



The American Rescue Plan Act

**A Town Official's Guide to the
Coronavirus State and Local Fiscal
Recovery Funds with Questions Answered**

Last Updated (9/14/21)



How to use ARPA Funding

There are four main categories of allowable uses under ARPA

1. Responding to the public health emergency or its negative economic impacts
2. Premium pay for eligible workers in essential fields
3. Revenue loss for government services
4. Water, sewer, and broadband infrastructure projects

While the Interim Rule provides a list of some specific eligible uses, there is also a lot of flexibility. When trying to determine if a proposed project/service/equipment is eligible for ARPA funds, much depends on the circumstances surrounding the project and how it fits under one of the allowable uses. Also, remember that the same project might be eligible under more than one category. For example, improvements to a park could be eligible for ARPA funds under the first category if it's found in a qualified census tract and the park will promote healthier living environments and outdoor recreation while providing for social distancing to mitigate the spread of COVID-19 (see [Treasury FAQ 2.18](#)), or you might be able to fit it under the third category if the town lost revenue and improvements to the park would be considered a general government service. Ultimately, it is incumbent on the municipality to establish why a project is eligible under ARPA; there is no project preapproval process. We strongly encourage you to work with your town attorney or ARPA consultant.

What if a project or service is deemed not eligible?

Failure to use ARPA funds in accordance with the allowable use may result in a municipality having to return the money.

Failure to comply with the restrictions on use will be identified based on the reports submitted by the municipality (discussed later herein). The U.S. Treasury also may consider other information in identifying a violation, such as information provided by members of the public. If the U.S. Treasury identifies a violation, it will provide written notice to the town along with an explanation of such amounts.

Within 60 days of receiving the notice, the town may submit a written request for reconsideration, which provides an opportunity to submit additional information supporting its request. The request must include an explanation of why the town believes that the finding of a violation or recoupable amount identified in the notice of recoupment should be reconsidered and identify all supporting reasons for the request. Within 60 calendar days of receipt of the request for reconsideration, the town will be notified of the secretary's decision to affirm, withdraw, or modify the notice of recoupment along with an explanation of the decision, responses to the recipient's supporting reasons and consideration of additional information provided. Any amounts subject to recoupment must be repaid within 120 calendar days of receipt of any final notice of recoupment, or if the recipient has not requested reconsideration, within 120 calendar days of the initial notice provided by the secretary.

CATEGORY 1: RESPOND TO THE PUBLIC HEALTH EMERGENCY OR ITS NEGATIVE ECONOMIC IMPACTS

Responding to the public health emergency

Below is a list of eligible uses specifically mentioned in the Interim Rule as addressing

or responding to COVID-19. This list is illustrative, not exhaustive, so even if your proposed use isn't listed, it may still qualify as ARPA eligible under the rubric of responding to the public health emergency. If it is not specifically listed, the Interim Rule says the way to determine whether the use responds to the public health emergency is to:

