



American Rescue Plan Act (ARPA) Compliance Update

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Learning Objectives

- Explain the basic requirement of the American Rescue Plan Act.
- Differentiate CARES Act from American Rescue Plan Act.
- Question uses of American Rescue Plan funding and support decisions based on the requirements.



American Rescue Plan Act (ARPA) Funding Highlights

- Coronavirus State and Local Fiscal Recovery Funds (\$362 billion total): Subtitle M, Sec. 9901 Coronavirus State and Local Fiscal Recovery Funds
- Sec. 602 Coronavirus State Fiscal Recovery Fund (\$219.8B)
 - \$195.3 billion for the 50 States and Washington DC
 - \$20 billion for Tribal governments
- Sec. 603 Coronavirus Local Fiscal Recovery Fund
 - \$130.2 billion for local govts. (metropolitan cities: \$45.57B, non-entitlement units of local government: \$19.53B, and counties: \$65.1B)
- Sec. 604 Coronavirus Capital Projects Fund
 - \$10B to States, territories and Tribal governments
- Sec. 605 Local Assistance and Tribal Consistency Fund (\$2B)
- Housing Provisions (\$41.55 billion): Subtitle B
- Sec. 3201 Emergency Rental Assistance (\$21.55B)
 - \$18.6B allocated to States, territories, counties and cities for emergency rental and utility assistance
- Sec. 3202 Emergency Housing Vouchers (\$5B)
- Sec. 3205 Homelessness Assistance and Supportive Services Program (\$5B)
- Sec. 3206 Homeowner Assistance Fund (\$10B)
 - For States, territories and Tribes for ongoing needs of homeowners
- Ratepayer Protection (\$5 billion): Subtitle K
- Sec. 2911 Funding for LIHEAP (\$4.5B)
- Sec. 2912 Funding for Water Assistance Program (\$500 m)



ARPA Funding Highlights (cont'd)

Education (\$165 billion): Subtitle A

- Sec. 2001 Elementary and Secondary School Emergency Relief Fund (ESSER) (\$122.7B)
 - ✓ Grants to State educational agencies.
 - ✓ States are required to subgrant at least 90% of ESSER funds to school districts to support the implementation of public health protocols to safely reopen schools for in-person learning, address students' learning loss, and meet students' long-term academic, social and emotional needs.
- Sec. 2003 Higher Education Emergency Relief Fund (\$39.6 billion)
 - ✓ To colleges and university and their students

Broadband for Remote Learning (\$7.17 billion): Subtitle D

- Sec. 7402 Funding for E-Rate Support for Emergency Educational Connections and Devices

Public Transportation (\$30 billion): Subtitle D

- Sec. 3401 Federal Transit Administration Grants (\$30B)

Homeland Security and Govt. Affairs (\$50 billion): Title IV

- Sec. 4005 Federal Emergency Management Agency (FEMA) (\$50B)

Environment and Public Works (\$11 billion): Title VI

- Sec. 6001 Economic Adjustment Assistance (\$3B)
- Sec. 7102 Relief for Airports (\$8B)



Legislative Actions

- American Rescue Plan Act (ARPA) signed into law March 11, 2021
- Amended Title VI of the Social Security Act by adding sections
 - 602 – Coronavirus State Fiscal Recovery Fund (CSFRF)
 - 603 – Coronavirus Local Fiscal Recovery Fund (CLFRF)
 - Together known as “The Fiscal Recovery Funds”



The Fiscal Recovery Funds

- \$350 billion in total
 - \$4.5 billion to U.S. Territories
 - \$20 billion to Tribal Governments
 - \$195.3 billion to States and DC
 - \$45.57 billion to Metropolitan Cities
 - \$19.53 billion to Non-entitlement Unit of Local Government
 - \$65.1 billion to Counties
- Administered by U.S. Department of Treasury
- CFDA Number: 21.027

Direct Payment for Specific Use - Financial assistance provided directly to individuals, private firms, and other private institutions to encourage or subsidize a particular activity by conditioning the receipt of the on a particular performance by the recipient. This does not include solicited contracts for the procurement of goods and services for the Federal government.



Interpreting the Guidance for ARPA

Title IX, Part 8, Subtitle M – Coronavirus State and Local Fiscal Recovery Funds

SEC. 602 –

Coronavirus State Fiscal Recovery Fund

SEC. 603 –

Coronavirus Local Fiscal Recovery Fund

SEC. 604 –

Coronavirus Capital Projects Fund

SEC. 605 –

Local Assistance and Tribal Consistency Fund

Interim Final Rule

Document created by U.S. Treasury and published in the Federal Register on Monday, May 17, 2021.

