

## Reminder: Four Key Eligible Use Categories

The American Rescue Plan provides four major categories of eligible uses to tackle the broad range of public health and economic challenges caused or exacerbated by the COVID-19 emergency.

- 1 Public Sector Revenues**
  - Providing government services up to the amount of revenue loss due to the pandemic
- 2 Public Health & Economic Response**
  - Responding to COVID-19's public health impact, along with its economic harms
- 3 Premium Pay for Essential Workers**
  - Offering additional support to workers who bear the greatest health risks because of their service in critical sectors
- 4 Water, Sewer & Broadband Infrastructure**
  - Providing funding to critical water and sewer projects, along with high-speed broadband infrastructure

**Recipients have requested greater flexibility, simplicity & clarity in the final rule to respond to new pandemic needs and make transformative investments**

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# Approach to the Final Rule

Treasury's final rule provides greater flexibility and simplicity for recipients to turn the tide on the pandemic, maintain vital public services amid revenue shortfalls, and build a strong, resilient, and equitable recovery.

## KEY NEW FEATURES IN THE FINAL RULE

1

### Public Sector Revenues

- Major simplification for thousands of recipients through the **\$10 million revenue loss standard allowance**

2

### Public Health & Economic Response

- Providing a **broader set of eligible uses** for impacted and disproportionately impacted populations
- Clarifying that reasonably proportional **capital expenditures** may be allowable (e.g., affordable housing, hospitals)

3

### Premium Pay for Essential Workers

- **Streamlining options to provide premium pay** by broadening the share of essential workers who can receive premium pay without a written justification

4

### Water, Sewer & Broadband Infrastructure

- **Expanding water and sewer projects** that are eligible
- **Broadening eligible broadband investments** to allow recipients to address access, affordability & reliability challenges

## Replace Public Sector Revenue Loss

Recipients may use these funds to provide government services, up to the amount of revenue loss experienced due to the COVID-19 public health emergency.

### 1 Determine revenue loss, using one of two available options:

**A** Elect “standard allowance” of up to \$10 million to spend on government services through the life of the program, which greatly simplifies the program for small localities NEW

**B** Calculate actual revenue loss according to Treasury formula

» Calculate revenue loss either on a calendar or fiscal year basis NEW

» Must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after January 6, 2022, to more accurately reflect revenue loss due to the pandemic NEW

### 2 Spend on government services up to the revenue loss amount

– Government services generally include **any service traditionally provided by a government** unless Treasury has stated otherwise, such as:

- |   |   |
|---|---|
| ✓ Construction of schools and hospitals                   | ✓ Environmental remediation   |
| ✓ Road building and maintenance, and other infrastructure | ✓ Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles) |
| ✓ Health and other services                               |   |
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## Respond to COVID-19's Public Health and Economic Impacts

Recipients may use these funds to respond to a broad range of public health and economic impacts of the pandemic for households, communities, businesses, and the public sector.

### 1 Eligible Use Categories

- Public health impacts
- Negative economic impacts, including assistance to:
  - ✓ Households
  - ✓ Small businesses
  - ✓ Non-profits
  - ✓ Impacted industries
  - ✓ Public sector capacity and workforce

### 2 Determining Eligible Uses

- To identify eligible uses of funds, recipients should generally:
  1. Identify a public health or economic impact to an individual or a class
  2. Design a related and reasonably proportional response (e.g., a program, service, or capital expenditure)
- For convenience, Treasury has provided a non-exhaustive list of eligible uses and populations presumed eligible to receive these services
- Recipients may identify additional eligible uses beyond those enumerated by Treasury based on the standards provided in the rule

## Support the Public Health Response

Recipients may use these funds to support their COVID-19 public health response.

### 1 COVID-19 Mitigation & Containment

- **A very broad range of services and programming that are needed to contain COVID-19, including vaccination and testing programs and other COVID mitigation tactics**
- May include certain capital expenditures, such as medical facilities generally dedicated to COVID-19 treatment & mitigation

### 2 Medical Expenses

- **Expenses to households, medical providers, or others that incurred medical costs due to the pandemic**
- Includes unreimbursed expenses for COVID-19 testing or treatment & emergency medical response expenses

### 3 Behavioral Healthcare

- **A broad range of prevention, treatment, harm reduction, and recovery services that may be needed to meet mental health, substance use, and other behavioral health needs**
- May include certain capital expenditures, such as behavioral health facilities & equipment

### 4 Preventing & Responding to Violence

- **Responses to communities that experienced an increase in violence, particularly gun violence**
- Includes community violence intervention programs & enforcement efforts to reduce gun violence

# Provide Assistance to Households

Recipients may use these funds to respond to the negative economic impacts of the COVID-19 public health emergency on households and communities.

