



Overview and FAQs for the American Rescue Plan Act

The final rule takes effect on April 1, 2022. Until that time, the interim final rule remains in effect; funds used consistently with the interim final rule while it is in effect are in compliance with the SLFRF program. However, recipients can choose to take advantage of the final rule's flexibilities and simplifications now, even ahead of the effective date.

Below are several frequently asked questions the League received from its membership regarding the American Rescue Plan Act (ARPA) as it pertains to local government. If your question is not listed below, please see the Final Rule (FR) or the Compliance and Reporting Guidance. Both documents are available online at: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>. **NOTE:** this document is *not* a replacement for U.S. Treasury guidance or the advice of your municipal attorney. Your municipality should review the final rule from U.S. Treasury.

I. Eligible Uses

I.1) How can my municipality use ARPA Funding?

Fiscal Recovery Funds must be used in one of the four eligible use categories specified in the ARPA and in the FR:

- a) **Support the COVID-19 public health and economic response** by addressing COVID-19 and its impact on public health as well as addressing economic harms to households, small businesses, nonprofits, impacted industries, and the public sector. Within the guidelines established in this category, U.S. Treasury allows for municipalities to use funds for programs, services, or capital expenditures that respond to the public health and negative economic impacts of the pandemic. This category allows for municipalities to address impacts to the public sector including re-hiring public sector workers cut during the crisis. However, it is important to keep in mind that the Alabama Constitution generally prohibits the use of public funds for private purpose. If your municipality is considering using funds to directly benefit individuals, businesses, or nonprofits, please consult your municipal attorney. For more information on using public funds, please review the article titled "The Public Purpose Doctrine" in the *Selected Readings for the Municipal Official* on p. 309 at: <https://almonline.org/Assets/Files/ConferenceResources/2020OrientationConference/2020%20Selected%20Readings%20Manual-FINAL.pdf>.
- b) **Provide premium pay for eligible workers performing essential work** up to \$13 per hour not to exceed \$25,000 per worker. As with a) above, the Alabama Constitution places

restrictions on retroactive pay. When using funds for premium pay, please work with your municipal attorney on doing so as a one-time pay increase. (for more details on premium pay, see Section II)

- c) **Replace lost public sector revenue** using this funding to provide government services up to the amount of revenue loss due to the pandemic. Government services generally include any service traditionally provided by a government unless Treasury has stated otherwise. Examples of government services include: road building and maintenance; general government administration; and provision of police, fire, and other public safety services. A municipality can calculate lost revenue through 1) a standard allowance of up to \$10 million, or 2) calculating their jurisdiction's specific revenue loss each year using Treasury's formula.
- d) **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, to support vital wastewater and stormwater infrastructure, and to expand affordable access to broadband internet.

I.2) How is revenue loss determined?

Recipients have two options for how to determine their amount of revenue loss: 1) Recipients may elect a standard allowance of up to \$10 million to spend on government services through the period of performance. 2) Municipalities may calculate their actual revenue loss according to the formula articulated in the final rule. The formula can be found in the FR at: <https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf>.

I.3) Can I use ARPA funding for other infrastructure projects beyond water, sewer and broadband?

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 or a specific negative economic impact of the pandemic. A list of enumerated types of capital expenditures are available in the FR. However, using ARPA funds categorized as lost revenue would allow a municipality to engage in other infrastructure projects under governmental services.

I.4) What type of water and sewer projects can my municipality invest in?

For water and sewer projects, the FR refers to the EPA Drinking Water and Clean Water State Revolving Funds (SRFs) for the categories of projects and activities that are eligible for funding. Eligible uses for the SRFs can be found at: <http://adem.alabama.gov/programs/water/srf.cnt>. U.S. Treasury allows for additional types of projects if they are found necessary according to the definition provided in the final rule.

I.5) Is there a deadline to spend funds?

Funds you receive must be allocated/obligated by December 31, 2024 and spent by December 31, 2026.

I.6) What happens if funds are not spent by the deadline?

After the deadline, the municipality will need to return any remaining funds to U.S. Treasury.

I.7) Can a municipality use ARPA funds to match federal grants?

ARPA funds beyond those that are available under the revenue loss eligible use category may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute. Funds available under the revenue loss eligible use category generally may be used to meet the non-federal cost-share or matching requirements of other federal programs.

II. Premium Pay

II.1) Who qualifies as an “eligible” worker for premium pay?

The final rule identifies an “eligible” worker as anyone whose occupation is on a state, local, or tribal government workforce. As a result, municipal employees are “eligible” workers. Municipalities must then determine if the work being performed is “essential work.”

II.2) What constitutes “essential” work?

“Essential work” is defined as work that (1) is not performed while teleworking from a residence, and (2) involves either (a) regular, in-person interactions with the public or coworkers, or (b) regular physical handling of items that were handled by, or are to be handled by, the public or coworkers.

II.3) When is written justification required to provide for premium pay?

