

# THE AMERICAN RESCUE PLAN

Presented by  
Mississippi Office of the State Auditor

**08/09/2021**

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# The American Rescue Plan Act 08/09/2021

- Provides 1.9 trillion / \$350 billion in emergency funding for state, local, territorial.
- To respond to the COVID-19 public health emergency, or its negative economic impacts, including by providing assistance to households, small businesses, and nonprofits, or aid to impacted industries, such as tourism, travel, and hospitality;
- To respond to workers performing essential work during the COVID-19 pandemic by providing premium pay to eligible workers of the State, territorial or Tribal government performing essential work or by providing grants to eligible employers that have eligible worker;
- To provide government services, to the extent COVID-19 caused a reduction of revenues collected in the most recent full fiscal year of the State, territorial, or Tribal government;
- To make necessary investments in water, sewer, or broadband infrastructure.

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# The American Rescue Plan Act 08/09/2021

- Use Limitations
- A state or territory shall not use the funds provided or transferred to either directly or indirectly offset a reduction in the net tax revenue of a state or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.
- No state or territory may use funds made available for deposit into any pension fund.

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# The American Rescue Plan Act 08/09/2021

- Administration
- U.S. Treasury serves as the administrator of the funds.
- Funds must be expended by December 31, 2024.
- Payment and Certification:
  - Each state and territory will be required to certify to the U.S. Treasury that it will use any payment in compliance with the use of fund restrictions before any distribution is made.
  - U.S. Treasury must make payment to the certifying entity within 60 days.
  - U.S. Treasury has the authority to withhold up to 50 percent of the amount allocated to each state and territory for a period of up to 12 months from the date on which the state or territory provided its certification. A second certification will be required before the withheld amount is paid.

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# The American Rescue Plan Act 08/09/2021

- Where do I go for assistance?  
[SLFRP@treasury.gov](mailto:SLFRP@treasury.gov)

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# Which governments are eligible for funds? 08/09/2021

The following governments are eligible:

- States and the District of Columbia
- Territories
- Tribal governments
- Counties
- Metropolitan cities
- Non-entitlement units, or smaller local governments

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# Must a recipient government maintain a declaration of emergency relating to COVID-19? 08/09/2021

- No. Neither the statute establishing the CSFRF/CLFRF nor the Interim Final Rule requires recipients to maintain a local declaration of emergency relating to COVID-19.

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# What types of COVID-19 response, mitigation, and prevention activities are eligible? 08/09/2021

- A broad range of services are needed to contain COVID-19 and are eligible uses, including vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment;

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# What types of COVID-19 response, mitigation, and prevention activities are eligible? 08/09/2021

- support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools; ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses. Capital investments in public facilities to meet pandemic operational needs are also eligible, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics.

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# If a use of funds was allowable under the (CRF) may recipients presume it is also allowable under CSFRF/CLFRF? 08/09/2021

- Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under CSFRF/CLFRF, with the following two exceptions: (1) the standard for eligibility of public health and safety payrolls has been updated; and (2) expenses related to the issuance of tax-anticipation notes are not an eligible funding use.

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# May funds be used to reimburse recipients for costs incurred prior to passage of the American Rescue Plan? 08/09/2021

- Use of Fiscal Recovery Funds is generally forward looking. The Interim Final Rule permits funds to be used to cover costs incurred beginning on March 3, 2021.

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# May recipients use funds to pay for vaccine incentive programs (e.g., cash or in-kind transfers, lottery programs, or other incentives for individuals who get vaccinated)? 08/09/2021

- Yes. Under the Interim Final Rule, recipients may use Coronavirus State and Local Fiscal Recovery Funds to respond to the COVID-19 public health emergency, including expenses related to COVID-19 vaccination programs. See 31 CFR 35.6(b)(1)(i). Programs that provide incentives reasonably expected to increase the number of people who choose to get vaccinated, or that motivate people to get vaccinated sooner than they otherwise would have, are an allowable use of funds so long as such costs are reasonably proportional to the expected public health benefit.

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# How is revenue defined for the purpose of this provision?

08/09/2021

- General Revenue includes revenue from taxes, current charges, and miscellaneous general revenue. It excludes refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and revenue generated by utilities and insurance trusts. General revenue also includes intergovernmental transfers between state and local governments, but excludes intergovernmental transfers from the Federal government, including Federal transfers made via a state to a locality pursuant to the CRF or the Fiscal Recovery Funds.
- Recipients should calculate revenue on an entity-wide basis.

