



PRESENTED BY THE NATIONAL ASSOCIATION OF COUNTIES

OVERVIEW OF U.S. TREASURY FINAL RULE FOR ARPA FISCAL RECOVERY FUND



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Legislative Director
NYSAC



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CMA is an independent municipal advisor that provides advice on the issuance of bonds, notes and leases to counties across New York State. The firm's Strategic Consulting Group prepares multi-year financial plans, performs budget analysis, and provides guidance to clients receiving funding through the American Rescue Plan Act.

A portrait of Eryn Hurley, a woman with long dark hair, smiling. The portrait is set against a blue circular background with a white border.

Eryn Hurley

Director of
Government Affairs
& Federal
Fellowship Initiative
NACo

TOP 10 HIGHLIGHTS OF RECOVERY FUND FINAL RULE

1. Final Rule went into effect on April 1, 2022
2. Allows counties to use up to \$10 million standard allowance, or an enhanced 5.2% growth factor under Treasury's formula, as *revenue loss* for the provision of general government services
3. Clarifies eligible use of funds for capital expenditures and requires written justification for projects above \$1M cost
4. Presumes certain populations were “impacted” and “disproportionately impacted” by the pandemic and therefore are eligible to receive a broad range of services and support – *designed to minimize administrative burden*
5. Streamlines options for premium pay by broadening the share of eligible workers who can receive premium pay
6. Authorizes re-hiring of local government staff, either at or above pre-pandemic levels
7. Allows Recovery Funds to be used for modernization of cybersecurity, including hardware and software, and expands broadband infrastructure invests
8. Broadens water and sewer projects to include storm water, culvert repair, dam and reservoir rehabilitation
9. Recovery Funds may be deposited into interest-bearing accounts, with earned interest allowed for general county use
10. Recovery Funds shall comply with federal “Uniform Guidance” or 2 CRF Part 200

PROCESS TO RECEIVE ARPA SECOND TRANCHE FUNDING

- Second tranche payment being made no earlier than 12 months after the first payment
- Counties will be able to access portal for 30-days prior to their second tranche payment
- Treasury will notify counties when they can enter the portal – Assigned POC, who registered with [ID.me](https://www.id.me), will receive the email
 - Any changes need to be sent to COVIDReliefITSupport@treasury.gov with the subject line “Entity Name – Update to Designated Individuals”
- Counties must have an active [SAM.gov](https://sam.gov) entity registration to receive second tranche (renew every 12-months)
- On **April 2022**, the federal government changed service providers and stopped using the DUNS Number and began using the Unique Entity ID (UEI) in SAM.gov to identify entities
 - In some instances, a county will be required to adopt a UEI prior to receiving its second tranche payment

**Counties must have
active SAM.gov
registration & new
UEI, in some cases,
to receive second
tranche payments**

UPDATED REPORTING & COMPLIANCE REQUIREMENTS

NEW AS OF JUNE 10, 2022 & REQUIRED FOR JULY 31, 2022 REPORTING

1. **Additional programmatic data for capital expenditures:** Counties need to report the type of expenditure based on a list of enumerated uses for capital expenditures (i.e. vaccination sites, job and workforce training centers, and public health data systems)
2. **Written justification for capital expenditures:** Counties are required to provide a written justification for capital projects of any category that cost at least \$10 million and for projects in the “other” category that cost at least \$1 million
3. **Description of labor requirements for capital expenditures:** For projects that cost at least \$10 million, counties will need to report on the strength of the project’s labor standards, including information on the presence of a project labor agreement, community benefits agreement, prevailing wage requirement, or local hiring
4. **Project information for broadband projects:** Counties need to report what kind of technology is involved in the project (i.e., fiber optic cables), the total miles of fiber deployed over the project, and the total number of funded locations served broken out by both speed of connection and type of location (i.e., residential, business, or community)
5. **Updated template for Recovery Plan:** The updated guidance also provides a [template](#) for the Recovery Plan due for large counties on July 31, 2022, reflecting the expenditure categories and other changes made by the Final Rule.

