

American Rescue Plan

*Helping NYS Counties Learn More about the
Coronavirus State and Local Fiscal Recovery Funds*

May 24, 2021

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A professional portrait of Dave Lucas, a middle-aged man with glasses, wearing a dark blue suit, a light blue striped shirt, and a red and white checkered tie. He is standing outdoors, leaning against a light-colored stone wall. The background is slightly blurred, showing architectural details of a building.

Dave Lucas

Director, Finance &
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Presentation Format

- Technical Components ~ 45-50 mins
- Approach Considerations ~ 10-15 mins
- Questions and Answers ~ 10-15 mins

Coronavirus State and Local Fiscal Recovery Funds

- Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and its economic impacts through four categories of eligible uses
- Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities, nonentitlement units of local government, and counties

How may the funds be used if not related to revenue loss?

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**
4. To make necessary investments in water, sewer, or broadband infrastructure

Revenue Loss

- Recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency
 - State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same period 2019
 - Nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in general fund revenues in their fiscal year 2021
- Allow recipients facing budget shortfalls to use payments from the Fiscal Recovery Funds to avoid cuts to government services and, thus, enable State, local, and Tribal governments to continue to provide valuable services

Revenue Loss: General Revenue Definition

- Interim Final Rule implements these provisions by establishing a definition of “general revenue” for purposes of calculating a loss in revenue
 - Based largely on the components reported under “General Revenue from Own Sources” in the Census Bureau’s Annual Survey of State and Local Government Finances
 - Include revenues collected by a recipient and generated from its underlying economy and capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services
 - Recipients should sum across all revenue streams covered as general revenue
 - Exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions
 - Exclude revenue generated by utilities and insurance trusts

Revenue Loss: General Revenue Definition

- Based largely on the components reported under “General Revenue from Own Sources” in the Census Bureau’s Annual Survey of State and Local Government Finances (cont)
 - 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
 - For purposes of measuring loss in general revenue due to the COVID-19 public health emergency and to better allow continued provision of government services, **the retention and ability to use the revenue is a more critical factor**
 - General revenue would include intergovernmental transfers from States or local governments other than funds transferred pursuant to ARPA, CRF, or another Federal program

Revenue Loss: Guidance

- 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
 - Example: Public utilities typically require financial support from the State, local, or Tribal government, rather than providing revenue to such government, and any revenue that is generated by public utilities typically is used to support the public utility's continued operation, rather than being used as a source of revenue to support government services generally

Calculation of Revenue Loss

- Recipients will compute the extent of the 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
 - Any diminution in actual revenues relative to the counterfactual pre-pandemic trend would be presumed to have been due to the COVID-19 public health emergency
 - Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023.

Calculation of Revenue Loss

Step 1: Identify the Base Year - revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020)

Step 2: Estimate Counterfactual Revenue = $\text{Base year revenue} * [(1 + \text{growth adjustment})^{n/12}]$

- n is the number of months elapsed since the end of the base year to the calculation date
- Growth adjustment is the greater of 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

Step 3: Identify *actual revenue*, which equals revenues collected over the past twelve months as of the calculation date.

Step 4: Revenue loss is equal to *counterfactual revenue* less *actual revenue*.

Calculation of Revenue Loss: Example

Example: Base year revenue is 100, growth adjustment is 4.1%, and year ends June 30th

$$\text{Counterfactual Revenue} = \text{Base year revenue} * [(1 + \text{growth adjustment}) ^{n/12}]$$

	12/31/2020	12/31/21	12/31/22	12/31/2023
Step 1: Base Year Revenue	100	100	100	100
Step 2: 1+Growth Adjustment X (n/12)	100 * (1+ 4.1%) ^ 18/12 = 106.2	100 * (1+ 4.1%) ^ 30/12= 110.06	100 * (1+ 4.1%) ^ 30/12=115.1	100 * (1+ 4.1%) ^ 30/12=119.8
Step 3: Actual Revenue	80	TBD	TBD	TBD
Step 4: Revenue Loss	26.2	TBD	TBD	TBD

Revenue Loss Uses

- Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services
- Government services can include, but are not limited to
 - maintenance or pay-go funded building of infrastructure including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure
 - health services
 - environmental remediation
 - school or educational services
 - and the provision of police, fire, and other public safety services

Revenue Loss Cannot be used

- Revenue loss **cannot be used** on
 - Expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money
 - Interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or 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
 - Replenishing financial reserves (e.g., rainy day or other reserve funds)

How may the funds be used if not related to revenue loss?