The final rule broadened the share of eligible workers who can receive premium pay without a written justification. Recipients may meet this requirement in one of three ways:

- a) Eligible worker receiving premium pay is earning (with the premium included) at or below 150 percent of their residing state or county’s average annual wage for all occupations, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, whichever is higher, on an annual basis; or
- b) Eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions; or
- c) If a worker does not meet either of the above requirements, the recipient must submit written justification to Treasury detailing how the premium pay is otherwise responsive to workers performing essential work during the public health emergency. This may include a description of the essential worker’s duties, health, or financial risks faced due to COVID-19, and why the recipient determined that the premium pay was responsive. Treasury anticipates that recipients will easily be able to satisfy the justification requirement for front-line workers, like nurses and hospital staff. Premium pay may be awarded in installments or lump sums (e.g., monthly, quarterly, etc.) and may be awarded to hourly, part-time, or salaried or non-hourly workers.

II.4) Are there any state law considerations to providing premium pay?

Premium pay must be paid in addition to wages already received. It should be treated like a one-time pay increase on a date certain prospectively. While the final rule states premium pay may be paid retrospectively, a recent Attorney General's opinion (October 22, 2021) determined Sections 68 and 94 of the Alabama Constitution prohibit municipalities from using ARPA funds for retroactive pay for past services where employees have already been compensated. As such, the pay is not available for employees who have retired or left the service of the municipality before premium pay is authorized.

Further, a recipient may not use ARPA funds to merely reimburse itself for premium pay or hazard pay already received by the worker, and premium pay may not be paid to volunteers.

Finally, premium pay may not be paid to local elected officials because the pay for those officials is set 6 months prior to the election and cannot be changed during the term of office.

III. Reporting Requirements

III.1) What are the reporting requirements for non-entitlement units (NEU)?

NEUs, Tier 6 recipients, are required to submit the Project and Expenditure Report annually. The initial Project and Expenditure Report will cover from March 3, 2021, to March 31, 2022, and must be submitted to U.S. Treasury by April 30, 2022. After the initial Project and Expenditure Report, NEU's will submit this report annually by April 30th through 2027 reporting for the period April 1 – March 31.

A report will be made available later this year for your jurisdiction to complete ahead of your April 30, 2022, deadline. As such, you are not required to submit a report by January 31, 2022, and there will not be a report record available for you to do so.

III.2) What are the reporting requirements for metropolitan cities with a population below 250,000 residents which received less than \$10 million in SLFRF funding?

These municipalities, Tier 5 recipients, are required to submit the Project and Expenditure Report annually. The initial Project and Expenditure Report will cover from March 3, 2021, to March 31, 2022, and must be submitted to U.S. Treasury by April 30, 2022. After the initial Project and Expenditure Report, these municipalities will submit this report annually by April 30th through 2027 reporting for the period April 1 – March 31.

A report will be made available later this year for your jurisdiction to complete ahead of your April 30, 2022, deadline. As such, you are not required to submit a report by January 31, 2022, and there will not be a report record available for you to do so.

III.3) What are the reporting requirements for Metropolitan cities and counties with a population below 250,000 residents which received more than \$10 million in SLFRF funding?

These municipalities, Tier 2 recipients, are required to submit the Project and Expenditure Report quarterly and submit a onetime Interim Report. The initial quarterly Project and Expenditure Report will cover three calendar quarters from March 3, 2021, to December 31, 2021, and must be submitted to Treasury by January 31, 2022. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 calendar days after the end of each calendar quarter. The report requires the reporting of project, obligations and expenditure data, subaward data, as well as certain required programmatic data. A user guide with step-by-step instructions on how recipients will submit the report is posted here www.treasury.gov/SLFRPReporting.

III.4) How long do I need to keep financial records and supporting documents?

Financial records and supporting documents related to the award must be retained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. This includes those which demonstrate the award funds were used for eligible purposes in accordance with the ARPA, Treasury’s regulations implementing those sections, and Treasury’s guidance on eligible uses of funds.

III.5) Does my municipality need to follow Uniform Guidance?

Most of the provisions of the Uniform Guidance (2 CFR Part 200) apply to this program, including the Cost Principles and Single Audit Act requirements. Recipients should refer to the Assistance Listing for details on the specific provisions of the Uniform Guidance that do not apply to this program. The Assistance Listing will be available on beta.SAM.gov.

III.6) What are the Expenditure Categories for the Project and Expenditure Report?

