



NACo LEGISLATIVE UPDATE:

OVERVIEW OF TREASURY'S FISCAL RECOVERY FUND GUIDANCE

JUNE 2021

KEY HIGHLIGHTS OF THE GUIDANCE

1. The Fiscal Recovery fund was established to **help turn the tide on the pandemic, address its economic fallout and lay the foundation for a strong and equitable recovery.**
2. Funds may cover costs from **March 3, 2021 through December 31, 2024.**
3. There is **no deadline for counties to certify** for the Recovery Funds.
4. Broad flexibility to help those **disproportionately impacted by the COVID-19 pandemic.**
5. Recovery Funds can be distributed into **interest-bearing accounts.**
6. Understand the important differences between **CARES Act Coronavirus Relief Fund (CRF) and ARP Fiscal Recovery Fund**, especially for county employee payroll support.
7. Use of recouped **“lost revenue” is more flexible** than other Recovery Fund eligibility.
8. Recovery Funds **may not be used as non-federal match**, unless specifically authorized.
9. Re-hiring **local government staff** to pre-pandemic levels.
10. Counties may use Recovery Funds for **routine pension costs of employees.**
11. Counties may use Recovery Funds to invest in **certain critical infrastructure projects.**

UPDATED FAQ DOCUMENT

Treasury released an updated FAQ document Tuesday, June 8

1. Recovery Funds can be used to **cover costs of consultants to assist with managing and administering the funds**
2. Recovery Funds can be used to **establish public jobs programs** (i.e. subsidized employment, combined education and on-the-job training, job training to accelerate rehiring or address negative economic impacts)
3. Clarification on revenue loss language (audited financial data, county data versus Census Bureau data)
4. Flexibility for costs incurred by March 3, 2021, for public health response/negative economic impacts, premium pay, revenue loss and water, sewer and broadband projects
5. New CFDA number – **21.027** – Counties should update systems and reporting to reflect final CFDA number for Recovery Fund
6. Counties **do not need approval from Treasury** to determine whether an investment in water, sewer or broadband project is eligible under the Recovery Fund IFR

The screenshot shows the U.S. Department of the Treasury website. The main header is blue with the Treasury logo and the text "U.S. DEPARTMENT OF THE TREASURY". Below the header is a navigation bar with links for "ABOUT TREASURY", "POLICY ISSUES", "DATA", "SERVICES", and "NEWS", along with a search icon. A breadcrumb trail reads: "HOME > POLICY ISSUES > COVID19 ECONOMIC RELIEF > ASSISTANCE FOR STATE, LOCAL, AND TRIBAL GOVERNMENTS > STATE AND LOCAL FISCAL RECOVERY FUND".

The main content area is titled "POLICY ISSUES" and "Coronavirus State and Local Fiscal Recovery Fund". It includes a sub-section for "COVID19 Economic Relief" with links to "Assistance for American Families and Workers" and "Assistance for Small Businesses". Another sub-section is "Assistance for State, Local, and Tribal Governments", with "State and Local Fiscal Recovery Fund" highlighted. Below this are links for "Request Funding", "Tribal Governments", "Non-Entitlement Units", "Capital Projects Fund", "Homeowner Assistance Fund", "Emergency Rental Assistance Program", and "State Small Business Credit".

The main text states: "The American Rescue Plan will deliver \$350 billion for eligible state, local, territorial, and Tribal governments to respond to the COVID-19 emergency and bring back jobs." It also notes: "The Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery."

Two prominent blue buttons are visible: "REQUEST FISCAL RECOVERY FUNDS" and "RECEIVE COVID-19 RELIEF UPDATES". A list of resources includes: "Interim Final Rule", "Fact Sheet", "Quick Reference Guide", "Tribal Government Information", and "Non-Entitlement Unit Information".