## Impacted Households

Impacted households are those that have experienced an impact from the COVID-19 pandemic.

Treasury presumes that the following households are impacted:

- ✓ Low- and- moderate income (LMI) households, defined as those at or below 300% of FPG or 65% of AMI
- ✓ Households experiencing unemployment or food or housing insecurity
- ✓ Households that qualify for certain federal programs **NEW**

## Disproportionately Impacted Households

Disproportionately impacted households are those that have experienced a disproportionate impact from the COVID-19 pandemic.

Treasury presumes that the following households are disproportionately impacted:

- ✓ Low income (LI) households, defined as those at or below 185% of FPG or 40% of AMI **NEW**
- ✓ Households located in QCTs
- ✓ Households receiving services from Tribal govts
- ✓ Households residing in the U.S. territories or receiving services from territorial governments **NEW**
- ✓ Households that qualify for certain fed programs **NEW**

Recipients can identify other impacted or disproportionately impacted households, beyond those presumed eligible

## Provide Assistance to Households

Recipients may use these funds to respond to the negative economic impacts of the COVID-19 public health emergency on households and communities.

### Impacted Households

All impacted households, including households presumed impacted by Treasury, are eligible for uses that respond to the impact.

Over a dozen eligible uses, including:

- ✓ Food assistance
- ✓ Re-employment and job training
- ✓ Rent, mortgage, or utility assistance & Internet subsidies
- ✓ Cash assistance
- ✓ Health insurance NEW coverage expansion and paid sick & family leave
- ✓ Financial services for unbanked and underbanked NEW
- ✓ Affordable housing development and permanent supportive housing NEW
- ✓ Childcare, early learning, and addressing learning loss for K-12 students NEW

### Disproportionately Impacted Households

All disproportionately impacted households, including households presumed disproportionately impacted by Treasury, are eligible for uses that respond to the impact & the disparities that led to the disproportionate impact.

Many additional eligible uses, including:

- ✓ Addressing health disparities: e.g., community health workers, lead remediation, health facilities
- ✓ Addressing educational disparities: e.g., enhanced funding to high-poverty schools & educational facilities
- ✓ Improvements to vacant and abandoned property NEW
- ✓ Investments in neighborhoods to promote health outcomes

## Provide Assistance to Small Businesses

Recipients may use these funds to respond to the negative economic impacts of the COVID-19 public health emergency on small businesses.

### Impacted Small Businesses

- ✓ **To assess which small businesses were impacted**, recipients may consider:
  - ✓ Decreased revenue or gross receipts
  - ✓ Financial insecurity
  - ✓ Increased costs NEW
  - ✓ And more
- ✓ **Eligible uses include:**
  - ✓ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits
  - ✓ Technical assistance, counseling or other services to support business planning

### Disproportionately Impacted Small Businesses

- ✓ **SB presumed disproportionately impacted:**
  - ✓ Operating in QCTs
  - ✓ Operated by Tribal governments or on Tribal lands
  - ✓ Operating in the U.S. territories NEW
- ✓ **Eligible uses include:** NEW
  - ✓ Rehabilitation of commercial properties, storefront & façade improvements
  - ✓ Technical assistance, business incubators & grants for start-up or expansions
  - ✓ Support for microbusinesses (e.g., childcare, transportation)

## Provide Assistance to Non-Profits

Recipients may use these funds to respond to the negative economic impacts of the COVID-19 public health emergency on non-profits.

### Impacted Non-Profits

- ✓ **To assess which nonprofits were impacted,** recipients may consider:
  - ✓ Decreased revenue (e.g., lower donations or fees)
  - ✓ Financial insecurity
  - ✓ Increased costs (e.g., uncompensated increases in service need) NEW
  - ✓ And more
- ✓ **Eligible uses include :**
  - ✓ Loans or grants to mitigate financial hardship
  - ✓ Technical or in-kind assistance or other services to mitigate negative economic impact

### Disproportionately Impacted Non-Profits

- ✓ **Non-profits presumed disproportionately impacted:**
  - ✓ Operating in QCTs
  - ✓ Operated by Tribal governments or on Tribal lands
  - ✓ Operating in the U.S. territories NEW
- ✓ **Eligible uses include:**
  - ✓ Responses that are related and reasonably proportional to addressing disparities that led to disproportionate impacts

## Provide Aid to Impacted Industries

Recipients may use these funds to provide aid to impacted industries.