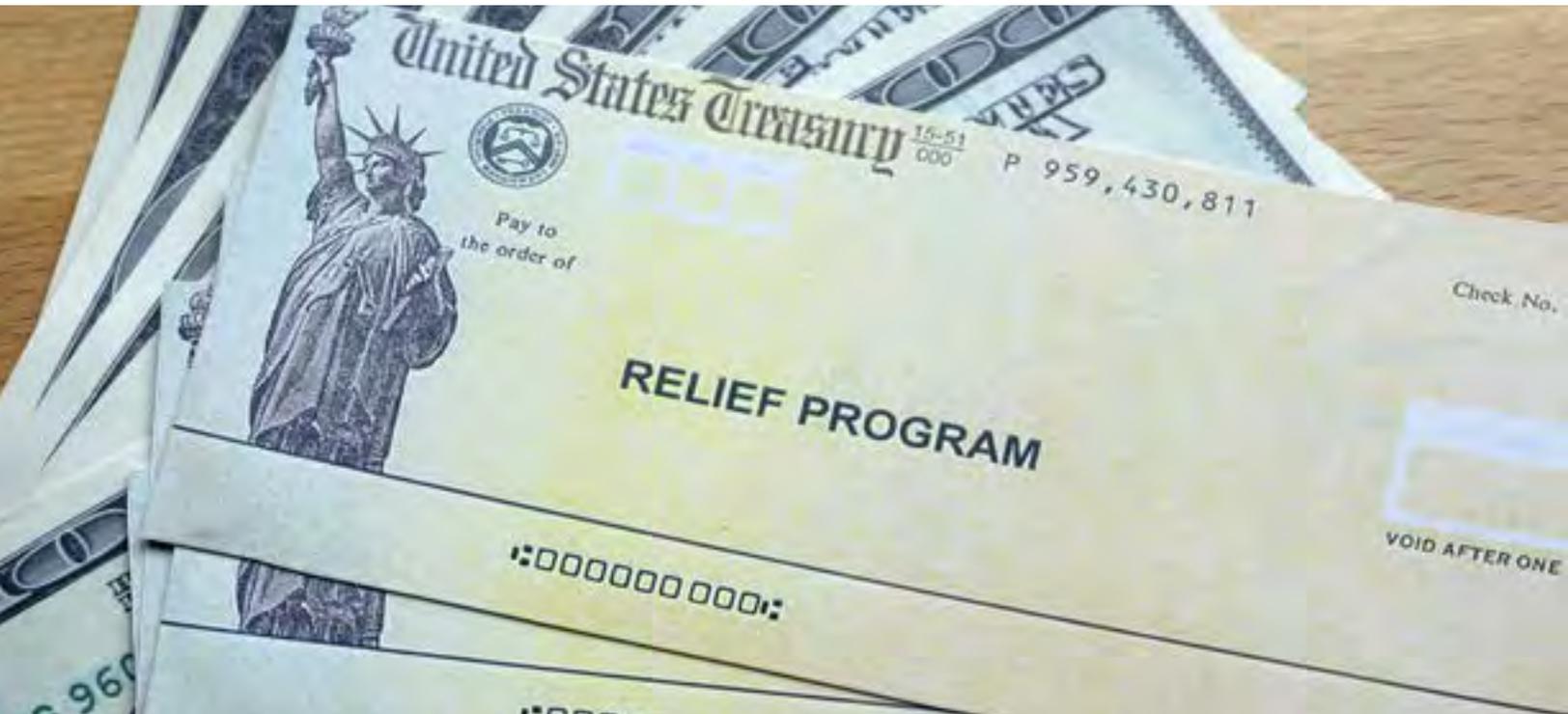
- Identify an effect of COVID-19 on public health, including either or both of immediate effects or effects that may manifest over months or years; and
- Assess how the use would respond to or address the identified need

For example, equipment to encourage remote participation at public meetings is not specifically listed in the Treasury Guidance or regulations as an allowable. However, using the analysis provided by the Treasury, the town could argue that COVID-19 created a need for social distancing and smaller and fewer public gatherings in order to mitigate

the spread. Improving the public's ability to participate in public meetings remotely furthers this goal because it reduces the need to show up in-person at meetings

Keep in mind that ARPA funding under this category can be used only for costs incurred on or after March 3, 2021. Therefore, for example, you would not be able to use ARPA funds to reimburse expenses for personal protective equipment purchased in 2020. The uses deemed eligible that are specifically listed by the Treasury include:

1. COVID-19 Mitigation and Prevention – includes vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; support 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**; 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 congregate settings, health care settings, or other key locations; enhancement of public health data systems; other public health responses; **capital investments in public facilities to meet pandemic operational needs**, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics.

2. Medical Expenses.
3. Behavioral Health Care – includes services like mental health treatment, substance misuse treatment, other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.
4. Public Health and Safety Staff - 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 COVID-19
5. Expenses to Improve the Design and Execution of Health and Public

Health Programs includes engaging in planning and analysis to improve programs addressing COVID-19, including targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Responding to COVID-19's negative economic impact

Below is a list of eligible uses specifically mentioned in the Interim Rule as addressing or responding to a negative economic impact caused by COVID-19. The list is not exclusive, so if your proposed use is not there, the Interim Rule says you must:

- Assess whether there has been an economic harm, such as loss of earnings or revenue or a decreased ability to administer services, that resulted from the COVID-19 public health emergency and the extent of the economic harm; and
- Identify whether, and the extent to which, the use would respond or address this harm.

