

Guidance on the American Rescue Plan Act's State & Local Fiscal Recovery Funds

June 8, 2021



American Rescue Plan Act Guidance

AGENDA

- Let's Review the Basics
- Distributing to NEUs
- How Can I Spend the Money?
- Some Things to Consider
- Answering Your Questions



Let's Review the Basics

Let's Review the Basics

\$350B to State and Local Governments

- May 10: **ARPA allocations and Interim Final Rule** released (effective beginning May 17)
 - Final numbers for states and direct recipients (generally over 50k population)
 - Treasury guidance on implementation
 - Aggregate state allocations for non-entitlement units of local government (NEUs) (generally less than 50k population)
- May 17: Published in Federal Register; **open comment period until July 16** before Final Rule
 - There is time to make changes
- May 24: Treasury **guidance to states for distributing to NEUs.**

Let's Review the Basics

Direct Recipients

- **Direct recipients can access half of their allocations (2nd half in 12 mos.)**
 - Need DUNS#, System for Award Management (SAM) registration, authorized rep, POC, bank info, etc.
 - Once submitted by recipients, verification process will take Treasury ~4 business days; once verification confirmed, could have money in the bank the next business day!
- Direct recipients must submit **one Interim Report and thereafter quarterly Project and Expenditure reports through December 31, 2026** (the end of period performance).
 - Funds must be obligated by December 31, 2024, and completed by December 31, 2026



NOTE: Financial records and supporting documents must be kept for five years after all funds are expended.

Let's Review the Basics

NEUs

- **SAM registration.**
 - NEUs are considered prime recipients of local fiscal relief funds and will report directly to Treasury.
 - If registration is not complete, NEU will still receive payment.
 - Must be complete by first reporting deadline (October 31, 2021).
- NEUs will be required to submit **annual Project and Expenditure reports** through December 31, 2026 (end of the performance period).
 - Additional guidance forthcoming on reporting requirements.
 - Reports will be due October 31 of each year.



Distributing to NEUs

Distributing to NEUs

State Requirements

Treasury guidance released May 24, 2021; States have 30 days to distribute to NEUs (may request extensions to identify eligible NEUs and calculate allocations).

1. States request payment from Treasury.
2. Identify eligible NEUs.
3. Calculate allocations.
4. Establish process for NEUs to submit requests for payment (guidance provides a list of what States need from NEUs).
 - States may be asking for this information by a certain date!

Distributing to NEUs

State Limitations

- States cannot impose additional conditions or requirements on distributions to NEUs.
- States cannot offset any debt owed by the NEUs against the NEU's distribution.
- States cannot provide funding to NEUs on a reimbursable basis.

Distributing to NEUs

Identify Eligible NEUs

- Treasury lists population estimates (2019 Census info) for all “**incorporated places**” and **Minor Civil Divisions (MCDs)** in all 50 states.
 - All “incorporated places” are eligible NEUs.
 - MCDs are split into two categories: **Strong MCDs** and **Weak MCDs** (as defined by the US Census Bureau).

Distributing to NEUs

Identify Eligible NEUs

- **Strong MCDs:** CT, ME, MA, **MI, MN**, NH, NJ, **NY, PA**, RI, VT, **WI**
 - MCDs generally perform a wide set of general-purpose local government functions.
 - All MCDs from these states are eligible NEUs.
- **Weak MCDs:** **IL**, IN, KS, MO, NE, **ND, OH**, SD
 - MCDs generally play less of a governmental role but are still active governmental units.
 - States must do a “facts-and-circumstances test” to determine eligibility.
- 30 states don’t have governmentally functioning MCDs.

Distributing to NEUs

For Illinois, Ohio, and North Dakota ONLY

- What is the facts-and-circumstances test?
 - States should consider the **locality's legal and operational capacity** and whether the locality provides its residents with a **broad range of services**.
 - When working with the state agency making this determination, a weak MCD should **list all services it provides**, whether it is zoning, police/fire protection, public utilities, transportation, social services, recreation. **One service alone is not enough!**
 - Also, **have you received federal, state, foundation \$\$ before? Were you eligible for CARES Act \$\$?**
 - No further guidance on this test is expected.
- If the State excludes a locality, the State must identify the MCD's name and explain why it was excluded on its website.
 - No additional recourse.
- States can make initial distributions to all NEUs in that state only when the facts-and-circumstances tests are complete.