The purpose of this document is to provide rules for implementation of CSLFRFs. The guidance is interim, and comments are due July 16, 2021.

Frequently Asked Questions (FAQ)

The answers to frequently asked questions supplement the interim final rule.

Uniform Guidance (2 CFR Part 200) applies to this program including –

- Cost principles
- Audit requirements



Cost Principles

- 2 CFR Part 200.400 to 476
- Basic Considerations
- Indirect Cost Rate Approvals (watch)
- Items of Specific Cost
 - 200.439 Equipment and other capital expenditures
 - 200.430 Compensation - personal services
 - Many other



General Uses

- CSLFRF (The Fiscal Recovery Funds) may be used –
 1. Respond to the public health emergency or its negative economic impacts.
 2. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers.
 3. Recover revenue loss from services provided by the government.
 4. Invest in necessary water, sewer, or broadband infrastructure.
- Not for –
 1. Funding pension liabilities.
 2. Recovering net tax revenues for changes in law, regulation, and administrative interpretation.



Premium Pay – Interim Rule

- The ARPA recognizes this by defining 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.
- The interim final rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work.
 - 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.



Lost Revenue

$$\text{Max} \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{\left(\frac{n_t}{12}\right)}] - \text{Actual General Revenue}_t; 0 \}$$

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date

Subscript t denotes the specific calculation date.



Determination of General Revenue

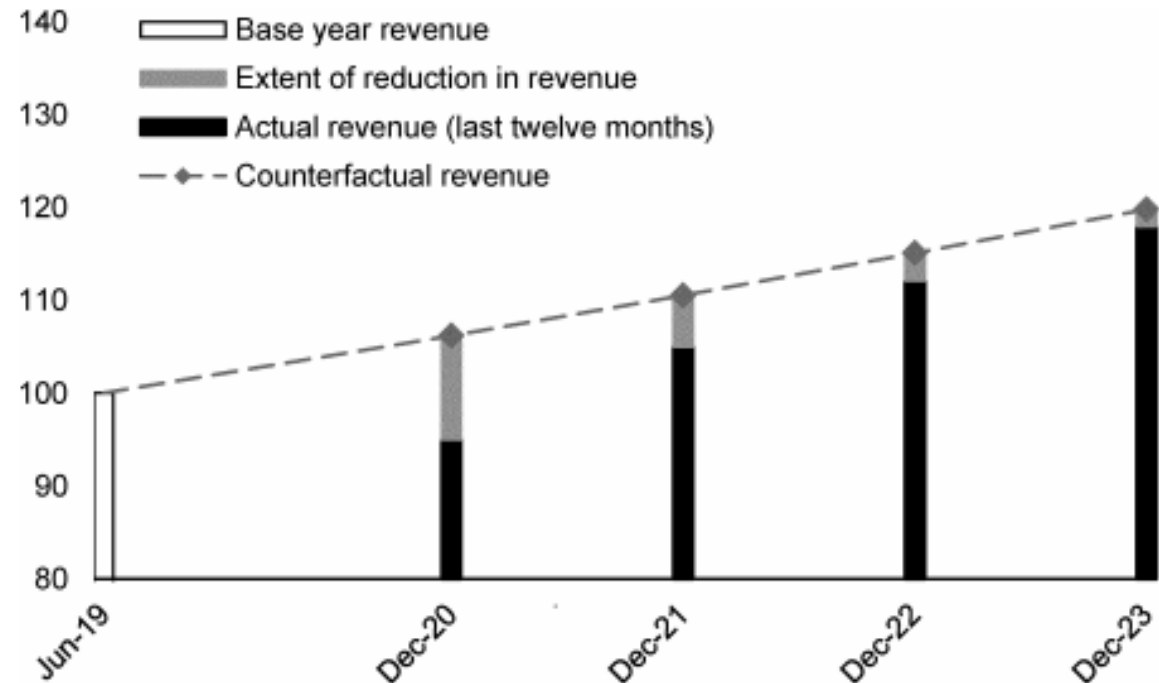
- Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.
 - A recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.
- The Act allows 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 and ensure that fiscal austerity measures do not hamper the broader economic recovery.
 - The interim final rule implements these provisions by establishing a definition of “general revenue” for purposes of calculating a loss in revenue and by providing a methodology for calculating revenue lost due to the COVID-19 public health emergency.