- [Interim final rule](#)
- [Fact sheet](#)
- [FAQs](#)
- [Quick reference guide](#)
- [County Recovery Fund allocations](#)

U.S. TREASURY: “MUST READ” RESOURCES

KEY DATES RELATED TO THE RECOVERY FUND

- **January 27, 2020:** Declaration of the public health crisis
- **March 3, 2021:** Beginning of the Recovery Fund “covered period”
- **July 16, 2021:** Deadline to comment on U.S. Treasury’s *Interim Final Rule* on Recovery Fund
- **August 31, 2021:** Deadline to submit first Interim Report to U.S. Treasury
- **August 31, 2021:** Deadline to submit first *Recovery Plan Performance Report* to U.S. Treasury
- **Applies to COUNTIES ABOVE 250,000 POPULATION ONLY**
- **October 31, 2021:** Deadline to submit first *Quarterly Project and Expenditure Report*
- **Applies to ALL COUNTIES**
- **December 31, 2024:** Recovery Funds must be obligated (**NOT incurred**)
- **December 31, 2026:** Recovery Funds must be spent & all work/performance must be completed

ILLUSTRATION ONLY OF *SAMPLE* 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

SUPPORT PUBLIC HEALTH RESPONSE

1

COVID-19 MITIGATION & CONTAINMENT

- A broad range of services and programming that are needed to contain COVID-19, **including using funds for vaccine incentive programs**

2

MEDICAL EXPENSES

- Provide care and services to address COVID-19 public health needs, risks presented by new variants and long-term effects of the virus

3

BEHAVIORAL HEALTHCARE

- New or enhanced state and local government services that may be needed to meet mental health, substance use and other behavioral health needs

4

PUBLIC HEALTH & SAFETY STAFF

- Responding to the public health and negative economic impacts COVID-19 and requires additional human resources

ADDRESS NEGATIVE ECONOMIC IMPACTS

1

WORKERS & FAMILIES

- Assistance to unemployed workers and job training
- Food, housing, cash and other assistance to households (proportionate)
- Survivor's benefits for family members of COVID-19 victims

2

SMALL BUSINESS

- Loans and grants to mitigate financial hardship
- Loans, grants and in-kind assistance to implement COVID-19 prevention or mitigation tactics
- Technical assistance

3

PUBLIC SECTOR

- Rehire staff
- Replenish state unemployment insurance funds
- Administer economic relief programs

4

IMPACTED INDUSTRIES

- Tourism, travel and hospitality
- Other similarly affected sectors

PROVIDE EQUITY-FOCUSED SERVICES

1

ADDRESSING HEALTH DISPARITIES

- Community health workers and public benefits navigators
- Remediation of lead paint and other lead hazards
- Community violence intervention programs

2

HOUSING & NEIGHBORHOODS

- Services to support individuals experiencing homelessness
- Affordable housing development
- Housing vouchers, residential counseling, navigation assistance

3

EDUCATIONAL DISPARITIES

- New or expanded early learning services
- Expanded resources for high-poverty school districts
- Educational services like tutoring and afterschool programs

4

PROMOTING HEALTHY CHILDHOOD ENVIRONMENTS

- New and expanded high quality childcare
- Home visiting programs for families with young children
- Services for child welfare-involved families and foster youth

REPLACE LOST REVENUE

Recovery Funds may be used to provide **government services to the extend of reduction in revenue** experienced due to COVID-19:

- **Definition of general revenue:** Based on Census Bureau’s definition and includes revenue from taxes, current charges, miscellaneous general revenue, intergovernmental transfers between state and local governments
 - **Excludes** refunds and other correction transactions proceeds from issuance of debt or the sale of investments, agency or private trust transactions and revenue generated by utilities, **intergovernmental transfers from the federal government (federal transfers made to a state/locality)**
- Recipients should calculate revenue on an **entity-wide basis, rather than source-by-source basis**
- Recipients **cannot** use pre-pandemic projections as a basis to estimate the reduction in revenue
- **Definition of base year revenue:** Recipient’s general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency
- Recipients should calculate the extent of the reduction in revenue as of four points in time: **December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023.**

