule (See pp. 110)

Note: Treasury will provide additional guidance and instructions on reporting requirements at a later date.

Report Type	Applies to	Dates included in Report	Initial Report Due to Treasury	Subsequent Reports due to Treasury	Included in Report
Interim Report	States, Territories, Metropolitan	Date of award –	August 31, 2021	N/A	Expenditures by category at the summary level.

Report Type	Applies to	Dates included in Report	Initial Report Due to Treasury	Subsequent Reports due to Treasury	Included in Report
	Cities, Counties, Tribal Governments	July 31, 2021			<i>For States and Territories: information related to distributions to NEUs</i>
Quarterly Project and Expenditure Report	States, Territories, Metropolitan Cities, Counties, Tribal Governments	Calendar Quarter	October 31, 2021	30 days after end of each quarter through project period	Financial data, information on contracts and subawards over \$50,000, types of projects funded, other information regarding recipient's utilization of funds
Annual Project and Expenditure Report	NEUs	Annually	October 31, 2021	October 31 each year through project period	Financial data, information on contracts and subawards over \$50,000, types of projects funded, other information regarding utilization of funds
Recovery Plan Performance Report	States, Territories, Metropolitan Cities, Counties >250K residents	Annually	August 31, 2021	30 days after each 12-month period	Funded projects, plans for project outcomes to be achieved, key performance indicators, programmatic data

Executive Order 13132 - This Interim Final Rule does not have federalism implications within the meaning of the Executive Order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive Order.

The Administrative Procedure Act (APA), 5 U.S.C. 551 et seq., generally requires public notice and an opportunity for comment before a rule becomes effective. APA also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B); see also 5 U.S.C. 123 553(d)(3). (See pp. 123)

Reservation of Authority, Reporting

Extensions or Accelerations of Timing. The Secretary may extend or accelerate any deadline or compliance date of this part, including reporting requirements that implement this subpart. The Secretary may request other additional information as may be necessary or appropriate.

Use of Funds

Use of Funds. Recipient may only use funds to cover costs incurred during the period beginning March 3, 2021 and ending December 31, 2024.

Costs Incurred. A cost shall be considered to have been incurred if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

Return of Funds. A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

Interim Final Rule: The Interim final Rule being issued without advance notice and public comment to allow for immediate implementation of the program. (5 U.S.C. 553(a)(2)). Although Interim Final Rule is effective

immediately, comments are being solicited from the public and government agencies. These comments must be submitted on or before 60 days from date of publication or by July 10, 2021.

Appendix 1: Allowable Use Matrix

There may be other uses not listed on this matrix. This matrix only lists those uses explicitly spelled out by Treasury and only includes category and guidance language if specifically included in the Interim Final Rule. Please refer to ineligible uses, the original text, and the FAQs for further clarification.

Category	Subcategory	Guidance Language
COVID-19 Response and Prevention		
Healthcare		Expenses related to COVID-19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses
Healthcare	Communication	Expenses for communication related to COVID-19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID-19
Healthcare	Congregate Care Facilities	COVID-19-related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities
Healthcare	Data Systems	Expenses related to establishing or enhancing public health data systems
Healthcare	Disinfection	Expenses for disinfection of public areas and other facilities in response to the COVID-19 public health emergency
Healthcare	Emergency Medical Response	Emergency medical response expenses, including emergency medical transportation, related to COVID-19
Healthcare	Healthcare Access Vulnerable Populations	Support for vulnerable populations to access medical or public health services
Healthcare	Healthcare Capacity	Enhancement to health care capacity, including through alternative care facilities
Healthcare	Long-term care	Expenses for treatment of the long-term symptoms or effects of COVID-19, including post-intensive care syndrome
Healthcare	Medical Facilities	Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs
Healthcare	Medical Supplies and PPE	Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment (PPE)
Healthcare	Mental and Behavioral Health	Mental health treatment, substance misuse treatment, and other behavioral health services

Category	Subcategory	Guidance Language
Healthcare	Monitoring and Contact Tracing	Costs of providing COVID-19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants
Healthcare	Paid leave	Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions
Healthcare	Public Health Enforcement	Enforcement of public health orders
Healthcare	Public Hospitals, Clinics	COVID-19-related expenses of public hospitals, clinics, and similar facilities
Healthcare	Quarantine and Isolation	Expenses for quarantining or isolation of individuals
Healthcare	TA Support	Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety
Healthcare	Telemedicine	Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment
Healthcare	Ventilation Systems	Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities
Medical Expenses		
Healthcare	Behavioral Health Services	
Healthcare	Crisis Intervention	
Healthcare	Hotlines and Warmlines	
Healthcare	Infectious Disease Prevention	
Healthcare	Mental Health Treatment	
Healthcare	Overdose Prevention	
Healthcare	Services or Outreach	Services or outreach to promote access to physical or behavioral health primary care and preventative medicine
Healthcare	Substance Misuse Treatment	
Payroll and Covered Benefits		
Payroll and Benefits	Public Safety	