SINGLE AUDIT ALTERNATIVE

1. If you are eligible, you should discuss this with your Auditor
2. This is an addendum to the 2021 Single Audit (SA) Compliance Supplement and the revision is Addendum 3, which includes a simplified SA process called an “Attestation” for direct recipients that are considered exempt from SA if it was not for expenditures of SLFRF funds
3. This alternative is intended to reduce the burden of a full Single Audit or Program-Specific Audit on eligible recipients and practitioners
4. This alternative applies to fiscal year audits beginning after June 30, 2020
5. Attestation would result in an auditor’s opinion on compliance which includes an assessment of two activities, specifically “activities allowed” and “unallowed/allowable cost”
6. Eligibility is limited:
 - Attestation eligibility would only apply to direct recipients either from Treasury or from the States (NEUs) receiving under \$10M in total
 - Attestation eligibility would apply to direct recipients only if other Federal award funds the recipient expended are less than \$750,000 during the recipient’s fiscal year – not including their SLFRF award funds
7. Single Audit would still apply if the recipient spends over \$750K in **ANY OTHER** federal funds
8. UG still applies to ALL expended funds, whether the recipient performs an Attestation or a SA
9. UG requires non-Federal entities that expend \$750,000 or more a year in Federal awards to have an audit conducted in accordance with the UG

FUNDAMENTALS OF REVENUE LOSS ALLOWANCE

Counties may use Recovery Funds to provide general government services, up to the amount of *revenue loss* experienced using one of two approaches. Under the Final Rule, counties may now use one of the two options:

KEY NEW FEATURES IN FINAL RULE

1. NEW STANDARD ALLOWANCE OF UP TO \$10 MILLION FOR REVENUE LOSS

A. Counties may allocate up to \$10 million of their total Recovery Fund allocation to spend on general government services

- Simplifies reporting requirements for counties using the standard \$10M standard allowance
- 2,137 counties (70%) are now eligible to invest the entirety of their Recovery Fund allocation for general gov't services

OR

B. Counties may still calculate actual revenue loss using the Treasury formula – *but must pick & stay with 1 of the 2 options*

2. IMPROVEMENTS TO TREASURY'S REVENUE LOSS FORMULA

- Revenue loss **growth rate enhanced from 4.1% to 5.2% each year** as the new standard default allowance for the formula
- General revenue now includes **utility revenue and liquor store revenue**, *at the discretion of the county*
- Counties may choose to calculate revenue loss on a **fiscal year OR calendar year** basis – *must pick & stay with 1 option*

FUNDAMENTALS OF REVENUE LOSS ALLOWANCE

Counties may use *revenue loss* for general government services up to the *revenue loss* amount, whether using the standard allowance (up to \$10 million) or the amount calculated using Treasury’s formula for each eligible year:

- Government services generally include any service traditionally provided by a government, unless Treasury has stated otherwise
- **Common examples** include, but are not limited to:
 - Construction of schools and hospital
 - Road building and maintenance, and other infrastructure
 - Health services
 - General government administration, staff and administrative facilities
 - Environmental remediation
 - Police, first responders and other public safety services (including purchase of fire trucks, police vehicles and other equipment)
 - Other general government services

RECOVERY FUNDS USED TO REPLACE “REVENUE LOSS” ARE MORE FLEXIBLE AND MAY BE USED FOR A BROAD RANGE OF GOVERNMENT SERVICES, PROGRAMS AND PROJECTS OUTSIDE OF TYPICAL ELIGIBLE USES OF RECOVERY FUNDS UNDER THE FINAL RULE. HOWEVER, REVENUE RECOUPMENT SHALL NOT BE USED FOR RAINY DAY FUNDS, DEBT SERVICES, AND EXTRAORDINARY PENSION CONTRIBUTIONS

PUBLIC HEALTH & NEGATIVE ECONOMIC IMPACTS

KEY NEW FEATURES IN FINAL RULE

1. ENUMERATED ELIGIBLE USES

- Significantly expands or clarifies presumed eligible uses, including:
 - **All categories:** Capital expenditures & applicable standards
 - **Impacted households:** Affordable housing, childcare, early learning services and services to address learning loss during the pandemic ARE ELIGIBLE in all impacted communities
 - **Disproportionately impacted households:** Certain community development and neighborhood revitalization activities are now presumed eligible for disproportionately impacted communities
 - **Disproportionately impacted small businesses:** Broader set of business supports, such as rehabilitation of storefronts and business incubators, are now presumed eligible for this category