REPLACE LOST REVENUE

U.S. Treasury's guidance **establishes new methodology to calculate lost revenue.**

Recipients have two options to calculate lost revenue:

- Recipients will compute the extent of reduction in revenue by comparing **actual revenue** to a **counterfactual trend** representing what could have plausibly been expected to occur in the absence of the COVID-19 pandemic
- For purposes of measuring revenue growth in the counterfactual trend, recipients may use a **growth adjustment of either:**
 1. 4.1% per year (based on the national average of state and local revenue growth 2015-18); **OR**
 2. The recipients average annual revenue growth over the last three full fiscal years prior to the COVID-19 pandemic



Recipients should **choose the higher of the two options** when determining their **growth adjustment figure.**

REPLACE LOST REVENUE

- **To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:**

1. Identify revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue*
2. Estimate *counterfactual revenue*, which is equal to *base year revenue*:

$$[(1 + \text{growth adjustment})^{(n/12)}]$$

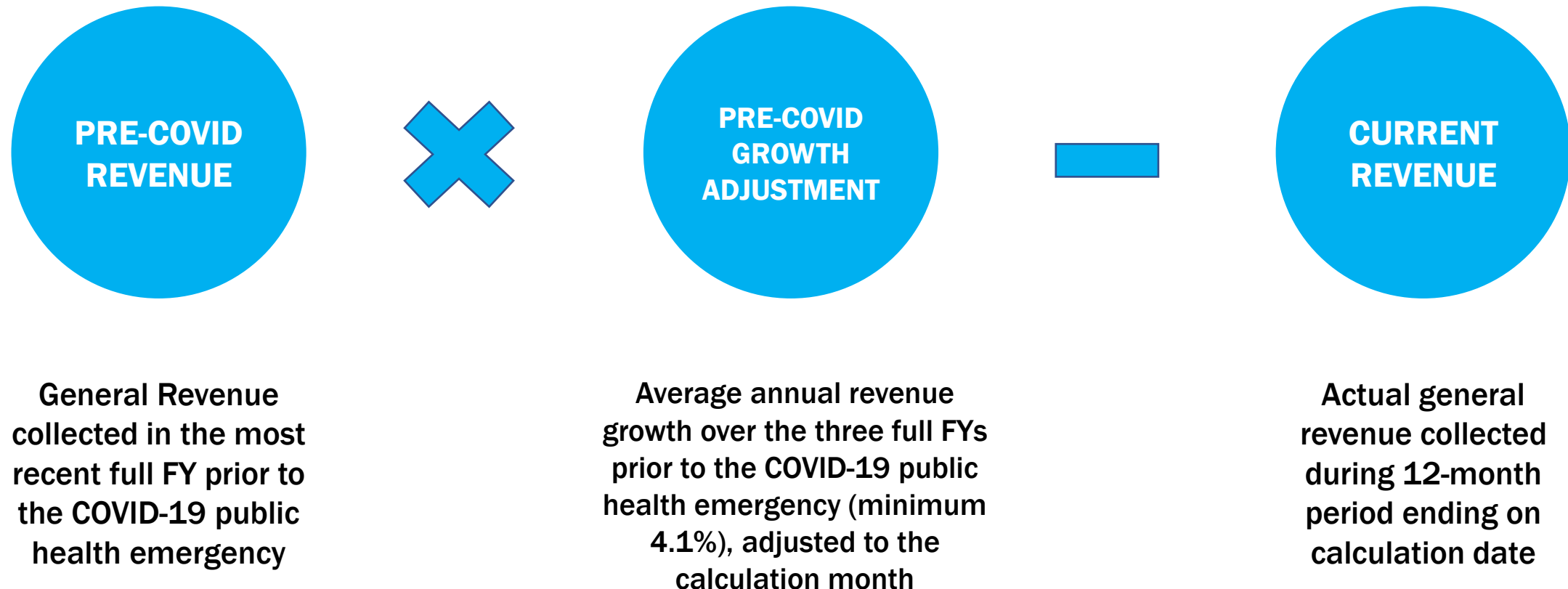
n = number of months elapsed since the end of the base year to the calculation date

growth adjustment = Greater of 4.1% **OR** the recipient's average annual revenue growth in the three full FYs to the COVID-19 public health emergency.

