
American Rescue Plan Act: *This Is Just the Beginning*

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OUTLINE

- General Overview of the American Rescue Plan Act – Coronavirus Local Fiscal Recovery Act
- Status of the Final Rule
- Updates on Uses of Funds
- Reporting – As of November 5, 2021
- Records Retention
- Recoupment Process
- Other Legislation to Keep an Eye On
- Resources
- Any additional guidance published between November 8 forward
- Questions

BRIEF OVERVIEW OF THE AMERICAN RESCUE PLAN ACT

One Hundred Seventeenth Congress
of the
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Sunday,
the third day of January, two thousand and twenty-one*

An Act

To provide for reconciliation pursuant to title II of S. Con. Res. 5.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Rescue Plan Act of 2021”.

LOCAL GOVERNMENT FISCAL RECOVERY FUND

- The American Rescue Plan Act effective March 11, 2021; Pub. L. 117-2, codified at 42 U.S.C. 802 *et seq.* Section 603.
- The Interim Final Rule is effective immediately under the emergency rule making provisions. However, Treasury is allowing and encouraging comments. 31 CFR Part 35

STATUS OF THE FINAL RULE

- Treasury received “nearly 1,000 unique comments” by July 16th deadline.
- “Treasury is committed to prompt and thorough review of the comments and plans to adopt a final rule, which will respond to the comments receive. Treasury expects its review of comments to **continue into the fall.**”

WHAT WERE THE COMMENTS RECEIVED?

- At least 8 counties in Florida commented.
- NACO also submitted 30 pages of comments on behalf of counties throughout the Nation, after receiving over 1,000 comments.
- Trends in comments:
 - Revenue Replacement – the calculation method (fiscal to calendar year); the determination of what is and is not included as a source of revenue to determine calculation; project-by-project versus county wide calculation; the use of revenue recoupment and the applicability of the federal requirements on its use.
 - Use of funds for infrastructure.

WHAT DOES THIS MEAN IN THE INTERIM

- “Until Treasury adopts a final rule, and the final rule becomes effective, the Interim Final Rule is, and will remain, binding and effective.”
- “This means that recipients can and should rely on the Interim Final Rule to determine whether uses of funds are eligible under this program. Treasury encourages recipients to use funds to meet needs in their community.”

WHAT ARE THE CONSEQUENCES IF USING FUNDS NOW CONSISTENT WITH THE INTERIM FINAL RULE , BUT IS NOT CONSISTENT WITH THE FINAL RULE

- “Funds used in a manner consistent with the Interim Final Rule while the Interim Final Rule is effective will not be subject to recoupment.”
- Tip: Make sure to keep a copy of the Interim Final Rule and all guidance related to it, stored with documentation of use during the retention period. Make note in your files when funds were expended under the Interim Final Rule or Final Rule. This will assist your County if someone later needs to pick up the file to review as a result of a notice of recoupment.