Assistance to those that did not experience a negative economic impact from COVID-19 would not be an eligible use under this category. In addition, the response must be related and reasonably proportional to the extent and type of harm experienced.

Finally, while the legislation allows for municipalities to provide money to households and other private industries, towns must be mindful of Article 8 Section 1 of the New York State Constitution, which prohibits a municipality from providing money or services to private entities. The Court of Appeals has said that Article 8 Section 1 is not violated if money given to a private entity is used for a public purpose, the public is the primary beneficiary, and any benefit to the private entity is incidental.

The uses deemed eligible that are specifically listed by the Treasury include:

6. Assistance to Unemployed Workers – includes services like job training to accelerate rehiring of unemployed workers; may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began
7. State Unemployment Insurance Trust Funds – deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021, given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts.
8. Assistance to Households – includes food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash



9. Expenses to Improve Efficacy of Economic Relief Programs – improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.
10. Small Businesses and Non-profits – includes providing to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the

COVID-19 public health emergency, including:

- loans or grants to mitigate financial hardship like declines in revenues or impacts of periods of business closure, for example, by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and
- technical assistance, counseling, or other services to assist with business planning needs.

11. Rehiring State, Local, and Tribal Government Staff*** – payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level (before 1/27/20).

*** [The Treasury FAQ](#) “recognizes that ‘decrease[s to] a state or local government’s ability to effectively administer services’ due to COVID-19 may constitute a negative economic harm.” Please refer to questions 2.18 and 2.19 for examples***

12. Aid to Impacted Industries - certain industries, such as tourism, travel, and hospitality, were disproportionately and negatively

impacted by the COVID-19, and aid may be provided to respond to that negative economic impact. You can provide aid to other industries but recipients should consider the extent of the economic impact as compared to tourism, travel, and hospitality.

Services to Disproportionately Impacted Communities

ARPA recognizes that certain communities were disproportionately impacted by COVID-19 for a myriad of reasons. Services or projects will be eligible under this subcategory when they are provided to a Qualified Census Tract, which is defined by HUD as such when a certain percentage of the population living in an area lives at a certain poverty level. A town may also make its own determination for what constitutes a disproportionately impacted community, like a certain geographic region or specific parts of the population; however, you must be able to support the determination. Eligible uses include, but are not limited to:

13. Addressing Educational Disparities

- New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services;
- Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;
- Evidence-based educational services and practices to address the academic needs of students, including

tutoring, summer, afterschool, and other extended learning and enrichment programs; and

- Evidence-based practices to address the social, emotional, and mental health needs of students;

14. Promoting Healthy Childhood Environments.

- New or expanded high-quality childcare to provide safe and supportive care for children;
- Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development; and
- Enhanced services for child welfare- involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

15. Address Disparities in Public Health Outcomes

- Funding community health workers to help community members access health services and services to address the social determinants of health;
- Funding public benefits navigators to assist



community members with navigating and applying for available Federal, State, and local public benefits or services;

- Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness;
- Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children; and
- Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic

16. Building Stronger Communities through Investments in Housing and Neighborhoods

Services should alleviate the immediate economic impacts of COVID-19 on housing insecurity while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing

- Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
- Affordable housing development
- Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents

CATEGORY 2: PROVIDING PREMIUM PAY TO ELIGIBLE WORKERS PERFORMING ESSENTIAL WORK

ARPA money can also be used to provide premium pay to eligible workers performing essential work in recognition of the increased risk they faced during COVID-19. So, who are eligible workers, what's essential work, and what constitutes premium pay?

Premium Pay – up to \$13 an hour *in addition* to wages and cannot exceed \$25,000 per

eligible worker. If premium pay would increase a worker's total pay above 150 percent of New York State's annual wage for all occupations (defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics) or your county's average annual wage (as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics), whichever is higher, on an annual basis, the town must provide the Treasury and make publicly available a written justification of how the premium pay is responsive to workers performing essential work during COVID-19.

Essential Work – work that involved regular in-person interactions or regular physical handling of items that were also handled by others. In other words, work that can be done remotely / through telework does not qualify.

Eligible Worker – those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each [town board] may designate as critical to protect the health and well-being of the residents of their [town].

- The Interim Rule provides a list of areas recognized as essential critical infrastructure sectors, which include healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services. The town board can designate others.