Distributing to NEUs

Calculate Initial Allocations

Allocations to NEUs are based on the proportion of the NEU's population as a share of the total population of all NEUs in the State.

$$\frac{\text{Total Population of the NEU}}{\text{Total Population of All Eligible * NEUs}} \times \text{Aggregate State NEU Payment}$$

**The reason why facts-and-circumstances tests in weak-MCD states must be complete before any distributions are made.*

Distributing to NEUs

Calculate Initial Allocations

- The total allocation to NEUs cannot be more than 75% of its total operating budget in effect on January 27, 2020.
- For a locality that doesn't adopt a formal budget, the NEU should certify its most recent annual total expenditures as of January 27, 2020.
- If an NEU's total allocation is more than 75% of its budget/total annual expenditures, then the State returns the excess to Treasury (after State's interim report due August 31, 2021).

Distributing to NEUs

Calculate Initial Allocations

- An NEU can decline the funds and transfer them to the State. Treasury will consider this a cancellation of the award and modify the award to the State.
 - Note: If an NEU has been unresponsive and the State has made a reasonable attempt to contact the NEU, then **remaining funds can be reallocated to other NEUs in the state** (provided the residual amount doesn't put them over the 75% cap).

Distributing to NEUs

Calculate Initial Allocations

What happens with overlapping boundaries between parent/subsidiary NEUs?

1. The subsidiary (or smaller) NEU's population is subtracted from the parent NEU (Treasury's population list reflects this approach).

OR

2. States can allocate a different split between the parent and subsidiary NEU.
 - States should make allocation split decision based on a facts-and-circumstances test.



NOTE: States should not allocate the entire overlapping population to the parent NEU. Double counting when determining allocations is not advisable.



How Can I Spend the Money?

How Can I Spend the Money?

Eligible Uses

- Respond to public health emergency / Respond to negative economic impacts
- Revenue loss
- Premium pay
- Water, sewer, and broadband infrastructure

With the exception of premium pay, eligible uses are forward looking – must be used to cover costs incurred starting March 3, 2021.

How Can I Spend the Money?

Public Health Response to the COVID-19 Emergency

Costs incurred by local gov't recipients from March 3, 2021, to December 31, 2024

- Mitigation and prevention activities.
- Medical expenses for care and services to address short- and long-term needs.
- Behavioral health care: mental health, substance misuse, DV services.
- Public health and safety staff payroll and benefits.
- Activities to address the disparities in public health outcomes.

If not on Treasury's list of eligible uses:

1- identify the effect on public health

2- how does the activity respond to or address the need?

How Can I Spend the Money?

Respond to Negative Economic Impacts

- “Broad latitude” to address impact on local governments’ ability to deliver general government services and rehire staff to pre-pandemic levels.
 - *Updates to town hall to facilitate safe reopening are eligible.*
- Expanded uses for hardest hit communities.
 - *Qualified Census Tract (HUD) or disproportionately impacted areas (disproportionate public health or economic outcomes to specific populations, households, or geographic areas.*
 - *Housing-related services, early learning services, environmental (lead pipes)*
- Help households and individuals**
 - *Food assistance, rent/mortgage/utilities, burials, cash assistance*
- Assist small businesses, impacted industries (tourism, travel, hospitality)**

** **can cover costs incurred before 3/2/21**

How Can I Spend the Money?

Revenue Loss

- **Most flexible use of funds – can be used for provision of government services, such as road maintenance or new infrastructure projects.**
- Compares actual pandemic-era revenue to an estimate of revenue as if the pandemic had not occurred.
- Detailed calculation to show annual growth rate over the past 3 fiscal years OR assume 4.1% growth, whichever is higher.
- **Recipients will calculate reduction in revenue at 4 points in time:**
 - December 31, 2020 (looking at 2016-17; 2017-18; 2018-19)
 - December 31, 2021 (looking at 2017-18; 2018-19; 2019-20) ... and so on....
 - December 31, 2022
 - December 31, 2023



Be on the Lookout for a NATaT Calculator

How Can I Spend the Money?