Category	Subcategory	Guidance Language
Payroll and Benefits	Public Health	
Payroll and Benefits	Healthcare	
Payroll and Benefits	Human Services	
Payroll and Benefits	Similar Employees	To the extent that their services are devoted to mitigating or responding to the COVID-19 public health emergency
Benefits	Leave	All types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty)
Benefits	Insurance	Employee Insurance (health, life, dental, vision)
Benefits	Retirement	Pensions, 401k, unemployment benefit plans (federal and state)
Benefits	Workers Compensation	
Benefits	FICA	Including Social Security and Medicare taxes
Healthcare Programs		
Healthcare Outcomes	Benefits Navigators	Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services
Healthcare Outcomes	Community Health Workers	Funding community health workers to help community members access health services and services to address the social determinants of health
Healthcare Outcomes	Community Violence	Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic
Healthcare Outcomes	Housing	Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness
Healthcare Outcomes	Lead-Based Paint	Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children
Healthcare	Planning and Execution	Planning and analysis to improve programs addressing COVID-19 including: consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis
Negative Economic Impact		
Healthcare	Children	Promoting healthy childhood environments
Education	Education	Addressing educational disparities
Unemployment and Jobs	Government Employees	Rehiring State, local, and Tribal Government staff

Category	Subcategory	Guidance Language
Stronger Communities	Housing and Business	Building stronger communities through investments in housing and neighborhoods
Other	Impacted Industry	Aid to impacted industries
Direct Assistance	Individuals	Assistance to households
Other	Other	These would not be within the scope of this allowable use category, although may be allowable “under other eligible use categories” and their criteria: a) Responds to a specific pandemic public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact (e.g., affordable housing in a QTC); b) Provides government services broadly to the extent of their reduction in revenue; c) Expends in “infrastructure if it is ‘necessary’ and in water, sewer, or broadband”
Unemployment and Jobs	Programs	Expenses to improve efficacy of economic relief programs
Unemployment and Jobs	Small Businesses/ Nonprofits	Small businesses and nonprofits
Unemployment and Jobs	Unemployment Insurance	Assistance to unemployed workers, state unemployment insurance trust funds
Premium Pay		
Premium Pay		Compensate essential workers for heightened risk due to COVID-19 and must be entirely additive to a worker’s regular rate of wages and other remuneration. Premium pay may not be used to reduce or substitute for a worker’s normal earnings. This may be, and is encouraged to, be provided retrospectively.
Government Services (Inclusions)		
Infrastructure		Maintenance or pay-go funded building of infrastructure, including roads
IT		Modernization of cybersecurity, including hardware
Healthcare		Health services
Environment		Environmental remediation
Education		School or educational services
Public Safety		The provision of police, fire, and other public safety measures

Category	Subcategory	Guidance Language
Drinking Water State Revolving Fund		
Infrastructure	Storage	Storage, consolidation, and new systems development
Infrastructure	Water Rehabilitation	Source rehabilitation and decontamination
Infrastructure	Water Treatment	Treatment, transmission and distribution (including lead service line replacement); energy efficiency measures for publicly-owned treatment works
EPA Clean Water State Revolving Fund		
Infrastructure	Decentralized Water	Construction, improvements, or repairs to decentralized wastewater treatment systems, stormwater systems
Infrastructure	Treatment Facilities	Construction of publicly-owned treatment works, nonpoint source pollution management, national estuary program projects
Infrastructure	Other	Create green infrastructure, water conservation, efficiency, and reuse measures, watershed pilot projects, water reuse projects, security measures at publicly-owned treatment works, and technical assistance to ensure compliance with the Clean Water Act
Infrastructure	Pollution	Control non-point sources of pollution, protect waterbodies from pollution
Infrastructure	Reliance	Improve resilience of infrastructure to severe weather events
Infrastructure	Stormwater	Stormwater systems
Broadband		
Infrastructure	Broadband	Provide services meeting adequate speeds and are provided to unserved and underserved households and businesses
Infrastructure	Broadband	Provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. The Interim Final Rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.
Infrastructure	Broadband	Requires eligible projects to reliably deliver minimum speeds of 100 Mbps download and 100 Mbps upload. In cases where it is impracticable due to geography, topography, or financial cost to meet those standards, projects must reliably deliver at least 100 Mbps download speed, at least 20 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

Category	Subcategory	Guidance Language
Loss of Revenue		
Government Services		<ul style="list-style-type: none"> ○ Recalculating Revenue Loss: recipients have the option to recalculate revenue loss on an ongoing basis throughout the program. ○ Calculating Revenue Loss: Recipients will look at general revenue in the aggregate, rather than on a source-by-source basis.