Calculation of Lost Revenue

- Helpful resource: GFOA has released an “ARPA Revenue Replacement Calculator” worksheet, available to GFOA members: [ARPA Revenue Replacement Calculator \(gfoa.org\)](https://www.gfoa.org/resources/arpa-revenue-replacement-calculator)
- Below is an excerpt from the Interim Final Rule pg. 53

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Investments in Water and Sewer Infrastructure

- The types of projects eligible for CWSRF assistance include projects 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.
- 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.
- The interim final rule does this by aligning 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 Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).



Broadband

- 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.
- 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.
 - Practical considerations
- Eligible projects are expected to focus on locations that are unserved or underserved.





FAQs as of 6/10/21

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What type of reporting to the US Treasury will be required?

- Submit one interim report and thereafter quarterly Project and Expenditure reports until the end of the award period.
 - Interim reports to Treasury due by August 31, 2021.
 - Quarterly Project and Expenditure 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.
- Non-entitlement unit recipients –
 - Required to submit annual Project and Expenditure reports until the end of the award period.
 - The initial annual Project and Expenditure report for Non-entitlement unit recipients must be submitted to Treasury by October 31, 2021.
 - The subsequent annual reports must be submitted to Treasury by October 31 each year.
- 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. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Treasury will provide additional guidance and instructions on the all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.



What is the covered period for all provisions?

- The Interim Final Rule permits funds to be used to cover costs incurred beginning on March 3, 2021.
- However, with respect to premium pay the definition 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. Treasury encourages recipients to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many months.



Do funds have to be expended by December 31, 2024, or obligated by December 31, 2024?

- Treasury is interpreting the requirement that costs be incurred by December 31, 2024 to only require that recipients have obligated the funds by such date. The period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with Fiscal Recovery Funds.



Can we use the funds towards administrative costs?

- FAQ 10.2 states, “Recipients may use funds to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID–19 public health emergency and its negative economic impacts. This includes, but is not limited to, costs related to disbursing payments of Fiscal Recovery Funds and managing new grant programs established using Fiscal Recovery Funds”.
- 10.5: Recipients may use funds for administering the CSFRF/CLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements



Does the Single Audit Act apply to CSLFRF?

- Yes, 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 detail on the specific provisions of the Uniform Guidance that do not apply to this program.
- New assistance listing released for the Fiscal Recovery Funds Program: 21.027



Audit Compliance Recommendations

- Account coding structures
- Meetings with department heads to determine the control over disbursement of allowable expenditures and maintaining proper evidence of the approval.
- Evidence of internal control documentation surrounding all compliance requirements outlined in the compliance supplement (once released)
- Matching requirements and how those are tracked
- Subrecipient funding
- Time and effort documentation



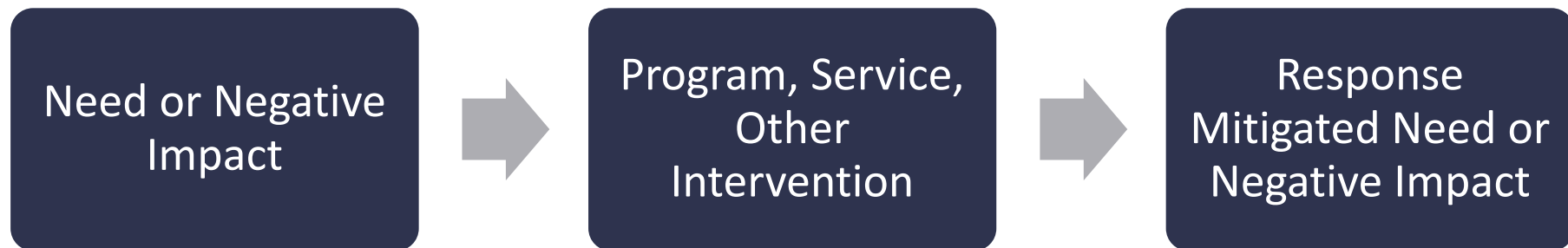
CRF vs. ARPA

- Generally, ARPA expands opportunities beyond CRF. CRF eligibility activities and costs are generally allowed other than ARPA requires cost meet the applicable cost principles.
- Recovery changes the nature and extent of consideration needed to determine compliance.
 - Example: Public Health and Safety Salaries



Assessing Programs and Services for Allowability

- First, identify the need or negative impact of COVID-19 public health emergency.
- Second, identify how the program, service, or other intervention addresses the identified need or impact.



The Challenge in Program and Service Design

- Identifying the needs and tracing the needs to COVID-19 pandemic.
 - Needs vs. wants
 - Abuse
- Identifying the negative economic impacts and tracing the impacts to COVID-19 pandemic.
 - Focus on COVID not “general” economics
- Directly address the needs and impacts.





Questions and Answers

Maybe?

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