

**R-XX-2022 A Resolution to Accept the American Rescue Plan Funding**

**City Council of the City of Glenarden, Maryland  
2022 Legislation**

**Resolution:** **R-XX-2022**  
**Introduced By:** **James A. Herring, Councilman**  
**Co-Sponsors:** **Maurice A. Hairston, Councilman**  
**Session:** **Regular Session**  
**Date of Introduction:** **Monday, March 14<sup>th</sup>, 2022**

**A Resolution to Accept the American Rescue Plan Funding**

**WHEREAS**, President Joe Biden signed the 1.9 trillion American Rescue Plan Act (ARPA) to aid public health and economic recovery from the COVID-19 pandemic; and

**WHEREAS**, the ARPA funds are being distributed to the states who is then distributing the funds to municipalities; and

**WHEREAS**, under the rules of the American Rescue Plan Act (ARPA), entities have two options when it comes to how to allocate the funding; and

**WHEREAS**, those two options consists of submitting a breakdown on how the municipality will spend the funding based on the Treasury revenue loss formula or opting to accept a one time option to use the funds as lost revenue for the provision of general government services without needing to use the Treasury revenue loss formula; and

**WHEREAS**, the City of Glenarden will receive \$4,323,366.76; and

**WHEREAS**, the Council has determined that it is in the public interest that the City of Glenarden will benefit from the most flexible use of the funding.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of Glenarden, Maryland sitting in Regular Session this XXth day of April 2022 as follows:

1. That the City of Glenarden accepts the one-time option to use the funds as lost revenue for the provision of general government services without needing to use the Treasury revenue loss formula use option of the funding;

**R-XX-2022** A Resolution to Accept the American Rescue Plan Funding

45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83

Date Approved: \_\_\_\_\_

ATTEST:

**City Council of Glenarden, Maryland**

\_\_\_\_\_  
Victoria Lewis, Council Clerk

\_\_\_\_\_  
Derek D. Curtis, II, President

\_\_\_\_\_  
Angela D. Ferguson, Vice-President

\_\_\_\_\_  
Erika L. Fareed, Councilwoman

\_\_\_\_\_  
Kathleen J. Guillaume, Councilwoman

\_\_\_\_\_  
Maurice A. Hairston, Councilman

\_\_\_\_\_  
James A. Herring, Councilman

\_\_\_\_\_  
Robin Jones, Councilwoman

Votes:

Yes \_\_\_\_\_

No \_\_\_\_\_

Abstain \_\_\_\_\_



## **NACo Analysis**

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

By [Eryn Hurley](#) Jan. 13, 2022

## KEY HIGHLIGHTS OF THE GUIDANCE

- Final Rule is effective April 1, 2022, but counties can take advantage of new provisions prior to the effective date
- Allows counties to use up to \$10 million of ARPA Recovery Funds as “lost revenue” for the provision of general government services without needing to use the Treasury revenue loss formula
- Improves revenue loss calculation formula to include utility revenue and liquor store sales, at option of counties
- Clarifies eligible use of funds for capital expenditures and written justification for certain projects
- 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
- Streamlines options for premium pay, by broadening the share of eligible workers who can receive premium pay
- Authorizes re-hiring of local government staff, either at or above pre-pandemic levels
- Allows Recovery Funds to be used for modernization of cybersecurity, including hardware and software
- Broadens eligible use of funds for water and sewer projects to include culvert repair, dam and reservoir rehabilitation
- Broadens eligible broadband infrastructure investments to ensure better connectivity to broader populations

## JUMP TO SECTION

[Read Treasury's Final Rule](#)

<<https://home.treasury.gov/system/files/136/SLFRF-Final-Rule.pdf>>

---

[Replacing Lost Revenue](#)

---

[Public Health](#)

---

[Negative Economic Impacts](#)

- [Aid to Impacted Households & Industries](#)
  - [Restore Public Sector Capacity](#)
  - [Capital Expenditures](#)
- 

[Premium Pay](#)

---

[Water and Sewer Infrastructure](#)

---

[Broadband Infrastructure](#)

---

[Non-Federal Match and Cost Share Requirements](#)

---

[Defining Ineligible Expenses](#)

---

[Download Printable Analysis](#)