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# What is the time period for estimating revenue loss?

08/09/2021

- Recipients are permitted to calculate the extent of reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023.
- In calculating revenue loss, are recipients required to use audited financials? Where audited data is not available, recipients are not required to obtain audited data.
- Recipients may provide data on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology throughout the covered period and until reporting is no longer required.

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# Revenue Reduction Formula 08/09/2021

- A reduction in a recipient's General Revenue equals:

$$\text{Max} \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment}) (\frac{n_t}{12}) ] - \text{Actual General Revenue}_t ; 0 \}$$

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# Revenue Reduction Formula 08/09/2021

- Base Year Revenue is General Revenue collected in the most recent full fiscal year prior to the COVID-19 public health emergency.
- Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.
- $n$  equals the number of months elapsed from the end of the base year to the calculation date.
- Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date.
- Subscript  $t$  denotes the calculation date.

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# Revenue Reduction Formula 08/09/2021

Example if use the 4.1 percent Growth Adjustment

- 12-31-2020  $1.041^{15/12} = \underline{1.05151001}$
- 12-31-2021  $1.041^{27/12} = \underline{1.09462192}$
- 12-31-2022  $1.041^{39/12} = \underline{1.13950142}$
- 12-31-2023  $1.041^{51/12} = \underline{1.18622097}$

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# Revenue Reduction Formula 08/09/2021

- If Base Year Revenue =100,000 and Actual Revenue =90,000
- $(100,000 \times 1.05151001) - 90,000$
- $105,151 - 90,000 = 15,151$
- 15,151 is the Revenue Loss

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# Once a recipient has identified a reduction in revenue, are there any restrictions on how recipients use funds up to the amount of the reduction? 08/09/2021

- Government services can include, but are not limited to, maintenance of infrastructure or pay-go spending for building new infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.
- Paying interest or principal on outstanding debt, replenishing rainy day or other reserve funds, or paying settlements or judgments would **not be considered** provision of a government service.

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# May recipients use funds to invest in infrastructure other than water, sewer, and broadband projects (e.g. roads, public facilities)? 08/09/2021

- Under 602(c)(1)(C) or 603(c)(1)(C), recipients may use funds for maintenance of infrastructure or pay-go spending for building of new infrastructure as part of the general provision of government services, to the extent of the estimated reduction in revenue due to the public health emergency.
- Under 602(c)(1)(A) or 603(c)(1)(A), a general infrastructure project typically would not be considered a response to the public health emergency and its negative economic impacts unless the project responds to a specific pandemic-related public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact of the pandemic (e.g., affordable housing in a Qualified Census Tract).

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# What criteria should recipients use in identifying essential workers to receive premium pay? 08/09/2021

- Essential workers are those in critical infrastructure sectors who regularly perform in person work, interact with others at work, or physically handle items handled by others.
- Critical infrastructure sectors include healthcare, education and childcare, transportation, sanitation, grocery and food production, and public health and safety, among others, as provided in the Interim Final Rule. Governments have the discretion to add additional sectors to this list, so long as the sectors are considered critical to protect the health and well-being of residents.
- The Interim Final 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.

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# May recipients provide premium pay retroactively for work already performed? 08/09/2021

- Yes. Treasury encourages recipients to consider providing premium pay retroactively for work performed during the pandemic, recognizing that many essential workers have not yet received additional compensation for their service during the pandemic.

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# What types of water and sewer projects are eligible uses of funds? 08/09/2021

- The Interim Final Rule generally aligns eligible uses of the Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).
- Under the DWSRF, categories of eligible projects include: treatment, transmission and distribution (including lead service line replacement), source rehabilitation and decontamination, storage, consolidation, and new systems development.
- Under the CWSRF, categories of eligible projects include: construction of publicly owned treatment works, nonpoint source pollution management, national estuary program projects, decentralized wastewater treatment systems, stormwater systems, water conservation, efficiency, and reuse measures, watershed pilot projects, energy efficiency measures for publicly-owned treatment works, water reuse projects, security measures at publicly-owned treatment works, and technical assistance to ensure compliance with the Clean Water Act.