1: Public Health	
1.1	COVID-19 Vaccination ^
1.2	COVID-19 Testing ^
1.3	COVID-19 Contact Tracing
1.4	Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, etc.)*
1.5	Personal Protective Equipment
1.6	Medical Expenses (including Alternative Care Facilities)
1.7	Capital Investments or Physical Plant Changes to Public Facilities that respond to the COVID-19 public health emergency
1.8	Other COVID-19 Public Health Expenses (including Communications, Enforcement, Isolation/Quarantine)
1.9	Payroll Costs for Public Health, Safety, and Other Public Sector Staff Responding to COVID-19
1.10	Mental Health Services*
1.11	Substance Use Services*
1.12	Other Public Health Services
2: Negative Economic Impacts	
2.1	Household Assistance: Food Programs* ^
2.2	Household Assistance: Rent, Mortgage, and Utility Aid* ^
2.3	Household Assistance: Cash Transfers* ^
2.4	Household Assistance: Internet Access Programs* ^
2.5	Household Assistance: Eviction Prevention* ^
2.6	Unemployment Benefits or Cash Assistance to Unemployed Workers*

2.7	Job Training Assistance (e.g., Sectoral job-training, Subsidized Employment, Employment Supports or Incentives)* ^
2.8	Contributions to UI Trust Funds
2.9	Small Business Economic Assistance (General)* ^
2.10	Aid to Nonprofit Organizations*
2.11	Aid to Tourism, Travel, or Hospitality
2.12	Aid to Other Impacted Industries
2.13	Other Economic Support* ^
2.14	Rehiring Public Sector Staff
3: Services to Disproportionately Impacted Communities	
3.1	Education Assistance: Early Learning* ^
3.2	Education Assistance: Aid to High-Poverty Districts ^
3.3	Education Assistance: Academic Services* ^
3.4	Education Assistance: Social, Emotional, and Mental Health Services* ^
3.5	Education Assistance: Other* ^
3.6	Healthy Childhood Environments: Child Care* ^
3.7	Healthy Childhood Environments: Home Visiting* ^
3.8	Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System* ^
3.9	Healthy Childhood Environments: Other* ^
3.10	Housing Support: Affordable Housing* ^
3.11	Housing Support: Services for Unhoused Persons* ^
3.12	Housing Support: Other Housing Assistance* ^
3.13	Social Determinants of Health: Other* ^
3.14	Social Determinants of Health: Community Health Workers or Benefits Navigators* ^
3.15	Social Determinants of Health: Lead Remediation ^
3.16	Social Determinants of Health: Community Violence Interventions* ^
4: Premium Pay	
4.1	Public Sector Employees
4.2	Private Sector: Grants to Other Employers
5: Infrastructure²⁷	
5.1	Clean Water: Centralized Wastewater Treatment
5.2	Clean Water: Centralized Wastewater Collection and Conveyance
5.3	Clean Water: Decentralized Wastewater
5.4	Clean Water: Combined Sewer Overflows

5.5	Clean Water: Other Sewer Infrastructure
5.6	Clean Water: Stormwater
5.7	Clean Water: Energy Conservation
5.8	Clean Water: Water Conservation
5.9	Clean Water: Nonpoint Source
5.10	Drinking water: Treatment
5.11	Drinking water: Transmission & Distribution
5.12	Drinking water: Transmission & Distribution: Lead Remediation
5.13	Drinking water: Source
5.14	Drinking water: Storage
5.15	Drinking water: Other water infrastructure
5.16	Broadband: “Last Mile” projects
5.17	Broadband: Other projects
6: Revenue Replacement	
6.1	Provision of Government Services
7: Administrative	
7.1	Administrative Expenses
7.2	Evaluation and Data Analysis
7.3	Transfers to Other Units of Government
7.4	Transfers to Non-entitlement Units (States and territories only)

*Denotes areas where recipients must identify the amount of the total funds that are allocated to evidence-based interventions (see Use of Evidence section above for details)

^Denotes areas where recipients must report on whether projects are primarily serving

IV. Additional

IV.1) **Can funds be used to pay a consultant to do reporting?**

Yes, municipalities may use funds for administering the funds including the costs of consultants to support effective management and oversight. However, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405.

IV.2) **Are there any restrictions on how my municipality can use funds calculated as lost revenue?**

- a) No debt service or replenishing financial reserves.
- b) No satisfaction of settlements and judgments. However, if a settlement requires the recipient to provide services or incur other costs that are an eligible use of SLFRF funds, SLFRF may be used for those costs.
- c) Additional general restrictions. SLFRF funds may not be used for a project that conflicts with or contravenes the purpose of the American Rescue Plan Act statute (e.g., uses of funds that undermine COVID-19 mitigation practices in line with CDC guidance and recommendations) and may not be used in violation of the Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance. Other applicable laws and regulations, outside of SLFRF program requirements, may also apply (e.g., laws around procurement, contracting, conflicts-of-interest, environmental standards, or civil rights).

IV.3) **Can my municipality use ARPA funds to cover costs occurring prior to receiving funds?**

The FR permits funds to be used to cover costs incurred beginning on March 3, 2021. This limitation applies to costs incurred by the recipient (i.e., the state, local, territorial, or tribal government receiving funds).

II.5) **Does my city/town have to have a separate bank account for the American Rescue Plan funds we receive?**

It is not necessary to keep these funds in a separate account. However, the League encourages municipalities to keep these funds in a separate bank account as a best practice for reporting requirement purposes.

II.6) **Can municipalities put funds in an interest-bearing account?**

Municipalities can place funds in interest-bearing accounts and do not need to remit interest to Treasury and are not limited to using that interest for eligible uses as outlined in II above.