### 1 Designating an impacted industry

- If industry is in the **travel, tourism, or hospitality sectors** (including Tribal development districts), the industry is impacted.
- If industry is **outside the sectors above**, the industry is impacted if it either:
  - » Experienced **at least 8 percent employment loss** from pre-pandemic levels, or NEW
  - » Is experiencing **comparable or worse economic impacts** as the national travel, tourism, and hospitality sectors as of the date of the Final Rule and the impacts resulted from the COVID-19 public health emergency

### 2 Provide eligible aid to the impacted industry

- Many eligible uses, including:
  - ✓ Aid to mitigate financial hardship, such as supporting payroll costs
  - ✓ COVID-19 mitigation and infection prevention measures
  - ✓ Technical assistance, counseling or other services to support business planning
- Aid limited to entities operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic

## Restore and Bolster Public Sector Capacity

Recipients may use these funds to restore and bolster public sector capacity, which supports governments' ability to deliver critical COVID-19 services.

### 1 Public safety, public health, and human services staff

- Payroll and covered benefits for public safety, public health, health care, human services and similar employees of a recipient government through the period of performance
- Limited to the portion of the employee's time spent responding to COVID-19, though public health and safety staff primarily dedicated to COVID-19 response may be fully covered; recipients can use reasonable estimates to determine share of employee time

### 2 Government employment & rehiring public sector staff

- ✓ Restoring employment by hiring up to 7.5% above pre-pandemic baseline
- ✓ Funding for employees who experienced pay reductions or were furloughed NEW
- ✓ Maintaining current compensation levels to prevent layoffs NEW
- ✓ Worker retention incentives, including reasonable increases in compensation NEW

### 3 Effective service delivery

- ✓ Supporting use of evidence, program evaluation, data, and outreach
- ✓ Providing administrative expenses for administration of programs that respond to COVID-19
- ✓ Address administrative needs caused or exacerbated by the pandemic (e.g., backlogs from pandemic shutdowns, adapting government operations to the pandemic)

## Invest in Capital Expenditures

The final rule provides clarity for recipients to use SLFRF funds to invest in capital expenditures as part of their public health or economic response.

### 1 Overall eligibility requirements

- Capital expenditures subject to same “related and reasonably proportional” standard as other uses
- Recipients other than Tribal governments must complete Written Justification (WJ) for capital expenditures at or over \$1 million NEW
  - » WJ requires recipients to explain why a capital expenditure is appropriate and why the proposed capital expenditure is superior to alternatives
  - » Depending on project size, recipients may be required to submit WJ with reporting; no pre-approval

### 2 Presumptions for capital expenditures

#### Projects presumed eligible, provided the above requirements are met:

- ✓ Testing labs and equipment
- ✓ Emergency operations center & equipment
- ✓ Affordable housing
- ✓ Childcare facilities
- ✓ Schools (for Disproportionately Impacted communities)
- ✓ Primary care health clinics and hospitals (for Disproportionately Impacted communities)

#### Projects generally presumed to be ineligible:

- × Construction of new correctional facilities as a response to an increase in rate of crime
- × Construction of new congregate facilities to decrease spread of COVID-19 in facility
- × Construction of convention centers, stadiums or other large capital projects for general economic development or aid to impacted industries

## Invest in Eligible Uses Beyond Those Enumerated

Recipients may use these funds to invest in eligible uses beyond those specifically listed as eligible by Treasury.

<b>Step:</b>	<b>1 Identify COVID-19 public health or economic impact</b>	<b>2 Design a response to address the identified impact</b>
<b>Analysis:</b>	<ul style="list-style-type: none"><li>• Can identify impact to a specific household, business or non-profit – or to a class (e.g., group)</li><li>• Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class</li></ul>	<ul style="list-style-type: none"><li>• Response should be related and reasonably proportional to the harm</li><li>• Response should also be reasonably designed to benefit impacted individual or class</li></ul>

## Provide Premium Pay for Essential Employees

Recipients may use this funding to provide premium pay to eligible workers performing essential work, either in public sector roles or through grants to third-party employers.