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**May construction on eligible water, sewer, or broadband infrastructure projects continue past December 31, 2024, assuming funds have been obligated prior to that date?**

**08/09/2021**

- Yes. Treasury is interpreting the requirement that costs be incurred by December 31, 2024 to only require that recipients have obligated the funds by such date. The period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with Fiscal Recovery Funds.

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# May recipients use Funds for road repairs and upgrades that occur in connection with an eligible water or sewer project? 08/09/2021

- Yes, recipients may use State and Local Fiscal Recovery Funds for road repairs and upgrades directly related to an eligible water or sewer project. For example, a recipient could use Funds to repair or re-pave a road following eligible sewer repair work beneath it. However, use of Funds for general infrastructure projects is subject to the limitations described in FAQ 4.2. Water and sewer infrastructure projects are often a single component of a broader transportation infrastructure project, for example, the implementation of stormwater infrastructure to meet Clean Water Act established water quality standards. In this example, the components of the infrastructure project that interact directly with the stormwater infrastructure project may be funded by Fiscal Recovery Funds.

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# Can states impose requirements or conditions on the transfer of funds to NEUs? 08/09/2021

- As the statute requires states to make distributions based on population, states may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury's implementing regulations and guidance.

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# What are the specific deadlines for state governments in distributing funds? 08/09/2021

- Section 603(b)(2)(C)(i) states that “[n]ot later than 30 days after a State receives a payment,” it “shall distribute” funds to each NEU in the state. Section 603(b)(2)(C)(ii) provides for a 30-day extension if a state certifies in writing an “excessive administrative AS OF JUNE 30, 2021 3 burden,” and possible additional 30-day extensions at the discretion of the Secretary of the Treasury if the state provides a written plan to the Secretary specifying “when the State expects to make such distribution and the actions the State has taken and will take in order to make all such distributions before the end of the distribution period.”

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# Do states have to collect actual budget documents to calculate the “75 percent budget cap,” or can they rely on a budget total? 08/09/2021

- States can rely on a budget total from an NEU in order to calculate the “75 percent budget cap.” As part of their first report to Treasury, NEUs will be asked to submit the actual budget documents that validate the budget total.

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# If an NEU is non-responsive for its First Tranche payment, is it eligible for a Second Tranche payment?

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- No. An NEU only needs to request funding once for the entire sum of payment, including both its First and Second Tranches. An NEU that is non-responsive for its First Tranche payment is not eligible for a Second Tranche payment.

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# What records must be kept by governments receiving funds?

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- Financial records and supporting documents related to the award must be retained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. This includes those which demonstrate the award funds were used for eligible purposes in accordance with the ARPA, Treasury's regulations implementing those sections, and Treasury's guidance on eligible uses of funds.

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# What provisions of the Uniform Guidance for grants apply to these funds? Will the Single Audit requirements apply?

08/09/2021

- Most of the provisions of the Uniform Guidance (2 CFR Part 200) apply to this program, including the Cost Principles and Single Audit Act requirements. Recipients should refer to the Assistance Listing for detail on the specific provisions of the Uniform Guidance that do not apply to this program. The Assistance Listing will be available on [beta.SAM.gov](https://beta.SAM.gov).

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# What is the Assistance Listing and Catalog of Federal Domestic Assistance (CFDA) number for the program?

08/09/2021

- The Assistance Listing for the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) was published May 28, 2021 on SAM.gov. This includes the final CFDA Number for the program, 21.027.

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# May governments retain assets purchased with Fiscal Recovery Funds? If so, what rules apply to the proceeds of disposition or sale of such assets?

08/09/2021

- Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds. If such assets are disposed of prior to December 31, 2024, the proceeds would be subject to the restrictions on the eligible use of payments.

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# Are recipients required to remit interest earned on CSFRF/CLFRF payments made by Treasury?

08/09/2021

- No. CSFRF/CLFRF payments made by Treasury to states, territories, and the District of Columbia are not subject to the requirement of the Cash Management Improvement Act and Treasury's implementing regulations. CSFRF/CLFRF payments made by Treasury to local governments and Tribes are not subject to the requirement of maintaining balances in an interest-bearing account and remit payments to Treasury. Moreover, interest earned on CSFRF/CLFRF payments is not subject to program restrictions.

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# May recipients use funds to cover the costs of consultants to assist with managing and administering the funds?

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- Yes. Recipients may use funds for administering the CSFRF/CLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements.

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# QUESTIONS

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