The Final Rule
provides a list of expanded
eligible uses and defines
those impacted &
disproportionately
impacted populations that
are presumed eligible

PUBLIC HEALTH & NEGATIVE ECONOMIC IMPACTS

KEY NEW FEATURES IN FINAL RULE

2. AID TO IMPACTED INDUSTRIES

- Clarifies how to designate an impacted industry
- Clarifies eligible uses to impacted industries

3. PUBLIC SECTOR CAPACITY

- Allows re-hiring of county staff to pre-pandemic levels, OR
- Adjusted level up to 7.5% above pre-pandemic baseline
- Support for staff retention, avoiding layoffs and funds for furloughed workers

4. CAPITAL EXPENDITURES

- Eligible projects must respond to pandemic and be proportional to impact
- Required written justification for projects above \$1M expenditure

Counties may use
funds for other
aspects of health
and economic
response

RESTORE AND SUPPORT PUBLIC SECTOR CAPACITY

Counties may use Recovery Funds to restore and bolster public sector capacity, with the goal of supporting the public sector's ability to deliver critical COVID-19 services.

1. **Cover payroll and covered benefits** for existing public safety, public health, health care, human services and similar employees of a recipient government **(WARNING: ARP Recovery Funds have different rules than the CARES Act!)**
2. Rehire public sector staff to **pre-pandemic levels** OR above pre-pandemic levels with a 7.5 percent growth allowance
3. Support and retain public sector workers:
 - **Provide additional funding for employees who experienced pay reductions** or were furloughed
 - **Maintain current compensation levels** to prevent layoffs
 - **Provide worker retention incentives**, including reasonable increases in compensation (**shall be additive** to an employee's regular compensation and **shall be** less than 25 percent of the rate of base pay for an individual and no more than 10 percent for a group)
 - **Cover administrative costs** associated with hiring, support and retention programs
4. **Provide effective service delivery** (including cleanup of county services backlogs, program evaluations, and technology

CAPITAL EXPENDITURES

Counties may use Recovery Funds for capital expenditures that respond to the public health and negative economic impacts of the pandemic.

- Projects shall be related to public health and/or negative economic impacts and be proportional to the pandemic impact identified
- *No pre-approval* is required or provided for capital expenditures
- To ensure the expenditure is eligible, **counties are required to write a written justification for capital expenditures** equal to or greater than \$1 million, which includes the following:
 1. **Description of harm or need** to be addressed (i.e. number of individuals)
 2. Explanation of **why the capital expenditure is appropriate** (i.e. why existing resources are inadequate)
 3. **Comparison of proposed capital expenditure project** against at least two alternative capital expenditures and why the proposed capital expenditure is superior

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written justification
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CAPITAL EXPENDITURES

Counties may use Recovery Funds for capital expenditures that respond to the public health and negative economic impacts of the pandemic.

COST OF CAPITAL EXPENDITURE PROJECT	USE IS ENUMERATED BY TREASURY AS ELIGIBLE	USE IS BEYOND THOSE ENUMERATED BY TREASURY AS ELIGIBLE
Less than \$1 million	No written justification required	No written justification required
Greater than or equal to \$1 million, but less than \$10 million	Written justification required <u>but</u> county does not need to submit as part of regular periodic reporting	Written justification required <u>and</u> county shall submit as part of regular periodic reporting to Treasury
\$10 million or more	Written justification required <u>and</u> county shall submit as part of regular periodic reporting	

NOTE:
 These written justification requirements for capital expenditures do NOT apply to capital expenditures funded with revenue loss funds

CAPITAL EXPENDITURES

<p>EXAMPLES OF <i>ELIGIBLE</i> CAPITAL EXPENDITURE PROJECTS</p>	<p>EXAMPLES OF <i>INELIGIBLE</i> CAPITAL EXPENDITURE PROJECTS</p>	<p>REMINDER: These prohibitions do NOT apply to a county's use of <i>revenue loss</i> for general government services!</p>
<ul style="list-style-type: none"> • Schools • Childcare facilities • Medical facilities generally dedicated to COVID-19 treatment and mitigation (i.e. ICUs, emergency rooms, etc.) • Temporary medical facilities • Emergency operation centers • Behavioral health facilities • Affordable housing and permanent supportive housing • Primary care clinics, hospitals • Improvements to vacant/abandoned properties 	<ul style="list-style-type: none"> • Construction of new correctional facilities • Construction of new congregate facilities • Construction of convention centers, stadiums and other larger capital projects intended for general economic development 	

PREMIUM PAY

Counties may provide premium pay (up to \$13 per hour & capped at \$25K per individual) to eligible workers performing essential work, either in public sector roles or through grants to third-party employers.