Premium Pay to Essential Workers

- Direct payments to essential workers or grants to 3rd-party employers with eligible workers.
- Work must involve **regular in-person** interactions or **regular physical handling** of items that were also handled by others.
 - Not for teleworkers!
 - Could be town clerk that had to be in the office to keep the place running (not on the list but can be justified using guidance from Treasury).
- Premium pay is up to \$13/hour **more than** wage/payment not to exceed \$25k/worker
- If premium pay increases total pay above 150% of state's avg. wage or their county's avg. annual wage, whichever is higher, then written justification is required.
- Retroactive and future payments allowed and encouraged.

How Can I Spend the Money?

Water and Sewer Infrastructure

- Drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems (eligible under Drinking Water State Revolving Fund).
- Wastewater infrastructure, including constructing publicly-owned treatment infrastructure, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works (eligible under Clean Water State Revolving Fund).
- Projects should encourage strong labor standards.
- May include projects on privately-owned infrastructure and cybersecurity.



*What about private wells? Respond to questions in interim rule.
Are you in a “hardest hit” community?*

How Can I Spend the Money?

Broadband Infrastructure

- Focus on unserved or underserved - lacking a wireline connection that reliably delivers **minimum speeds of 25 Mbps download and 3 Mbps upload (or 25/3)**.
- Prioritize last-mile connections to households and businesses.
- Build reliable 100/100 unless impracticable due to topography, geography, or financial cost.
- Prioritize fiber optic infrastructure where feasible.
- Prioritize support for networks owned, operated, or affiliated with local governments, non-profits, co-ops.

How Can I Spend the Money?

Ineligible Uses

- Offset tax cuts.
- Deposit into pension funds, rainy day funds.
- Funding debt service, legal settlements, matching funds (unless allowed by the federal program).
- General infrastructure spending (outside of broadband, water/sewer) unless under revenue loss provision.



Some Things to Consider

Some Things to Consider

Tips for Your Application

1. TAKE YOUR TIME!
 - Funds do not have to be obligated until **December 31, 2024**.
2. Funds can be put into an interest-bearing account and interest earned can be used for general government purposes.
3. This is a unique opportunity to avoid federal red tape.
 - Federal environmental reviews (i.e., NEPA) will NOT be required for infrastructure projects funded with only Treasury funds.
4. Treasury wants your comments!

Some Things To Consider

Make the Case for Funding

- **Solicit** community input.
- **Consider** Town/Township Board action and/or resolutions.
- **Think:** How will the project be described on the front page of the local paper?
- **Explain** why the use of funds is necessary.
- **Find** the harm/need you are looking to address.
- **Determine** how the expenditure would address that harm/need.



TIP: Connect the harm/need to the COVID-19 emergency



Answering Your Questions

Answering Your Questions



Can we use ARPA 'NEU' funds to pay for the 'Single Audit' that will be required?



What we need related to recovery, is dollars to create a law enforcement presence to handle the overwhelming amount of people moving into our area from the cities. We also need a new ambulance to handle increased capacity. Are these allowable expenditures under ARPA?



Do NEUs' governing bodies need to pass a resolution authorizing the acceptance of the funds or authorizing the Manager to accept the funds?

Answering Your Questions



If we apply some of this as premium pay for our own employees, how would this affect our payroll and also will this mean we must also find underpaid frontline workers in our township that deserve and should be issued premium pay? Do we have to do both?



Our town board is considering securing a loan to pave gravel roads within the township. If we were to be awarded monies from this program, ARPA, could that funding be used to help pay down the debt of such a loan?



Are there any instances where road projects would fall under approved funding?

Thank you!

Jennifer Imo

NATaT Federal Director

TFG Managing Partner for Client Services

jimo@tfgnet.com

David Hoover

NATaT Legislative and Policy Manager

TFG Principal

dhoover@tfgnet.com

Kristi More

TFG Managing Partner for Strategic Development

kmore@tfgnet.com