<[https://www.naco.org/sites/default/files/documents/NACo-ARPA-Final-Rule-Overview\\_v5.pdf](https://www.naco.org/sites/default/files/documents/NACo-ARPA-Final-Rule-Overview_v5.pdf)>

## WATCH: NACo OVERVIEW OF FINAL RULE

1:17:06

Download Slides

<[https://www.naco.org/sites/default/files/event\\_attachments/NACo%20ARPA%20Final%20Rule%20Overview\\_3.pdf](https://www.naco.org/sites/default/files/event_attachments/NACo%20ARPA%20Final%20Rule%20Overview_3.pdf)> |

Watch in New Window <<https://youtu.be/ex15XzYmcU>>

### ILLUSTRATION ONLY OF ALLOWABLE USES OF RECOVERY FUNDS, PER U.S. TREASURY GUIDANCE



#### Support Public Health Response

Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff



#### Address Negative Economic Impacts

Respond to economic harms to workers, families, small businesses, impacted industries, and the public sector



#### Replace Public Sector Revenue Loss

Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic



#### Premium Pay for Essential Workers

Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors



#### Water and Sewer Infrastructure

Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure



#### Broadband Infrastructure

Make necessary investments to provide unserved or underserved locations with new or expanded broadband access

### DECODING THE LANGUAGE OF THE GUIDANCE

Throughout the Final Rule, U.S. Treasury uses various key words that are important to understand in determining the eligible use of funds.

- **“Should” and “must”** = mandatory reporting, use and compliance
- **“May” and “encourage”** = Allows county discretion, even as a federal preference
- **Proportional & Reasonable** are key terms in determining the level of investment for eligible activities

# REPLACING LOST REVENUE

Counties can use Recovery Funds to provide government services, up to the amount of revenue loss experienced using one of two Treasury approaches.

1. **NEW** \$10 million revenue loss allowance
2. Improvements to the revenue loss formula

## KEY NEW FEATURES IN FINAL RULE

### 1. NEW \$10 MILLION REVENUE LOSS ALLOWANCE

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

Counties may still calculate actual revenue loss through Treasury formula – both must pick 1 of the 2 approaches

Simplifies reporting requirements for counties using the standard \$10M standard allowance

2,137 counties (70%) now eligible to invest entirety of allocated Recovery Funds in general government services

### 2. IMPROVEMENTS TO THE REVENUE LOSS FORMULA

Revenue loss growth rate changed from 4.1% to 5.2% 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 one option

Counties must adjust actual revenue totals for the effect of tax cuts/increases adopted after January 6, 2022

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

- 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 and police vehicles)

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 CANNOT BE USED FOR RAINY DAY FUNDS, DEBT SERVICES, AND EXTRAORDINARY PENSION CONTRIBUTIONS

**HOWEVER**, the following activities are NOT an eligible use of a county's “revenue loss” allowance:

- Extraordinary contribution to a pension fund
- Debt service payment, including Tax Anticipation Notes (TANs)
- Rainy day or reserve account
- Settlement agreement, judgment, consent decree or judicially confirmed debt (with limited exceptions)
- (NEW) Activity that conflicts with the purpose of the American Rescue Plan Act statute (e.g. uses of funds that conflict with COVID-19 mitigation practices in line with CDC guidance and recommendations)
- Violations of Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance

## KEY TAKEAWAYS

---

Counties have two options to calculate revenue loss:

1. Up to \$10 million of ARPA allocation standard allowance, OR
  2. Calculate revenue loss with Treasury formula, with a new 5.2% default growth rate
- 

Final Rule increases the “average annual growth rate” from **4.1%** to **5.2%** when calculating revenue loss, or the county can calculate its own average annual growth rate

---

**If your county previously declared “\$0”** for revenue loss in the Interim Report, the county may change and update this number in the first Project and Expenditure Report

---

**If your county is declaring revenue loss**, you must still abide by the reporting requirements within the Project and Expenditure Report's “revenue loss” category

---

# PUBLIC HEALTH IMPACTS

Counties can use funds for other aspects of public health responses.