KEY NEW FEATURES IN FINAL RULE

1. ADDITIONAL STREAMLING OF PREMIUM PAY

- Under the Interim Final Rule, counties were required to submit a written justification for workers not listed on the Treasury eligibility list
- Final Rule permits counties to award premium pay to workers that are normally eligible for overtime pay/compensation under the Fair Labor Standards Act WITHOUT submitting a written justification

2. CLARIFICATION ON TYPES OF ELIGIBLE PREMIUM PAY

- Clarifies that premium pay may be provided in installments or lump sums (i.e. monthly, quarterly, etc.)
- Premium pay may be awarded to hourly, part-time or salaried or non-hourly workers – *and it must not supplant normal or overtime pay*
- Volunteers shall not be eligible for premium pay

Under the Final Rule,
premium pay may still be
retroactive and may only be
provided to **eligible workers**

that are performing
essential work (in person
and/or regular physical
handling of items)

WATER AND SEWER INFRASTRUCTURE

Counties may use Recovery Funds for a broad range of water, sewer and stormwater infrastructure investments.

KEY NEW FEATURES IN FINAL RULE

NEW ELIGIBLE WATER AND SEWER PROJECTS

- Under the Interim Final Rule, eligible projects were aligned, *for simplicity to determine the presumed eligible use of Recovery Funds*, with the authorized uses authorized under EPA’s Clean Water State Revolving Fund and Drinking Water State Revolving Fund
- Final Rule also provides additional eligible projects, including:
 - Broader set of **lead remediation projects** (i.e. faucets, fixtures and internal plumbing in schools and childcare facilities)
 - **Culvert repair**
 - **Residential wells**
 - **Certain dams and reservoirs** (related to drinking water)

NACo applauds the U.S. Treasury for expanding the definition to include storm water, culvert repair and other important county-owned infrastructure

BROADBAND INFRASTRUCTURE

The Final Rule **broadens eligible broadband infrastructure investments** to ensure better connectivity for residents.

KEY NEW FEATURES IN FINAL RULE

1. BROADENS BROADBAND INFRASTRUCTURE FLEXIBILITY

- Under the Interim Final Rule, counties were required to invest in households and businesses without reliable wireline 25 Mbps download/3 Mbps upload speeds
- Final Rule allows counties to invest in locations without reliable wireline 100 Mbps download/20 Mbps upload speeds

2. CYBERSECURITY

- Under the Final Rule, counties may use funds for modernization of cybersecurity for existing and new broadband infrastructure, including modernization of hardware and software

**Final Rule allows
counties to invest in
locations
without reliable wireline
100 Mbps download /
20 Mbps upload speeds**

COUNTY INVESTMENTS OF AMERICAN RESCUE PLAN RECOVERY FUNDS

The State and Local Coronavirus Fiscal Recovery Fund, part of the American Rescue Plan Act (ARPA), which NACo helped develop and strongly advocated to pass, allocates \$65.1 billion directly to every county across the nation. These funds provide direct, flexible aid for every county, parish and borough in America. Counties are on the front lines in delivering this aid to residents and are a driving force connecting communities and strengthening the economy. Below, find analysis and trends of county investment priorities, share how your county is supporting your residents and explore our database of county ARPA Recovery Fund investment plans.

COUNTY INVESTMENT PLAN DATABASE

RECOVERY FUND RESOURCE HUB

SHARE YOUR STORY

EXPLORE COUNTY EXAMPLES

The following collection of planned ARPA Recovery Fund investments is sourced from official county documents such as the SLFRF Recovery Plan Performance Reports, county press releases or other county budgeting materials. The summaries and numbers below provide a brief overview of a county's current planned investments. To date, NACo has collected 187 plans, 150 of which are Recovery Plans. SLFRF Recovery Plans contain detailed project performance data, including information on efforts to improve equity and engage communities for counties with populations above 250,000.

