



ARPA State and Local – Interim Final Rule

5.10.21

Summary of Treasury's [Interim Final Rule](#) of American Rescue Plan Act State and Local funds as they might be applicable to Main Street programs or Main Street communities. In some place, direct text excerpts are provided.

- I. Overview
 - a. Section I provides a general overview of the American Rescue Plan Act and the COVID impacts it seeks to address, including the four primary areas outlined in the legislation:
 - i. To respond to public health emergency and economic impacts
 - ii. To respond to workers performing essential work
 - iii. To replace revenue lost/attribution to pandemic
 - iv. To make investment in water, sewer, or broadband infrastructure
 - b. The guidance in the Interim Final Rule also includes accountability/transparency requirements.
- II. Eligible Uses
 - a. Public Health and Economic Impacts
 - i. Must respond to negative economic impacts. Recipient should assess economic harm and extent to which the use would address harm. Economic impacts may be immediate or delayed.
 - ii. "Assistance or aid to individuals or businesses that did not experience a negative economic impact would not be an eligible use under this category." (pg. 31)
 - iii. Use must be proportional to harm; uses that bear no relation or are grossly disproportionate are not eligible.
 - iv. "States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact." Non-exclusive (edited down) list of uses:
 - 1. **Expenses to Improve Efficacy of Economic Relief Programs.** "State, local, and Tribal governments 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**."
 - 2. **Small Businesses and Non-profits.** Recipients 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, including:
 - a. **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;
- b. **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; and
- c. **Technical assistance, counseling, or other services to assist with business planning needs.**
- d. Recipients may consider additional criteria to target assistance to small businesses, including businesses with less capacity to weather financial hardship (smallest businesses, low credit, most impacted.) Recipients should consider local economic conditions and business data when establishing such criteria.
- 3. *Rehiring State, Local, and Tribal Government Staff.* the Interim Final Rule 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.
- 4. ***Aid to Impacted Industries.*** (tourism, travel, and hospitality) – Certain industries were hardest hit. Industries outlined in the legislation include tourism, travel and hospitality. The Final Interim Rule also specifically cites business districts: “Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, **business districts**, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. For example, a recipient 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.” (pg 37)
- v. QCTs – **Qualified Census Tracts** / disproportionately impacted communities have increased latitude with funds, with specific uses identified:
 - 1. Building Stronger Communities through Investments in Housing and Neighborhoods:
 - a. Services to address homelessness
 - b. **“Affordable housing development to increase supply of affordable and high-quality living units”**
 - c. Housing vouchers
 - 2. Also under this section for QCTs:
 - a. Addressing Educational Disparities
 - b. Promoting Healthy Childhood Environments (childcare)
- vi. Not fundable under Public Health and Economic Impacts

1. Infrastructure projects unless directly related to negative health or economic impact. Note: section on infrastructure and broad use of revenue replacement.
2. Rainy day funds / financial reserves
3. Obligation from settlement
4. Nothing for debts incurred before March 3, 2021

b. Premium Pay

- i. Allows payment to essential workers, defined as regular in-person interactions or regular physical handling of items that were handled by others. “those who maintain a continuity of operations . . .”
- ii. The chief executive of each recipient can add additional sectors to list as long as deemed critical to public health and well-being.
- iii. Up to \$13/hr not to exceed \$25k/worker.
- iv. Must justify payment if payment would make worker exceed 150% of their state’s average annual wage for all occupations.

c. Revenue Loss

- i. Revenue loss calculation is based on a definition of “general revenue”
 1. Definition is based on Census Bureau’s Annual Survey of State and Local Government Finances. Goal is to create a consistent methodology.
 2. Excludes correcting transactions, issuance of debt, sale of investments, etc. Includes state/local transfers, but not transfers from federal
- ii. Calculation of loss is comparison of actual revenue to a “counterfactual trend” of what could have been expected.
- iii. **Recipients have broad latitude to use funds for provision of government services.**
 1. Includes pay-go funded building, roads, environmental remediation, **etc. (This seems to be broadest bucket for Main Street project use).**
 2. Does not include debt payments or things that do not provide direct aid to citizens.

d. Infrastructure - Three eligible categories: water, sewer, broadband

- i. Water and Sewer Infrastructure – because clean drinking water and treatment of wastewater/storm water are important for public health
 1. Eligible uses are aligned with Environmental Protection Agency’s (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).
- ii. Broadband –
 1. Goal is to provide symmetrical 100 Mbps upload/download speeds.
 2. Where that cannot be met, 100 Mbps upload / 20 Mbps download is ok, but projects should be scalable.

III. Restrictions

- a. Cannot offset reduction in tax revenue resulting from change in law.
 - i. There will be annual reporting to determine.
 - ii. Some flex for previous changes being phased-in
- b. Cannot deposit into pension funds. (some flex here re: benefits)
- c. **Cannot be used as a non-Federal match for other Federal programs.**

- IV. Timeline for Use of Funds
 - a. **Date for costs incurred – beginning 3/3/2021**
 - b. **Funds must be “obligated” by 12/31/24**
 - c. **Performance runs through 12/31/26**
- V. Recoupment – skipping summary here.
- VI. Payment Tranches
 - a. Local Gov and States: 50% now / 50% in May 2022 unless unemployment is 2% more than pre-pandemic level. In case of high unemployment, entire payment in one tranche.
 - b. Territories: all funding will be send now (Puerto Rico)
- VII. Transfer
 - a. A county can transfer to a local government.
 - b. Non-profits can be subrecipients. Recipients are responsible for monitoring subrecipients.
 - c. Subrecipients must abide by eligible uses.
 - d. If local wants to give to state, the grant to the locality is essentially cancelled.
- VIII. Non-entitlement Govt’s
 - a. Under 50k population, states will distribute – must not exceed 75% of pre-pandemic budget
 - b. Budget can be through self-certification process with state.
- IX. Reporting
 - a. Broadly, one interim report (8/31/21) and quarterly reports thereafter until 12/31/26.
 - i. Non-entitlement units of gov – no interim report.