## COVID-19 MITIGATION

The Final Rule provides a list of enumerated eligible uses for COVID-19 mitigation including, but not limited to:

- Vaccination/testing programs
- Monitoring, contact tracing and public health surveillance
- Public health data systems
- COVID-19 prevention and treatment
- Support for isolation and quarantine
- Transportation to reach vaccination or testing sites, or other prevention and mitigation services for vulnerable populations
- Support for prevention, mitigation or other services in congregate living facilities, public facilities, schools, small businesses, nonprofits and impacted industries
- Emergency operation centers and emergency response equipment (i.e. emergency response radio systems)

## MEDICAL EXPENSES

Recovery Funds may be used for expenses to households, medical providers, or other incurred medical costs due to the pandemic, including:

- Unreimbursed expenses for medical care for COVID-19 testing or treatment (i.e. uncompensated care costs)
- Paid family and medical leave for public employees
- Emergency medical response expenses
- Treatment of long-term symptoms or effects of COVID-19

COUNTIES MAY USE RECOVERY FUNDS FOR UNCOMPENSATED CARE COSTS FOR MEDICAL PROVIDERS OR OUT-OF-POCKET COSTS FOR INDIVIDUALS

## BEHAVIORAL HEALTH CARE

The Final Rule allows a very broad range of activities, including for the general public:

- Behavioral health facilities and equipment



- Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs
- Enhanced behavioral health services in schools
- Services for pregnant women or infants born with neonatal abstinence syndrome
- Support for equitable access to reduce disparities in access to high-quality treatment
- Peer support groups, costs for residence in supportive housing or recovery housing, the 988 National Suicide Prevention Lifeline
- Expansion of access to evidence-based services for opioid use disorder prevention, treatment, harm reduction and recovery

## NEGATIVE ECONOMIC IMPACTS

The Final Rule outlines eligible uses of Recovery Funds to respond to the impacts of the pandemic on households and communities

### KEY NEW FEATURES IN FINAL RULE

---

#### 1. AID TO IMPACTED INDUSTRIES

Clarifies how to designate an impacted industry

---

Clarifies eligible uses to impacted industries

#### 2. 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

#### 3. CAPITAL EXPENDITURES

Eligible projects must respond to pandemic and be proportional to impact

---

Required written justification for certain projects

---

# AID TO IMPACTED HOUSEHOLDS & INDUSTRIES

## IMPACTED HOUSEHOLDS

Treasury presumes the following households and communities are impacted by the pandemic:

- Low-or-moderate income households or communities
- Households that experienced unemployment
- Households that experienced increased food or housing insecurity
- Households that qualify for CHIP, childcare subsidies, CCDF or Medicaid
- Households that qualify for National Housing Trust Fund – for affordable housing programs
- Any student that lost access to in-person education – services to address lost instructional time in K-12

The Final Rule outlines the following eligible uses of Recovery Funds to respond to the impacts of the pandemic on households and communities (non-exhaustive list):

- Food assistance and food banks
- Emergency housing assistance
- Health insurance coverage expansion
- Benefits for surviving family members who have died from COVID-19
- Burials, home repair and home weatherization
- Cash assistance
- Assistance in accessing and applying for public benefits or services
- Child care and early learning services
- Assistance to address the impact of early learning loss for K-12 students

## DISPROPORTIONATELY IMPACTED HOUSEHOLDS

Treasury presumes the following households and communities are disproportionately impacted by the pandemic:

- Low-income households and communities
- Households residing in Qualified Census Tracts (QCTs)
- Households that qualify for certain federal benefits (i.e. TANF, SNAP, SSI, WIC, Section 8 vouchers, LIHEAP)
- Households receiving services provided by Tribal governments

The Final Rule outlines the following eligible uses of Recovery Funds to respond to the disproportionate impacts of the pandemic on households and communities (non-exhaustive list):

- Pay for community health workers to help households access health and social services
- Remediation of lead paint or other lead hazards
- Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment and facilities designed to address health disparities
- Housing vouchers and assistance relocating to neighborhoods with higher economic opportunity
- Investments in neighborhoods to promote improved outcomes
- Improvements to vacant/abandoned properties
- Services to address educational disparities
- School and other educational equipment and facilities

**The Final Rule also clarifies what a “low-income” and “low-or-moderate income” household is:**

## IMPACTED HOUSEHOLD OVERVIEW

- Income at or below 300 percent of the Federal Poverty Guidelines
- Income at or below 65 percent of area median income for its county
- Counties may use a default household size of three when easier for administration
- Counties may presume any household earning below \$65,880 is impacted and eligible for services
- Counties may designate additional households as impacted or disproportionately impacted

## DISPROPORTIONATELY IMPACTED HOUSEHOLD OVERVIEW

- Income at or below 185 percent of the Federal Poverty Guidelines
- Income at or below 40 percent of area median income for its county
- Counties may use a default household size of three when easier for administration
- Counties may any household earning below \$40,626 is disproportionately impacted

## ASSISTANCE TO SMALL BUSINESSES

Treasury defines small businesses by having no more than 500 employees, in general, and is independently owned and operated and is not dominant in its field of operation.