For questions or to submit your county's plan, email research@naco.org.

filter by topic *Justice & Public Safety* by county size *-Any-* by state *-Any-* SLFRF Recovery Plans only



FAYETTE COUNTY, GA.

2020 POPULATION: 119,194

DESCRIPTION:

Fayette County has proposed \$11.2 million for upgraded electronic water meters designed to detect



LOUISVILLE JEFFERSON COUNTY METRO GOVERNMENT, KY.

2020 POPULATION: 782,969

DESCRIPTION:



HENNEPIN COUNTY, MINN.

2020 POPULATION: 1,281,565

DESCRIPTION:

Hennepin County has allocated \$350,000 for vaccine incentives, \$1.5 million to address food

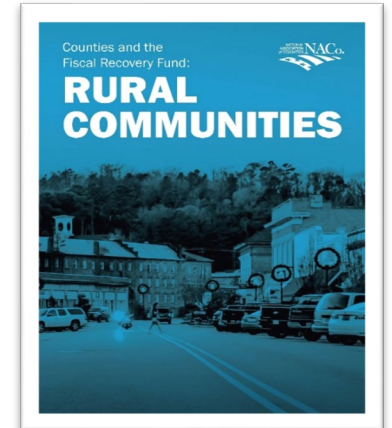
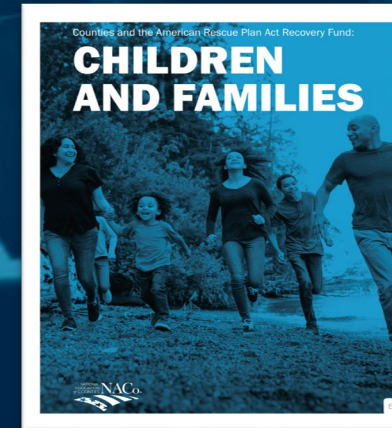
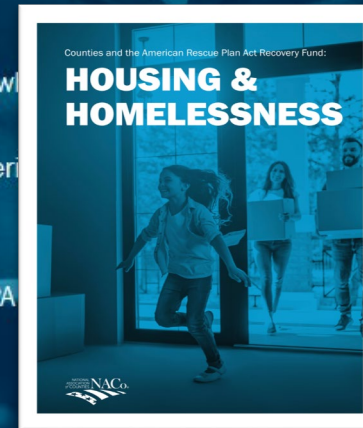


FULTON COUNTY, GA.

2020 POPULATION: 1,066,710

DESCRIPTION:

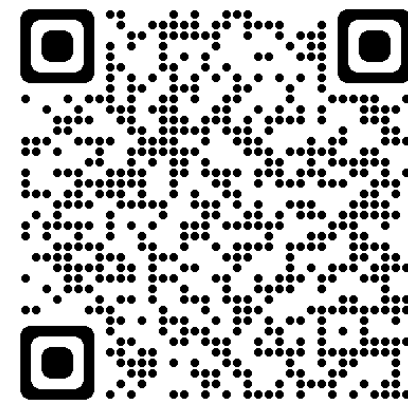
Fulton County has allocated \$6.8 million for COVID-19 vaccinations, \$1.7 million for a behavioral health



「UNTOLD STORIES」

Join NACo's **Untold Stories** campaign to highlight the human impact of county services

Visit [NACo.org/UntoldStories](https://www.naco.org/UntoldStories) to submit your story and access resources to engage local your audience, including a letter to the editor template, a media relations guide, social media templates and more.

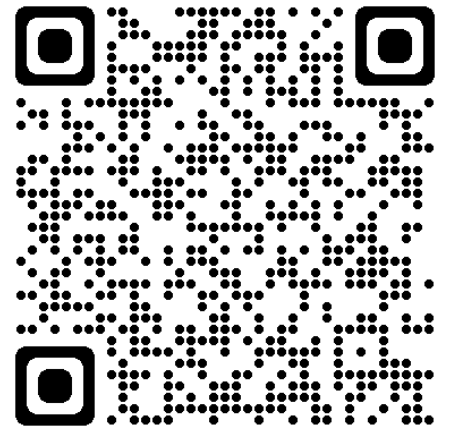


2022 ANNUAL CONFERENCE & EXPOSITION

ADAMS COUNTY

=====**COLORADO**=====

JULY 21-24, 2022





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Q&A

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