



SUMMARY OF INTERIM FINAL RULE — MAY 2021

Treasury Interim Final Rule – COVID-19 State and Local Recovery Funds

Overview: The Treasury Department has released [guidance](#) on how states and localities may use the \$350 billion included in the American Rescue Plan. The guidance includes details on the uses of funding, distribution process, and the time allotted for states and localities to use the funds.

Permitted Uses of Funds: Funds may be used to 1) support public health, 2) address disparities in outcomes, 3) address negative economic impacts related to COVID-19, 4) provide premium pay, 5) replace lost public sector revenue, and 6) invest in infrastructure. Within these overall categories, the guidance provides principles for determining the types of programs and services that this funding can support and examples of allowable uses that recipients may consider.

- 1) *Support Public Health (pg. 10):* Recipients may use this funding to address a broad range of public health needs in the categories of COVID-19 mitigation, medical expenses, behavioral health care needs, and public health resources. The table below provides examples of how these funds may be used for each eligible category.

Eligible Category	Examples/Description of Eligible Use of Funds
COVID-19 Mitigation	Funds may be used for vaccination programs, medical expenses, testing, contact tracing, quarantine and isolation, PPE purchases, to increase access for vulnerable populations, public health surveillance, to enhance healthcare capacity, prevention/mitigation in congregate living facilities, to enhance public health data systems, capital investments in public hospitals and clinics to meet pandemic operational needs, and ventilation improvements in key facilities (e.g., health care facilities).
Medical Expenses	Funds may be used to continue to provide care and services to address near- and longer-term needs related to COVID-19.
Behavioral Health Care Needs Exacerbated by COVID-19	Funds may be used to provide mental health treatment, substance misuse treatment, other behavioral health services, hotlines, crisis intervention, outreach to promote access to services.
Public Health and Safety Staff	Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID-19 public health emergency.
Public Health Programs	Funds may be used to engage in planning and analysis to improve programs addressing the COVID19 pandemic — including using targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

2) *Address Disparities in Outcomes (pg. 21)*: A broad range of services are presumed to respond to the public health emergency when provided in communities in Qualified Census Tracts or by tribal governments. Services that may be funded include:

- Community health workers to improve access and address the social determinants
- Public benefits navigators to assist community members with navigating and applying for benefits
- Housing services to support healthy living environments
- Remediation of lead paint or other lead hazards
- Evidence-based community violence intervention programs to prevent violence

3) *Address Negative Economic Impacts (pg.23)*: Funds may be used to provide a wide range of assistance to individuals and households, small businesses, and impacted industries. They may also be used to enable governments to rehire public sector staff and rebuild capacity and serve the hardest hit communities. The table below provides examples of uses.

Eligible Category	Examples/Description of Eligible Use of Funds
Assistance to Individuals and Households	Funds may be used for job training, payments to state unemployment insurance trust funds, food assistance, rent/mortgage assistance, utility assistance, legal aid to prevent homelessness, emergency assistance for burials, and home repairs.
Support for Small Businesses	Funds may be used for loans or grants to mitigate financial hardship, loans, or grants to support COVID-19 mitigation tactics, technical assistance with business planning needs.
Aid to Impacted Industries	Funds may be used to provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID-19 public health emergency. Hospitals/health systems <i>are not</i> mentioned in this section.
Rebuild Public Sector Capacity	Funds may be used to rehire public sector staff. Funding may also be used to build internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.
Invest in Housing and Neighborhoods*	Fund services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling and housing navigation assistance to facilitate moves to neighborhoods with high economic opportunity.
Address Educational Disparities*	Fund new or expanded early learning services, provide additional resources to high-poverty school districts, and offer educational services like tutoring or after-school programs as well as services to address social, emotional, and mental health needs.
Promote Healthy Childhood Environments*	Fund new or expanded high-quality childcare, home visitation programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

* Governments may use Recovery Funds to support these additional services if they are provided within a Qualified Census Tract, to families living in Qualified Census Tracts, by a tribal government, or to other populations, households, or geographic areas disproportionately impacted by the pandemic.

- 4) *Provide Premium Pay (pg. 45)*: Staff at nursing homes, hospitals, and other health care settings are specifically called out as being eligible for premium pay. Premium pay is defined as 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 rule clarifies that premium pay may be provided retroactively 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. Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

The rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers. Staff at nursing homes, hospitals, and other health care settings are specifically called out as being eligible.

- 5) *Replace State/Locality Revenue Loss (pg. 51)*: Recipients may use funds to replace lost revenue. The rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Specifically, recipients will compute the extent of their reduction in revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic.
- 6) *Invest in Infrastructure (pg. 62)*: The funding provides for investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Broadband projects (pg. 69) should deliver services offering reliable 100 Mbps download and 100 Mbps upload speeds, unless impracticable due to topography, geography, or financial cost.

Impermissible Uses of Funding: States and localities may not use the funds to:

- 1) *Offset Reductions in Tax Revenue (pg. 78)*: States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in law from March 3, 2021, through the last day of the fiscal year in which the funds provided have been spent.
- 2) *Make Pension Deposits (pg. 81)*: Funding may not be used to make a deposit to a pension fund. A "deposit" is defined as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability.
- 3) *Other Restrictions on Use (pg. 96)*: Payments are subject to pre-existing limitations and may not be used as non-federal match for other federal programs whose statute or regulations bar the use of federal funds to meet matching requirements. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the state share of Medicaid.

Distribution Process (pg. 102): Local governments will receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered approximately 12 months later. States that have experienced a net increase in the unemployment rate of more than 2 percentage points from February

2020 to the latest available data as of the date of certification will receive their full allocation of funds in a single payment; other states will receive funds in two equal tranches.

Timing to Obligate Funds (pg. 97): Funds may be used to cover costs incurred beginning on March 3, 2021. The statute requires funds be used to cover costs incurred by December 31, 2024. The Treasury Department interprets this to require only that recipients have obligated the funds by such date. Funds must be expended by December 31, 2026.

Other: Also included in the guidance, but not covered in this summary is the recoupment process (pg. 100), the process for transferring funds among localities (pg. 105), and reporting requirements (pg. 110).

For questions, contact:

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