3. Identify *actual revenue*, which equals revenues collected over the past 12 months as of the calculation date
4. The extent of the reduction in revenue is equal to *counterfactual revenue* less *actual revenue*. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date

REPLACE LOST REVENUE

The below calculation specifies how counties can calculate lost revenue, with a minimum of \$0:



REPLACE LOST REVENUE

Recovery Funds may be used to provide **government services to the extend of reduction in revenue** experienced due to COVID-19:

- Recipients can use funds to support governments services, which 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
 - Environment remediation
 - School or educational services
 - Police, first responders and other public safety services

RECOVERY FUNDS USED TO REPLACE “REVENUE LOSS” ARE 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 INTERIM RULE. **HOWEVER, REVENUE RECOUPMENT CANNOT BE USED FOR RAINY DAY FUNDS OR DEBT SERVICES**

PREMIUM PAY FOR ESSENTIAL EMPLOYEES

Fiscal Recovery Funds payments may be used by recipients to provide premium pay (\$13/per hour) to **eligible workers** performing **essential work** during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work.

Essential employees are defined as:

- **Any work performed by an employee of the state, local or tribal government**
- Staff at nursing homes, hospitals, and home care settings
- Workers at farms, food production facilities, grocery stores, and restaurants
- Janitors and sanitation workers
- Truck drivers, transit staff, and warehouse workers
- Public health and safety staff
- Childcare workers, educators, and other school staff
- Social service and human services staff

Essential work is defined as:

- Work involving regular in-person interactions or regular physical handling of items that were also handled by others
- A worker would **NOT** be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence

Other provisions related to premium pay:

- Premium pay **can be retroactive**
- Recipients have discretion to designate additional sectors
- Additional reporting requirements in certain cases (*grants to third-party employers*)

PUBLIC HEALTH & SAFETY EMPLOYEE PAYROLL

ARPA FISCAL RECOVERY FUND (PG. 20)

- Recovery Funds can be used for payroll/benefits for public, safety, public health, health care, human services and similar employees
- Recovery Funds can be used to support the payroll/benefits **for the portion of the employee's time that is dedicated to responding to COVID-19**
- Counties may consider public health/safety employees to be entirely devoted to mitigating/responding to COVID-19 and are fully recovered, **if the employee, or his/her operating unit or division, is primarily dedicated to responding to the COVID-19 public health emergency**

CARES ACT CRF (PG. 4187)

- As a matter of administrative convenience in light of the emergency nature of this program, **a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency,** unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise
- **All costs of such employees may be covered** using payments from the Fund for services

WATER, SEWER & BROADBAND INFRASTRUCTURE

To assist in meeting the critical need for investments and improvements to existing infrastructure in **water, sewer and broadband**, counties can invest Fiscal Recovery Funds into these sectors:

WATER & SEWER INFRASTRUCTURE

- Improvements to infrastructure, such as building or upgrading facilities and transmission, distribution and storage systems (*additional guidance to be released at later date*)
- Eligible uses aligned to Environmental Protection Agency (EPA) project categories in the:
 - Clean Water State Revolving Fund (CWSRF)
 - Drinking Water State Revolving Fund (DWSRF)
- Each recipient can review IFR and decide how to invest funds – No approval from Treasury/EPA is necessary

BROADBAND INFRASTRUCTURE

- Targets to support households and businesses that *do not* deliver 25 Mbps download/3 Mbps upload
- Fund projects that deliver reliable services – **minimum 100 Mbps download/100 Mbps upload speed** unless impracticable due to geography, topography, or excessive costs
- Complement broadband investments made through the Capital Projects Funds authorized under ARPA