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
4. To make necessary investments in water, sewer, or broadband infrastructure

Respond to the public health emergency or its negative economic impacts

- Assess whether a program or services “responds to” the COVID-19 public health emergency
 1. Identify a need or negative impact of the COVID 19 public health emergency
 2. Identify how the program, service, or other intervention addresses the identified need or impact
- While eligible uses provide flexibility to recipients to identify most pressing local needs, Treasury does encourage recipients to provide assistance to these households, businesses, and nonprofits in communities most disproportionately impacted by the pandemic
 - Explore: What data do I have in the County or City to help assess who was disproportionately impacted? COVID tracking data, Sales and Use Tax, Real Estate Taxes, Unemployment, etc

Respond to the public health emergency or its negative economic impacts

COVID-19 Mitigation and Prevention:

1. Vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants) enforcement of public health orders; public communication efforts;
2. Enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools

Respond to the public health emergency or its negative economic impacts

COVID-19 Mitigation and Prevention (cont):

3. Ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses.
4. Capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics

Respond to the public health emergency or its negative economic impacts

Medical Expenses

- State and local governments may need to continue to provide care and services to address these near-and longer-term needs

Behavioral Health Care

- Include mental health treatment, substance misuse treatment, other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine

Respond to the public health emergency or its negative economic impacts

Public Health and Safety Staff

- Payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID–19 public health emergency
 - 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, is primarily dedicated to responding to the COVID-19 public health emergency
 - Recipients may consider other presumptions for assessing the extent an employee or division is engaged in the COVID 19 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.

Respond to the public health emergency or its negative economic impacts

Expenses to Improve the Design and Execution of Health and Public Health Programs

- Engage in planning and analysis in order to improve programs addressing the COVID19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis

Respond to the public health emergency or its negative economic impacts

Treasury will presume the following are eligible uses under this category IF provided in a Qualified Census Tract

- Funding community health workers to help community members access health services and services to address the social determinants of health
- Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services
- Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness
- Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children
- Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic

Qualified Census Tract: Nonmetropolitan

NONMETROPOLITAN PART OF STATE: New York

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cattaraugus County	9403.00	9617.00				
Cayuga County	421.00					
Chautauqua County	301.00	302.00	303.00	305.00	306.00	354.00
Chenango County	9704.00					
Clinton County	1013.00	1022.00				
Columbia County	12.00	13.00				
Cortland County	9706.00	9707.00	9709.00			
Delaware County	9706.00					
Franklin County	9505.01					
Fulton County	9707.00	9708.00	9711.00			
Genesee County	9401.00	9507.00	9510.00			
Greene County	810.00					
Montgomery County	702.00	703.00	706.00	708.00	709.00	724.00
Otsego County	5910.00	5911.00				
St. Lawrence County	4903.00	4909.00	4918.00	4927.00	4929.00	
Steuben County	9609.00					
Sullivan County	9507.00	9509.00	9518.00			

<https://www.huduser.gov/portal/Datasets/qct/QCT2021NM.PDF>

Qualified Census Tract: Metropolitan Area

METROPOLITAN AREA: Rochester, NY MSA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Livingston County	304.00	309.00										
Monroe County	2.00	7.00	13.00	15.00	18.00	19.00	21.00	22.00	23.00	24.00	27.00	30.00
	32.00	33.00	38.05	39.00	40.00	41.00	46.02	47.01	47.02	48.00	49.00	50.00
	51.00	52.00	53.00	54.00	55.00	56.00	57.00	58.00	59.00	63.00	64.00	65.00
	66.00	67.00	68.00	69.00	70.00	71.00	75.00	79.00	80.00	81.00	82.00	83.01
	84.00	85.00	87.01	87.02	88.00	92.00	93.01	93.02	94.00	95.00	96.01	96.02
	96.03	96.04	116.03	130.01	131.03	131.04	153.04					
Ontario County	517.00	518.00										
Wayne County	212.00											