CATEGORIES OF FUNDING UNDER THE LOCAL FISCAL FUND



Support Public
Health
Expenditures



Address
Negative
Economic
Impacts



Replace Lost
Public Sector
Revenue



Premium Pay
for Essential
Workers

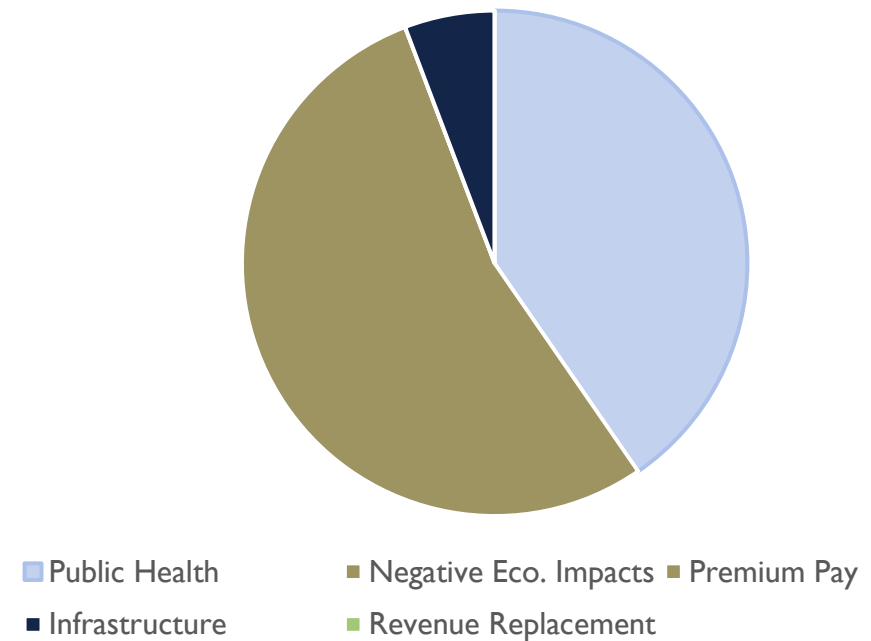


Infrastructure
Investments

EXAMPLES OF USES IN TREASURY EARLY REPORTING PUBLICATION

- 52 examples provided.
- *“The examples above are based on an initial review of recipient reports, and their inclusion ... does not constitute explicit approval of these projects.”* (Treasury Early Reporting publication dated 10.14.2021)

Use Examples provided by Treasury



PUBLIC HEALTH

- Vaccination clinics/Booster clinics;
- Incentives to vaccinate – the public and/or county employees;
- PPE expenditures;
- Paid Leave related to COVID-19;
- Mental Health and Behavioral Health Intervention Programing

NEGATIVE ECONOMIC IMPACTS

- Job Assistance Programs;
- Small business support;
- Rehiring of public sector staff to pre-Covid-19 levels;
- Crime and Violence prevention in disparaged communities;
- Housing in disparaged communities;
- Educational assistance – early learning, tutoring services;

INFRASTRUCTURE

- Broadband – last mile of connectivity.

TREASURY'S LATEST PUBLICATION – COMPLIANCE AND REPORTING GUIDANCE, STATE AND LOCAL FISCAL RECOVERY FUND, VERSION 2


- Published November 5, 2021: <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>
- The guidance must be read in concert with the Award Terms and Conditions, the authorizing statute, the implementing regulation, and other regulatory and statutory requirements, including regulatory requirements under the Uniform Guidance (2 CFR Part 200).

REPORTING REQUIREMENTS – KEY PRINCIPLES

- Recipients and any subrecipients are responsible for ensuring the awarded funds are not used for ineligible purposes, and there is no fraud, waste or abuse associated with their award.
- SLFRF funded projects responding to the Covid-19 public health emergency and meeting urgent community needs must be implemented swiftly and effectively using a simple and rapid program for the community and maintain a **robust documentation and compliance regime**.

REPORTING – KEY PRINCIPLES, CONTINUES

- Treasury encourages recipients to use SLFRF-funded projects to advance shared interests and promote equitable delivery of government benefits and opportunities to underserved communities, as outlined in Executive Order 13985, On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; and
- Transparency and public accountability for SLFRF award funds and use of such funds are critical to upholding program integrity and trust in all levels of government, and SLFRF award funds should be managed consistent with Administration guidance per Memorandum M-21-20 and Memorandum M-20-21.



“Recipients should ensure they maintain proper documentation supporting determinations of costs and applicable compliance requirements, and how they have been satisfied as part of their award management, internal controls, and subrecipient oversight and management.”

OTHER GENERAL REPORTING REQUIREMENTS

- Recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable.
- Your organization should also develop and implement internal controls related to activities occurring outside the period of performance. For example, each recipient should articulate each project's policy on allowability of costs incurred prior to award or start of the period of performance.
- Recipients of SLFRF funds should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.
- Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied. Reporting must be consistent with the definition of expenditures pursuant to 2 CFR 200.1. Your organization should appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with appropriate accounting standards and principles.

BEST PRACTICES

Table 1: Internal controls best practices

Best Practice	Description	Example
Written policies and procedures	Formal documentation of recipient policies and procedures	Documented procedure for determining worker eligibility for premium pay
Written standards of conduct	Formal statement of mission, values, principles, and professional standards	Documented code of conduct / ethics for subcontractors
Risk-based due diligence	Pre-payment validations conducted according to an assessed level of risk	Enhanced eligibility review of subrecipient with imperfect performance history
Risk-based compliance monitoring	Ongoing validations conducted according to an assessed level of risk	Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics
Record maintenance and retention	Creation and storage of financial and non-financial records.	Storage of all subrecipient payment information.

REPORTING VARIATIONS

- Generally, recipients must submit one initial interim report, quarterly or annual Project and Expenditure reports which include subaward reporting, and in some cases annual Recovery Plan reports.
- Depends on population and amount of funding provided.