### IMPACTED SMALL BUSINESSES

- Decreased revenue or gross receipts
- Financial insecurity
- Increased costs
- Capacity to weather financial hardship
- Challenges covering payroll, rent or mortgage and other operating costs
- Other reasonable factors determined by the county

### ELIGIBLE USES TO SUPPORT IMPACTED SMALL BUSINESSES

- Loans or grants to mitigate financial hardship (i.e. support payroll and benefits, costs to retain employees, and mortgage, rent, utility and other operating costs)
- Technical assistance, counseling, or other services to support business planning
- For loans, please refer to additional Treasury guidance and overall federal rules on loan provisions with federal funds

### DISPROPORTIONATELY IMPACTED SMALL BUSINESSES

- Small business operating in Qualified Census Tracts
- Small businesses operate by Tribal governments or on Tribal lands
- Small businesses operating in U.S. territories

### ELIGIBLE USES TO SUPPORT DISPROPORTIONATELY IMPACTED SMALL BUSINESSES

- Rehabilitation of commercial properties, storefront improvements and façade improvements
- Technical assistance, business incubators and grants for start-up or expansion costs for small businesses
- Support for microbusinesses, including financial, childcare and transportation costs

## ASSISTANCE TO NONPROFITS

Treasury defines a nonprofit as 501(c)(3) and 501(c)(19) tax-exempt organizations.

## IMPACTED NONPROFITS

- Decreased revenue
- Financial insecurity
- Increased costs (i.e. uncompensated services)
- Capacity to weather financial hardship
- Challenges covering payroll, rent or mortgage and other operating costs

## DISPROPORTIONATELY IMPACTED NONPROFITS

- Nonprofits operating in Qualified Census Tracts
- Nonprofits operating in Tribal governments
- Nonprofits operating in U.S. territories

### ELIGIBLE USES INCLUDE

- Loans or grants to mitigate financial hardship
- Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

## AID TO IMPACTED INDUSTRIES

The Final Rule states that an industry can be designated as “impacted”:

1. If the industry is in the travel, tourism or hospitality sectors, the industry is impacted
2. If the industry is outside of travel, tourism or hospitality sectors, the industry is impacted if:
  - The industry experienced at least 8 percent employment loss from pre-pandemic levels, or
  - The industry is experiencing comparable or worse economic impacts as the tourism, travel and hospitality industries as of the date the Final Rule is published (12/6/2022)

**Recipients (i.e. counties) have flexibility to define industries**

**Aid can only be provided to businesses and attractions that were operating prior to the pandemic and affected by required closures**

## RESTORE PUBLIC SECTOR CAPACITY

Counties may use Recovery Funds to restore and bolster public sector capacity, which supports government’s ability to deliver critical COVID-19 services.

- 1. Payroll and covered benefits** for public safety, public health, health care, human services and similar employees of a recipient government
- 2. Rehiring public sector staff to pre-pandemic levels or above pre-pandemic levels (7.5 percent growth allowance)**
- 3. Support and retaining public sector workers by:**
  - Providing 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 (must be additive to an employee’s regular compensation and are 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 administering with hiring, support and retention programs
- 4. Effective service delivery**

## PUBLIC SAFETY, PUBLIC HEALTH AND HUMAN SERVICES STAFF

### PUBLIC SAFETY STAFF

- Police officers
- Sheriffs/deputy sheriffs
- Firefighters
- Emergency medical responders
- Correctional and detention officers
- Dispatchers and supervisor personnel that directly support public safety staff

### PUBLIC HEALTH STAFF

- Employees involved in providing medical, physical or mental health services (i.e. medical staff in schools, prisons, etc.)
- Laboratory technicians, medical examiners, morgue staff
- Other support services essential for patient care
- Employees of public health departments