DEFINING **INELIGIBLE** EXPENSES

1

PENSION FUNDS

- Funding cannot be used for deposits into defined benefit pension funds...However, Treasury defines a “deposit” as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability
- **Recipients may use funds for routine payroll contributions to pensions of employees whose wages and salaries are an eligible use**

Treasury's Interim Final Rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves. Further, general infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or above the amount allocated under the revenue loss provision. While the program offers broad flexibility to recipients to address local conditions, these restrictions will help ensure that funds are used to augment existing activities and address pressing needs.

2

OTHER RESTRICTIONS

- Funding debt service, legal settlements or judgements
- Deposits to rainy day funds or financial reserves
- **Non-federal match requirement (i.e. EDA & Medicaid) & be sure to reach the latest FEMA guidance**
 - The President's directive allows FEMA to pay 100% federal funding for the costs of activities that have previously been determined eligible, from the beginning of the pandemic in January 2020 to Sept. 30, 2021.

NET REDUCTION IN TAX REVENUE

(LIMITED TO STATES & TERRITORIES)

3

- If a state or territory has a reduction in net tax revenue, they must demonstrate how they paid for the tax cuts from source other than the Recovery Fund

REPORTING REQUIREMENTS

Recovery Fund recipients will be required to submit an interim report, quarterly report, quarterly project and expenditure reports and annual recovery plan. **Treasury will release additional guidance and information on reporting requirements in the coming weeks.**

- **Interim reports:** Counties will be required to submit one interim report, which will include the county's expenditures by category at the summary level. The interim report will cover spending from the date the county receives Recovery Funds to July 31, 2021. **Interim reports are due by August 31, 2021.**
- **Quarterly project and expenditure reports:** Counties will be required to submit quarterly project and expenditure reports, which will include financial data, information on contracts and subawards over \$50,000 and other information regarding utilization of funds. These reports will be similar to CARES Act Coronavirus Relief Fund. The first report will cover spending from the date the county receives Recovery Funds to September 30, 2021. **First report is due by October 31, 2021.**
- **Recovery plan performance reports:** Counties will be required to submit an annual recovery plan performance report, which will include descriptions of projects funded and information on performance indicators and objectives of each award. Initial recovery plan will cover activity from the date the county receives Recovery Funds to July 31, 2021. **Local governments with less than 250,000 residents are not required to develop Recovery Plan Performance Report.** **Recovery plan is due by August 31, 2021.**

NACo RESOURCES & MEMBER SUPPORT

COVID-19 RECOVERY CLEARINGHOUSE

In a major victory for America's counties, the State and Local Coronavirus Fiscal Recovery Funds legislation, part of the American Rescue Plan Act, was signed into law by President Biden on March 11. The legislation includes \$65.1 billion in direct, flexible aid to every county in America, as well as other crucial investments in local communities.



How Can We Help?

Use the form below to ask a question, and NACo staff will respond via email. Please also explore our curated resources, including guidance, FAQs and more:

- Latest Resources
- NACo Recovery Fund FAQs
- Your County's ARP Allocation
- NACo ARPA Analysis

ASK A QUESTION

Share Your Story

How is your county responding to the coronavirus pandemic and driving the recovery in your community. Use the form below to share how your county is using federal relief funds with NACo.

For resources to share your story with local media [click here](#).

SHARE YOUR STORY

State & Local Fiscal Recovery Funds

Find your county's estimated allocation, NACo's legislative analysis and more

LEARN MORE

American Rescue Plan Act Funding Breakdown

This interactive tool helps navigate the roughly \$1.5 trillion in county related funding from the American Rescue Plan Act of 2021

LEARN MORE

COVID-19 Vaccine Distribution

Explore key considerations for counties in COVID-19 vaccine distribution plans

LEARN MORE



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