

# CORONA VIRUS LOCAL FISCAL RECOVERY FUNDS

Also Known as American Rescue Plan Act (“ARPA”) or State and Local Fiscal Recovery Funds (“SLFRF”). The Act was signed into law on March 11, 2021

# Sec. 603 of ARPA Allocates \$45 billion to Metropolitan Cities

- The Eligible Uses are as follows:
- 1. For responding to the COVID-19 Health Emergency with respect to testing, treatment or other public health purposes;
- 2. For responding to the negative economic impacts of the virus;
- 3. For providing premium pay to eligible workers performing essential duties during the COVID-19 emergency;
- 4. To fund the provision of governmental services which were undercut by the reduction in expected revenues due to the pandemic;
- 5. Infrastructure projects investing in water, sewer, and broadband;
- 6. Funds can be transferred to private non-profit organizations, public transportation agencies or special purpose units of State or local government.
- **Ineligible use: For deposit into Pension Funds.**

## May 10, 2021: U.S. Treasury Dept. Issued the Interim Final Rule, adding more guidance to the use of Funds. See 31 C.F.R. § 35.6(b)

With Respect to Using the funds to address the Public Health aspect of the emergency, Treasury created a non-exclusive list which highlighted the following:

1. COVID-19 Mitigation and prevention, including, vaccination programs, testing and contact tracing, support for isolation or quarantine, enforcement of public health orders, communication efforts, purchase of PPE and support for mitigation to nursing homes, homeless shelters and incarceration facilities, schools, and the ventilation systems thereof.
2. Funding Medical expenses, Public Health Staff and bettering public health programs.
3. Behavioral Health and to address disparities in public health outcomes. See Executive Order 13985.

It is noteworthy that many of these programs and mitigation efforts have already been funded by other Federal and State Coronavirus and public health grants.

It is also noteworthy that States and Counties have received funding to address these same programs and mitigation efforts under ARPA.

## 35.6(b) cont.

To address the negative economic impacts of the emergency, the IFR also provides the following non-exclusive list:

1. Unemployment assistance, assistance to households, rent, mortgage and utility assistance, eviction programs, internet assistance and survivor's benefits;
2. Assistance to Small Businesses, Non-profits and Impacted Industries.
  - a. With respect to this category, assistance may come in the form of grants, loans, in-kind and technical assistance.
  - b. Impacted industries are tourism, travel, hospitality and other similar industries.
  - c. Application for eligibility will be required for any subrecipients or grantees under this section.
  - d. Evidence of the extent financial damages incurred during the emergency is required.
3. Aid to disproportionately impacted populations and communities:  
For Ex. Assistance in applying for public benefits, remediation of lead, community violence intervention, development of affordable housing, new or expanded early learning services.

## 35.6(c): Premium Pay for Eligible Employees

- Recipients may pay up to \$13 per hour in premium pay, capped at no more than \$25,000 per employee.
- While this provision appears to be both prospective and retroactive, we are awaiting guidance from the final rule.
- It is noteworthy that most premium pay during the pandemic has been covered by previous Federal and State grants

## 35.6(d) Funding Governmental Services that experienced a reduction in revenue

ARPA and the IFR contemplate that State and Local Govts. budgeted a certain amount of revenue growth in 2020 that was torpedoed by the pandemic.

Local governments, such as the City, that experienced such a reduction are allowed to replace the lost revenue using a formula that allows them to assume 4.1% “counterfactual” revenue growth from 2019 to 2020.

This counterfactual general revenue (which is the assumed growth absent the pandemic) is subtracted by the actual amount of general revenue to arrive at the replacement amount.

The term “General Revenue” is defined as all revenue from the govt’s own sources, including State grants and taxes collected by one govt. distributed or shared to another govts.

The term “General Revenue” excludes Federal grants, refunds or correcting transactions, utility revenue and proceeds from the issuance of debt.

The local govt. is permitted to assume a higher rate of counterfactual revenue growth than 4.1% if it believes it can support a higher assumed growth rate over the three years prior to the pandemic.

Government Services can include, but aren’t limited to, “pay-go” funding of building and road projects, modernization of cybersecurity and the provision of police, fire and other public safety services.

## 35.6(e) Infrastructure

- The IRF allows unlimited spending of SLFRF funds on the following infrastructure projects:
  - Water
  - Sewer
  - Broadband
- Note: Water and Sewer includes but is not limited to centralized wastewater treatment, collection and conveyance, combined sewer outflows, decentralized wastewater, stormwater, energy conservation, water conservation, treatment, transmission, distribution, storage and “other water infrastructure.”
- Broadband includes, but is not limited to, “Last Mile” projects and “other projects.”