METROPOLITAN AREA: Albany-Schenectady-Troy, NY MSA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Albany County	1.00	2.00	3.00	5.01	6.00	7.00	8.00	11.00	15.00	16.00	20.00	23.00
	25.00	26.00	128.00	129.00	132.00							
Rensselaer County	401.00	402.00	403.00	404.00	405.00	406.00	407.00	409.00	410.00	515.00		
Saratoga County	602.00	604.00	622.00									
Schenectady County	202.00	203.00	207.00	208.00	209.00	210.01	210.02	214.00	215.00	217.00		

METROPOLITAN AREA: Albuquerque, NM MSA

METROPOLITAN AREA: Buffalo-Cheektowaga-Niagara Falls, NY MSA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Erie County	2.00	5.00	11.00	14.02	15.00	16.00	17.00	23.00	24.00	25.02	27.02	28.00
	29.00	30.00	31.00	33.01	33.02	34.00	35.00	36.00	37.00	38.00	39.01	40.01
	41.00	42.00	44.01	44.02	47.00	52.02	53.00	55.00	56.00	57.00	58.01	58.02
	59.00	61.00	67.02	69.01	69.02	70.00	71.01	71.02	83.00	84.00	91.12	91.15
	101.02	104.00	123.00	124.00	163.00	164.00	166.00	168.00	170.00	171.00	174.00	9400.00
Niagara County	202.00	204.00	205.00	206.00	207.00	209.00	210.00	211.00	212.00	213.00	214.00	217.00
	220.00	235.00	237.00	9400.01								

Respond to the public health emergency or **its negative economic impacts**

Assistance to Households

- Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance; emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training
 - Must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic
 - Recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low-or moderate-income experienced negative economic impacts resulting from the pandemic
 - May consider and take guidance from the per person amounts previously provided by the Federal government in response to the COVID-19 crisis (\$1,200 individual, \$2,400 MFJ and up to \$500 for qualifying children coupled with an AGI limitation)
 - A recipient could provide survivor's benefits to surviving family members of COVID-19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID-19 victims.

Respond to the public health emergency or its **negative economic impacts**

Rehiring State, Local, and Tribal Government Staff

Includes as an eligible use payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government

- Consider the impact on on-going budget

Expenses to Improve Efficacy of Economic Relief Programs

- May use payments from the Fiscal Recovery Funds to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations

Respond to the public health emergency or **its negative economic impacts**

Small Businesses and Non-profits

May provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency *and should respond to negative economic impacts*

- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs
- Technical assistance, counseling, or other services to assist with business planning needs

Respond to the public health emergency or **its negative economic impacts**

Small Businesses and Non-profits

May provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency *and should respond to negative economic impacts*

- businesses facing financial insecurity
- substantial declines in gross receipts (e.g., comparable to measures used to assess eligibility for the Paycheck Protection Program)
- businesses with less capacity to weather financial hardship (small businesses)
- those with less access to credit
- those serving disadvantaged communities

Recipients should consider local economic conditions and **business data** when establishing such criteria

Respond to the public health emergency or its **negative economic impacts**

Aid to Impacted Industries

- Aid may include assistance to implement COVID-19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services
- Examples include improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.
- May provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID19 public health emergency, *as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic*
- When considering providing aid to industries other than tourism, travel, and hospitality, recipients **should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute**
 - Leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide
 - Impact should not be associated with longer-term economic or industrial trends unrelated to the pandemic.

Respond to the public health emergency or **its negative economic impacts**

Treasury will presume that certain types of services are eligible uses when provided in a QCT, to families and individuals living in QCTs

Building Stronger Communities through Investments in Housing and Neighborhoods

- Address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals
- Affordable housing development to increase supply of affordable and high-quality living units
- Housing vouchers, residential counseling, or housing navigation assistance

Addressing Educational Disparities

- New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services (closely monitor the American Families Plan)
- Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies
- Evidence-based educational services including tutoring, summer, afterschool, and other extended learning and enrichment programs
- Evidence-based practices to address the social, emotional, and mental health needs of students

Respond to the public health emergency or its **negative economic impacts**

Treasury will presume that certain types of services are eligible uses when provided in a QCT, to families and individuals living in QCTs

Promoting Healthy Childhood Environments

- New or expanded high-quality childcare to provide safe and supportive care for children
- Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development
- Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges

Respond to the public health emergency or **its negative economic impacts**

- **Think of federal plans as potential to mimic:**
 - Gross Receipts decline less any PPP funding
 - Is there a priority of funding for small business, minority groups, certain locations, etc
 - Include how you will reach and communicate with your target population
- **Further explore how you can supplement the county/city investment for maximum impact?**
 - New York State funding sources as well: Enacted Budget includes a \$1 Billion small business, arts, entertainment and restaurant relief package to help businesses and other organizations recover from the impacts of the pandemic
 - Federal Incentives: Qualified Opportunity Zones, Low Income Housing Tax Credit, Work Opportunity Tax Credits

Can view the designated tracks in New York by clicking on the following link:
<https://esd.ny.gov/sites/default/files/FINAL-Recommendations-OZ-42618.pdf>

Respond to the public health emergency or its **negative economic impacts**

Uses that do NOT fall under this Category

1. A general infrastructure project, typically would not be included unless the project responded to a specific pandemic public health need or affordable housing in a QCT
2. Contributions to rainy day funds, financial reserves, or similar funds.
3. Payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs
 - Fees or issuance costs associated with the issuance of new debt would also not be covered using payments

Respond to the public health emergency or its **negative economic impacts**

Small Businesses and Non-profits

Reporting requirements:

- State, local, and Tribal governments publicly report assistance provided to private-sector businesses under this eligible use
- 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.

How may the funds be used?

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;**
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4. To make necessary investments in water, sewer, or broadband infrastructure

Premium Pay

Allows recipients to remunerate essential workers for the elevated health risks they have faced and continue to face during the public health emergency

- Eligible worker is defined as “those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State .. may designate as critical to protect the health and well-being of the residents of their State...”
- Worker would not be engaged in essential work for telework performed from a residence

Premium pay to mean an amount up to \$13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed \$25,000 per eligible worker

- Any premium pay should prioritize compensation of those lower income eligible workers that perform essential work
- It must be entirely additive to a worker’s regular rate of wages and may not be used to reduce or substitute for a worker’s normal earnings
- Essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

Premium Pay Industry and Worker Examples

Industries recognized as essential critical infrastructure sectors:

- Healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services

Workers Specifically identified:

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

Premium Pay: Maximum Amount Before Written Justification

If premium pay would increase a worker's total pay above 150 percent of their residing state's average annual wage for all occupations (the higher residing state average annual wage or residing county average annual wage) **government must provide Treasury and make publicly available, a written justification of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency**

Annual Mean Wage	150%
NYS: \$67,850	\$101,775
Albany County: \$79,040	\$118,560

Premium Pay Reporting Requirements

Reporting Requirements:

- Imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided
- If a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers

How may the funds be used?

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;
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4. **To make necessary investments in water, sewer, or broadband infrastructure**

Investments in water, sewer, or broadband infrastructure

- Investments in water, sewer, or broadband infrastructure should be carried out in ways that produce ***high-quality infrastructure, avert disruptive and costly delays, and promote efficiency***
 - Encourages use of 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
 - Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds

Investments in water, sewer, or broadband infrastructure

- Interim Final Rule provides these governments with 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***
 - Aligns eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the EPA's Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF)

Investments in water, sewer, or broadband infrastructure

- **Clean Water State Revolving Fund (CWSRF)**
 - 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
- **Drinking Water State Revolving Fund (DWSRF)**
 - Assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems

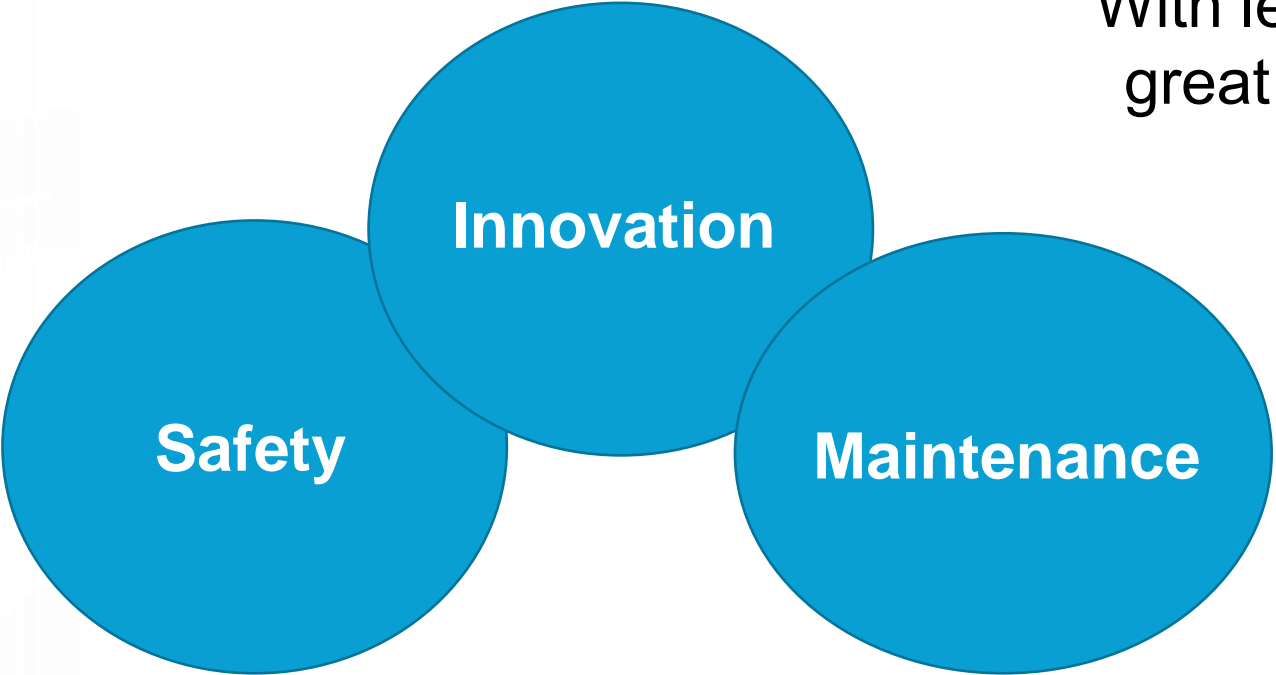
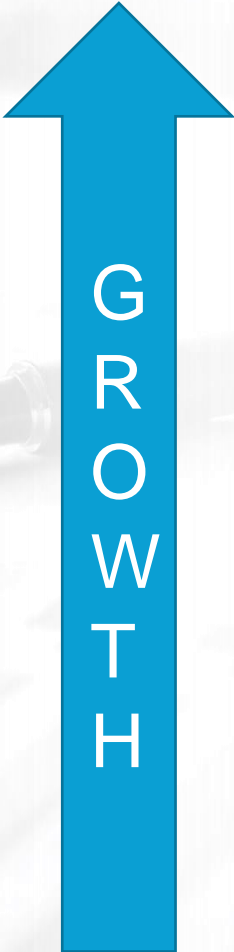
Investments in water, sewer, or broadband infrastructure

- Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change
 - Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces
 - Recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Investments in water, sewer, or broadband infrastructure

- Eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to *unserved and underserved households and businesses*
 - Provides flexibility to identify the specific locations within their communities to be served and to otherwise design the project
 - users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload
 - Eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps

“With leadership comes great responsibility.”



Restrictions on Use

- Section 602(c)(2)(A) of the Act provides that States and territories may not “use the funds ... to either directly or indirectly **offset a reduction in ... net tax revenue** ... resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax ... or delays the imposition of any tax or tax increase.
- It would appear based on the American Rescue Plan and Interim Final Guidance that **the inability to use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue refers **only to States and Territories****

Restrictions on Use

- Sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient from using Fiscal Recovery Funds for deposit into any pension fund.
- Also subject to pre-existing limitations provided in other Federal statutes and regulations and may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements.
 - For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.

Timeline for Use of Fiscal Recovery Funds

- Fiscal Recovery Funds be used only to cover costs *incurred* by the State, territory, Tribal government, or local government *by December 31, 2024*.
 - ARPA expressly permits the use of Fiscal Recovery Funds for improvements to water, sewer, and broadband infrastructure, which entail a longer timeframe
 - Treasury interprets the incurred requirement that recipients have obligated the Fiscal Recovery Funds by such date
 - Definition of “obligation” that is based on the definition used for purposes of the Uniform Guidance, which will allow for uniform administration of this requirement

Timeline for Use of Fiscal Recovery Funds

- The Interim Final Rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021
- As set forth in the award terms, the period of performance will run until **December 31, 2026**, which will provide recipients a reasonable amount of time to complete projects funded with payments from the Fiscal Recovery Funds

Transfer

- The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities
 - May transfer funds to a “private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government.”
 - Interim Final Rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute

Transfer

- A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding.
- The recipient remains responsible for of Fiscal Recovery Funds and other activities related to the ***monitoring and overseeing the subrecipient's use*** award to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. ***Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the Fiscal Recovery Funds for the duration of the award.***

Transfer

- Must qualify as an eligible use of Fiscal Recovery Funds by the transferor
 - The transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance
 - If a county transferred Fiscal Recovery Funds to a town within its borders to respond to the COVID-19 public health emergency, the town would be bound by the eligible use requirements applicable to the county in carrying out the county's goal
 - County A may not transfer Fiscal Recovery Funds to county B for use in county B because such a transfer would not, from the perspective of the transferor (county A), be an eligible use in county A
 - Section 603(c)(4) separately provides for transfers by a local government to its State or territory.

Reporting

- Required to submit **one interim report** and thereafter quarterly Project and Expenditure reports through the end of the award period on December 31, 2026
 - Include a recipient's expenditures by category at the summary level from the date of award to July 31, 2021
 - Must submit their interim report to Treasury by **August 31, 2021**

Reporting

- Required to submit one interim report and thereafter **quarterly Project and Expenditure reports** through the end of the award period on December 31, 2026
 - Quarterly reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds
 - Include the same general data (e.g., on obligations, expenditures, contracts, grants, and sub-awards) as those submitted by recipients of the CRF with some modifications
 - Updates to the expenditure categories and the addition of data elements related to specific eligible uses
 - Initial quarterly report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by **October 31, 2021**
 - Subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter

Reporting

- States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury
 - Provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner
 - Include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as programmatic data in specific eligible use categories and the specific reporting requirements
 - Initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by **August 31, 2021**
 - The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022
 - Recovery Plan Performance report must be posted on the public-facing website of the recipient

Reporting

**Funding Received
May 2021**

**First Quarterly Report
Due October 31, 2021**

Covered Period: Date funds received through September 30th

**Second Quarterly Report
Due January 31, 2022**

Covered Period: September 30th through December 31st

**Third Quarterly Report
Due April 30, 2022**

Covered Period: January 1st through March 31st

**Fourth Quarterly Report
Due July 31, 2022**

Covered Period: April 1st through June 30

**Interim Report Due to
Treasury August 31, 2021**
including recipient's expenditures by category at the summary level from the date of award

**If Residents exceed 250,000:
Recovery Plan Performance
Report due August 31, 2021**

Covered Period: Date funds received through July 31st

**If Residents exceed 250,000:
Second Recovery Plan
Performance Report due
July 31, 2022**

Covered Period: Date funds received through July 1, 2021 through June 30, 2022

Approach Considerations

- “Fast and Furious” Approach

Spend the money as quickly as possible and leave nothing on the table for future years. Takes advantage of the one-time nature of the funding and possibly clean up the deferred project backlog. Reduce the future burden from a reporting and management perspective.

- “Harry Potter” Approach

Sorcery and Wizardry abound with many creative and interesting ways to interpret and apply the Treasury Guidance. Document thoroughly with data and assessments. Can complement the “Slow and Steady Approach”.

- “The Bucket List” Approach

Let’s do everything we’ve ever wanted to do since we don’t know how long we’ve got or how long this will last. Takes advantage of the one-time nature of the funding and possibly clean up the deferred project backlog (subject to rules of course). Could be used in conjunction with “Fast and Furious”.

- “Slow and Steady” Approach

Requires a clear vision, understanding of social and economic needs in your county, and how they can be aligned with other federal, state and city initiatives.

Internal Tracking Considerations

- **General Fund** – funding and activity could be accounted or here, using unique GL identifiers to isolate the revenues and expenditures related to this funding.
- **Special Revenue Fund** – creating a funding specifically to account for this revenue and the related spending associated with these funds.
- **Separate bank account** – While not required, the use of a separate bank account will help ensure the use of this money is deliberate and transparent. Support for movements into and out of the bank account should be maintained and include any necessary approvals, etc.
- **Compliance** – Have a plan with how you will ensure the guidelines are followed. Things will be constantly changing and moving if history has shown us anything. Could be internal personnel or third-party consultants. Ensure these funds follow all procurement rules and regulations or is built into the requisition process.
- **Single Audit Needs** – will need to ensure spending is tracked for reporting at year-end for single audit purposes. These are federal funds subject to Uniform Guidance.



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