COUNTIES WITH POPULATIONS OVER 250,000 RESIDENTS

- Interim Reporting
- Project and Expenditure Report – quarterly reports
- Recovery Plan Performance Report

COUNTIES WITH POPULATIONS UNDER 250,000 RESIDENTS RECEIVING \$10 MILLION OR MORE

- Interim Report
- Project and Expenditure Report – quarterly reports

COUNTIES BELOW 250,000 RESIDENTS RECEIVING LESS THAN \$10 MILLION

- Interim Report
- Project and Expenditure Report (by April 30, 2022 and then annually thereafter) Annual reports only

PROJECT AND EXPENDITURE REPORTS – REQUIREMENTS

- Projects – name, identification number, project expenditure category, description, (between 50 to 250 words) and status of completion.
- Expenditures – report current period obligation, cumulative obligation, current period expenditure, cumulative expenditure.
- Project Status – for categories: not started; completed less than 50 percent; completed 50 percent or more; and completed.
- Adopted Budget (only counties exceeding 250k residents) per project.
- Project Demographic Distribution (phased in after April 2022).
- Subawards at \$50,00 or over.
- Civil Rights Compliance.
- Ineligible Activities: Tax Offset Provisions.
- Required programmatic Data

PROGRAMMATIC DATA

- **Payroll for Public Health and Safety Employees:** Number of government FTEs responding to COVID-19 supported under the expenditure.
- **Household Assistance:** Brief description of structure and objectives of assistance program(s) (e.g., nutrition assistance for low-income households) • Number of households served (by program if recipient establishes multiple separate household assistance programs) • Brief description of recipient's approach to ensuring that aid to households responds to a negative economic impact of Covid-19, as described in the Interim Final Rule.
- **Small Business Economic Assistance—**• Brief description of the structure and objectives of assistance program(s) (e.g., grants for additional costs related to Covid-19 mitigation) • Number of small businesses served (by program if recipient establishes multiple separate small businesses assistance programs) • Brief description of recipient's approach to ensuring that aid to small businesses responds to a negative economic impact of COVID-19, as described in the Interim Final Rule.

PROGRAMMATIC DATA CONT...

- **Aid to Travel, Tourism, and Hospitality or Other Impacted Industries** • If aid is provided to industries other than travel, tourism, and hospitality, a description of pandemic impact on the industry and rationale for providing aid to the industry Brief narrative description of how the assistance provided responds to negative economic impacts of the COVID-19 pandemic • For each subaward:
 - o Sector of employer (Note: additional detail, including list of sectors to be provided in a users' guide)
 - o Purpose of funds (e.g., payroll support, safety measure implementation)
- **Rehiring Public Sector Staff**– • Number of FTEs rehired by governments under this authority.
- **Education Assistance** –• The National Center for Education Statistics (“NCES”) School ID or NCES District ID. List the School District if all schools within the school district received some funds. If not all schools within the school district received funds, list the School ID of the schools that received funds. These can allow evaluators to link data from the NCES to look at school-level demographics and, eventually, student performance. |

CONT...

- Premium Pay;
- Revenue Replacement;
- All infrastructure projects.

RECOVERY PLAN PERFORMANCE REPORT REQUIREMENTS

- Executive Summary
- Uses of Funds
- Promoting equitable outcomes
- Community Engagement
- Labor Practices
- Use of Evidence
- Table of Expenses by Expenditure Category
- Project Inventory
- Performance Report
- Required Performance Indicators and Programmatic Data
- Ineligible Activities: Tax Offset Provisions (States and territories only)

EVIDENCE-BASED INTERVENTION

- For the purposes of the SLFRF, evidence-based refers to interventions with strong or moderate evidence as defined below:
- Strong evidence means that the evidence base can support causal conclusions for the specific program proposed by the applicant with the highest level of confidence. This consists of one or more well-designed and well-implemented experimental studies conducted on the proposed program with positive findings on one or more intended outcomes.
- Moderate evidence means that there is a reasonably developed evidence base that can support causal conclusions. The evidence base consists of one or more quasi-experimental studies with positive findings on one or more intended outcomes OR two or more nonexperimental studies with positive findings on one or more intended outcomes. Examples of research that meet the standards include: well-designed and well-implemented quasiexperimental studies that compare outcomes between the group receiving the intervention and a matched comparison group (i.e., a similar population that does not receive the intervention).

TEMPLATE PUBLISHED BY TREASURY

[Recipient Name]
Recovery Plan

**State and Local Fiscal Recovery
 Funds
 202x Report**

Note: The Recovery Plan Performance Report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure program outcomes are achieved in an effective, efficient, and equitable manner. While this template includes the minimum requirements for the Recovery Plan, each recipient is encouraged to add information to the plan that they feel is appropriate to provide information to their constituents on efforts they are taking to respond to the pandemic and promote an equitable economic recovery.