### HUMAN SERVICES STAFF

- Employees providing or administering social services and public benefits
- Child welfare services employees
- Child, elder or family care employees

## GOVERNMENT EMPLOYMENT AND REHIRING PUBLIC SECTOR STAFF

Counties have two options to restore pre-pandemic employment, depending on the recipient's needs:

1. Hire back county FTEs for pre-pandemic positions that existed on January 27, 2020

**OR**

2. Hire above the pre-pandemic levels of up to 7.5 percent above pre-pandemic baseline. If a county wants to hire above pre-pandemic baseline, it must complete the following steps:

- Identify the county's FTE level on January 27, 2020
- Multiply the pre-pandemic baseline by 1.075 (adjusted pre-pandemic baseline)
- Identify county's budgeted FTE level on March 3, 2021 (actual number of FTEs)
- Subtract the actual number of FTEs from the adjusted re-pandemic baseline to determine number of FTEs that can be covered. Counties do NOT have to hire for the same role that existed pre-pandemic

## EFFECTIVE SERVICE DELIVERY

Recovery Funds may be used to improve the efficacy of public health and economic programs.

### Supporting program evaluation, data and outreach through:

- Program evaluation and evidence resources
- Data analysis resources to gather, assess, share and use data
- Technology infrastructure to improve access to and user experience of government IT systems
- Community outreach and engagement activities

### Administrative needs:

- Backlogs caused by shutdowns (NACo Note Only: court backlogs, records backlogs, service backlogs)
- Technology infrastructure to adapt government operations to the pandemic (i.e. video-conferencing software, data and case management systems)

## CAPITAL EXPENDITURES

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

Projects must 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:

- Description of harm or need to be addresses (i.e. number of individuals)
- Explanation of why the capital expenditure is appropriate (i.e. why existing resources are inadequate)
- Comparison of proposed capital expenditure project against at least two alternative capital expenditures and why the proposed capital expenditure is superior

**COUNTIES ARE REQUIRED TO WRITE A WRITTEN JUSTIFICATION FOR CAPITAL EXPENDITURES EQUAL TO OR GREATER THAN \$1 MILLION**

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

**EXAMPLES ELIGIBLE CAPITAL EXPENDITURE PROJECTS**

- 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

**EXAMPLES INELIGIBLE CAPITAL EXPENDITURE PROJECTS**

- 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 use Recovery Funds to provide premium pay (\$13/per hour) 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 IFR, counties were able to submit a written justification to Treasury to ensure workers not listed could receive premium pay

---

Final Rule permits counties to award premium pay to workers that are not exempt from the Fair Labor Standards Act overtime provisions 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.) and

---

Premium pay can be awarded to hourly, part-time or salaried or non-hourly workers

---

Volunteers cannot receive premium pay

---

#### The Final Rule outlines three steps for determining premium pay eligibility:

1. Any work performed by an employee of the state, local or tribal government, among others
2. Verify that the eligible worker performs essential work including risk of COVID exposure
  - Work involving regular in-person interactions or regular physical handling of items also handled by others
  - Worker would NOT be engaged in essential work if telework performed from a residence
3. Confirm that premium pay responds to workers performing essential work during the public health emergency
  - Determine average annual wage for county employees
  - Any employee normally eligible for overtime as non-exempt from the FLSA overtime provisions
  - If worker does not meet any of the above, county must submit written justification with presumptive allowance

UNDER THE FINAL RULE, PREMIUM PAY MAY STILL BE RETROACTIVE AND ONLY BE PROVIDED TO ELIGIBLE WORKERS THAT ARE PERFORMING ESSENTIAL WORK (IN PERSON/REGULAR PHYSICAL HANDLING OF ITEMS)

## WATER AND SEWER INFRASTRUCTURE

Counties can use to make a broad range of water and sewer infrastructure investments.