Premium pay can be paid retroactively dating back to January 27, 2020, which the Treasury has prioritized. The Treasury has placed an emphasis on paying premium wages to those in socioeconomic vulnerable communities and lower wage workers, although it is not required.

CATEGORY 3: REVENUE LOSS FOR GOVERNMENT SERVICES

A town may use ARPA funding to provide government services to the extent that it lost revenue during COVID-19. In other words, let's say the town lost \$20,000 in revenue, the town may then use up to \$20,000 in ARPA funding to pay for government services. ARPA assumes that any revenue lost is attributable to COVID-19, so you do not have to establish a connection between lost revenue and COVID-19.

“General revenue” means revenues collected by a town and generated from its underlying economy, so things like tax revenue, fines, etc. In calculating revenue, the town should sum across all revenue streams (in other words, add all revenue sources together). General revenue *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.

There are four points in time to calculate lost revenue: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. The Treasury has a four-step process to determine how much revenue a municipality lost, and you can read more about it in the [Interim Regs](#) or [Treasury FAQ](#).

Once the town has established that it lost revenue, it can use ARPA funds in the amount of lost revenue to pay for government services. Government services is broadly defined and can include, but is not limited to, things like the maintenance or building of infrastructure (so long as it is not financed by debt), 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.

Government services DO NOT include interest or principal on any outstanding debt instrument, fees or issuance costs associated with the issuance of new debt, the satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, or replenishing reserves.

CATEGORY 4: WATER, SEWER, AND BROADBAND INFRASTRUCTURE

Water and Sewer Infrastructure

A town may use ARPA funding for a water or sewer infrastructure project if the project would otherwise be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF). In other words, if it fits as a project under CWSRF or DWSRF, you can use ARPA funding for it. You can learn more about CWSRF [here](#) and the DWSRF [here](#)

Broadband

Eligible projects must reliably deliver minimum speeds of 100 Mbps download and 100 Mbps upload. If this is impracticable due to geography, topography, or financial cost, projects must reliably deliver at least 100 Mbps download speed, at least 20 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed. Projects must also be designed to serve unserved or underserved households and businesses, defined as those that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

TRANSFERRING FUNDS

The town may transfer all or part of its ARPA funding to another unit of local government or the State. If it does, the local government that is the recipient of the transfer is considered a subrecipient, and the town is responsible for monitoring and ensuring that the funds are used in accordance with ARPA by the subrecipient. More information on subrecipient monitoring can be found [here](#).

REPORTING REQUIREMENTS

Detailed information about reporting requirements can be found [here](#)

Reporting for NEUs

NEUs will be required to submit their first report on October 31, 2021 and annually thereafter. In addition to the standard information required for the annual report (which you can read more about [here](#) starting on page 16), all NEUs will be required to provide the following additional information with its first report:

- Copy of the signed award terms and conditions agreement (which was signed and submitted to the state as part of the request for funding)
- Copy of the signed assurances of compliance with Title VI of the Civil Rights Act of 1964 (which was signed and submitted to the state as part of the request for funding)
- Copy of actual budget documents validating the top-line budget total provided to the state as part of the request for funding.

Reporting for metropolitan entities

Metropolitan entities must submit an initial

interim report by August 31, 2021. More information on the interim report can be found [here](#). Thereafter, if a metropolitan entity received more than \$5 million in funding, it must submit quarterly reports; if it received less than \$5 million, it must submit an annual report and the interim report.

OTHER FAQs

1. Can I use ARPA funds to pay for an ARPA consultant? Yes, towns may use funds for administering the ARPA Program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405.
2. Do I need to create a recovery plan? Not unless you're considered a metropolitan entity AND have a population above 250,000.
3. Do I need a SAM.gov account? YES – originally, we were told NEUs did not need a SAM.gov account, but that information has changed, and you do need one **before the October 31, 2021 report deadline**. Please note it can take up to 3 weeks to register, so if you do not already have one, get one!
4. Does use of ARPA funds trigger an audit? Recipients and subrecipients that expend more than \$750,000 in federal awards during their fiscal year will be subject to a federal audit under the Single Audit Act. Please note this is NOT an audit from the NYS Office of the State Comptroller.
5. How do I account for ARPA funds? OSC issued guidance available [here](#)