Each jurisdiction may determine the general form and content of the Recovery Plan, as long as it meets the reporting requirements, and recipients are encouraged to tailor this template to best meet their needs. Use of infographics, tables, charts, pictures, case studies, and other explanatory elements are encouraged.

Notes on using this template

All States and territories, and metropolitan cities and counties with a population that exceeds 250,000 residents that are recipients of State and Local Fiscal Recovery Funds (SLFRF) awards are required to produce a Recovery Plan Performance Report (the "Recovery Plan"). The Recovery Plan provides information on the recipient's projects and how they plan to ensure program outcomes are achieved in an effective and equitable manner. It will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury. Each annual Recovery Plan must be posted on the public-facing website of the recipient by or on the same date that the recipient submits the report to Treasury.

The initial Recovery Plan will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, the Recovery Plan will cover a 12-month period and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period (by July 31).

Annual Report	Period Covered	Due Date
1	Award Date – July 31, 2021	August 31, 2021
2	July 1, 2021 – June 30, 2022	July 31, 2022
3	July 1, 2022 – June 30, 2023	July 31, 2023
4	July 1, 2023 – June 30, 2024	July 31, 2024
5	July 1, 2024 – June 30, 2025	July 31, 2025
6	July 1, 2025 – June 30, 2026	July 31, 2026
7	July 1, 2026 – December 31, 2026	March 31, 2027

Instructions:

This document is meant as a suggested template for applicable SLFRF recipients to assist them in submitting their Recovery Plan. Recipients should consult the SLFRF Guidance on Recipient Compliance and Reporting Responsibilities (Reporting Guidance) located at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf> for detailed guidance on the submission of this report.

Treasury encourages Recipients to tailor this report to best meet their needs in terms of format and content. Treasury recommends the use of infographics, tables, charts, pictures, case studies, and other explanatory elements in describing their programs.

*Text in **italics*** represents the requirements from the Reporting Guidance and is meant to serve as a reference as recipients prepare their Recovery Plan. This instructions page and the *text in italics* should be removed before the final transmitted report is published and submitted to Treasury.

Additional information around Expenditure Categories is located in Appendix 1 of the Reporting Guidance.

For More Information

More information about the State and Local Fiscal Recovery Fund program and associated reporting requirements are located at www.treasury.gov/SLFRF.

Questions on reporting, eligible uses, or other general topics should be directed to SLFRP@treasury.gov.

[Recipient's Name]
 202x Recovery Plan

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DEADLINES OF REPORTING UPDATED NOVEMBER 5, 2021

- Treasury revised the deadline for submission of the first **Project and Expenditure Report** from the previous October 31, 2021 date. In addition, Treasury has updated the Project and Expenditure Report reporting tiers as follows:
 - Metropolitan counties and cities with a population that exceeds 250,000- the report will now be due on **January 31, 2022** and will cover the period between March 3, 2021 and December 31, 2021. The report will be due quarterly.
 - Metropolitan counties and cities with a population lower than 250,000 and awards above \$10 million- the report will now be due on **January 31, 2022** and will cover the period between March 3, 2021 and December 31, 2021. The report will be due quarterly.
 - Metropolitan counties and cities with a population lower than 250,000 and awards less than \$10 million- the report will now be due on **April 30, 2022** and will cover the period between March 3, 2021 and March 31, 2022. The report will be due annually by the end of April.

TREASURY'S REQUEST FOR COMMENTS ON REPORTING

- Treasury published in the Federal Register a Request for comments related to reporting and suggestions on how to streamline the process.
- November 15, 2021 was the deadline to submit comments.

RECORDS RETENTION

Generally, Treasury has stated that counties must maintain records and financial documents for **five years after all funds have been expended or returned to Treasury**. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

* Example: December 31, 2031 retention time period if funds were expended on last day of the program December 31, 2026.

* Keep in mind that there may be other time period involved related to close out for which the records may need to be kept for a longer duration of time.

RECOUPMENT PROCESS

- Step 1: Identification by Treasury of an issue with use of funds;
- Step 2: Notice of violation is issued to entity.
- Step 3: The local government may request reconsideration with 60 days of receipt of the notice.
- Step 4: Within 60 days a determination will be made.

If repayment is required, it must be within 120 calendar days of the initial notice if no request for reconsideration or 120 calendar days of final notice of recoupment were asked to reconsider.

OTHER LEGISLATION TO KEEP AN EYE ON

- ARPA, Capital Projects Fund – subrecipients/grants
- Build America Act of 2021 – discretionary grants



RESOURCES USED IN THIS PRESENTATION





Any New Guidance Published By Treasury between November 8, 2021,
and today's presentation



QUESTIONS?

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