### KEY NEW FEATURES IN FINAL RULE

---

#### NEW ELIGIBLE WATER AND SEWER PROJECTS

Under the IFR, eligible projects were aligned with those under EPA's Clean Water State Revolving Fund and Drinking Water State Revolving Fund

Final Rule provides additional eligible projects, including:

- Culvert repair
- Resizing, and removal, replacement of storm sewers, and additional types of stormwater infrastructure
- Infrastructure to improve access to safe drinking water for individual served by residential wells, including testing initiatives, and treatment/remediation strategies that address contamination
- Dam and reservoir rehabilitation if primary purpose of dam or reservoir is for drinking water supply and project is necessary for provision of drinking water
- Broad set of lead remediation projects eligible under EPA grant programs authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act, including:
  - Lead testing
  - Installation of corrosion control treatment
  - Lead service line replacement
  - Water quality testing, compliance monitoring, and remediation activities (i.e. replacement of internal plumbing and faucets and fixtures in schools and childcare facilities)



# BROADBAND INFRASTRUCTURE

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

## KEY NEW FEATURES IN FINAL RULE

---

### **BROADENS BROADBAND INFRASTRUCTURE FLEXIBILITY**

Under IFR, counties were required to invest in households and businesses without reliable wireline 25 Mbps download/3 Mbps upload

---

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

### **THE FINAL RULE ALSO INCLUDES THE FOLLOWING CLARIFICATION ON BROADBAND PROJECTS:**

Identify an eligible area for investment

- Counties are encouraged to prioritize projects that are designed to serve locations without access to reliable wireline 100 Mbps download/20 Mbps upload speeds
  - Beyond the threshold, counties have broad flexibility to define need in a community. Examples of need include:
    - Lack of access to a reliable high-speed broadband connection
    - Lack of affordable broadband
    - Lack of reliable service
- 

Design a project to meet high-speed technical standards

- Projects are required to meet or exceed 100 Mbps download/100 Mbps upload (flexibility for 100 Mbps/20 Mbps)
- 

Enrollment in low-income subsidy program

- FCC's Affordable Connectivity Program (ACP) and provide access to broad-based affordability program to low-income consumers
-

## NON-FEDERAL MATCH AND COST SHARE REQUIREMENTS

Funds available under the “revenue loss” eligible use category may be used to meet the non-federal cost share or matching requirement of other federal programs (i.e. DWSRF and CWSRF)

However, these funds may NOT be use for the non-federal share state’s Medicaid and CHIP programs, even under the “revenue loss” category

Recovery Funds beyond those under the “revenue loss” category, cannot be used as the non-federal match or cost-share requirement of other federal programs other than as specifically provided for by statute (i.e. certain broadband deployment projects and Infrastructure Investments and Jobs Act )

## DEFINING INELIGIBLE EXPENSES

The Final Rule maintains the Interim Final Rule’s restriction on use with additional clarification.

### PENSION FUNDS

Final Rule clarifies that prohibition of “extraordinary contributions” to pension funds applies to all recipients except for Tribal governments

### OTHER RESTRICTIONS

- Funding debt service, legal settlements or judgements
- Deposits to rainy day funds or financial reserves
- Clarifies additional restrictions that apply, including that:
  - Uses of funds may not undermine COVID-19 mitigation practices in line with CDC guidance
  - Uses of funds may not violate Uniform Guidance conflict of interest requirements and other laws

### NET REDUCTION IN REVENUE (STATES & TERRITORIES)

Final Rule maintains that IFR’s prohibition on states and localities for using Recovery Funds to directly or indirectly offset reduction in net tax revenue

# RELATED RECOVERY RESOURCES



**How communities are investing American Rescue Plan funds with the Local Government ARPA Investment Tracker**



**County Frameworks for Recovery Fund Investments**



**State and Local Fiscal Recovery Fund Resource Hub**



**N.C. county gets quick start on ARPA investment**



**Resource Hub for Counties: State, Local, Tribal and Territorial Fiscal Recovery, Infrastructure And Disaster Relief Flexibility Act**



**COVID-19 Federal Emergency Rental Assistance Program**



**Overview for America's Counties: U.S. Treasury Interim Final Rule & Guidance For State And Local Fiscal Recovery Funds**



**Understanding Eligible Uses of The Fiscal Recovery Fund: How Counties Should Calculate Revenue Loss**



**State and Local Coronavirus Fiscal Recovery Funds**



**American Rescue Plan Act Funding Breakdown**



**American Rescue Plan Act: Coronavirus State & Local Fiscal Recovery Fund FAQs**



**Counties and the ARPA Recovery Fund: Executive Summary**