- 1 Eligible workers are those in critical infrastructure sectors
- 2 Essential work involves regular in-person interactions or physical handling of items handled by others
- 3 Pay must respond to worker needs:
  - Serves workers who:
    - » Earn at or below 150 percent of their state or county's average annual wage, or
    - » Are not exempt from Fair Labor Standards Act overtime rules NEW
  - Or recipient provides written justification of how it meets needs

### Example professions and sectors eligible:

- ✓ Staff at nursing homes, hospitals, and home-care settings
- ✓ Public health, safety, and emergency response
- ✓ State, local, and Tribal government workforce
- ✓ Workers at food production facilities, grocery stores, restaurants, and food delivery services
- ✓ Janitors and sanitation workers
- ✓ Truck drivers, transit staff, and warehouse workers
- ✓ Public health and safety staff
- ✓ Childcare workers, educators, and school staff
- ✓ Social service and human services staff
- ✓ Additional sectors designated by recipients

Pay can be flexibly awarded up to \$13 per hour in installments or lump sums to hourly, part time, or salaried/non-hourly workers, and may not exceed \$25,000 for any single worker during the program

## Build Water and Sewer Infrastructure

Recipients may use these funds to make a broad range of necessary investments in water and sewer infrastructure.

### 1 Projects eligible under the EPA's State Revolving Funds, including:

*Examples of  
Clean Water  
State  
Revolving  
Fund Projects*

- ✓ Construction of publicly owned treatment works
- ✓ Decentralized wastewater treatment systems construction, upgrades & repair
- ✓ Management & treatment of stormwater or subsurface drainage water
- ✓ Water conservation, efficiency, or reuse measures
- ✓ Reuse or recycling of wastewater, stormwater, or subsurface drainage water

*Examples of  
Drinking Water  
State  
Revolving  
Fund Projects*

- ✓ New facilities to improve drinking water quality
- ✓ New sources to replace contaminated drinking water or increase drought resilience
- ✓ Green infrastructure
- ✓ Storage of drinking water
- ✓ New community water systems
- ✓ Lead service line replacement

### 2 Additional projects eligible under Final Rule include: NEW

- ✓ Broad suite of additional lead remediation activities, including lead testing and lead service line replacement (including replacement of faucets, fixtures, and internal plumbing in schools and childcare facilities)
- ✓ Additional stormwater infrastructure, including culvert repair, resizing and removal, and replacement of storm sewers
- ✓ Residential wells
- ✓ Certain dam and reservoir rehabilitation

## Build Broadband Infrastructure

Recipients may use these funds to make a broad range of necessary investments in broadband infrastructure, in order to meet access, affordability, and other challenges.

### 1 Identify an eligible area for investment

- Recipients are encouraged to invest in locations without reliable wireline service of at least 100/20 Mbps speed, but are broadly able to invest in locations where recipient has identified need for additional investment **NEW**
- Such need can include lack of access to high speeds, affordability & reliability

### 2 Design project to meet high-speed technical standards

- Deliver reliable high-speed service of minimum 100 Mbps symmetrical speeds unless impracticable

### 3 Require enrollment in a low-income subsidy program **NEW**

- Recipients must require service providers for a broadband project that provides service to households to either:
  - ✓ Participate in the FCC's Affordable Connectivity Program
  - ✓ Provide access to a broad-based, low-income affordability program commensurate to the Affordable Connectivity Program

**Flexibility in eligible areas for investment complements IJA broadband funding; recipients are also able to invest in cybersecurity for broadband infrastructure regardless of service delivery standards**

## Restrictions on Use

The final rule maintains the IFR's restrictions on use with additional clarifications.

<b>1</b> Net Reduction in Tax Revenue	<b>For states and territories:</b> <ul style="list-style-type: none"><li>• SLFRF may not be used to directly or indirectly offset a reduction in net tax revenue resulting from a change in state or territory law, as required by the American Rescue Plan</li></ul>
<b>2</b> Deposits into Pension Funds	<b>For all recipients except for Tribal governments:</b> <ul style="list-style-type: none"><li>• SLFRF may not be used for deposits into pension funds, as required by the American Rescue Plan</li><li>• A “deposit” is defined as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability</li><li>• Recipients may use funds for routine payroll contributions to pensions of employees whose wages and salaries are an eligible use</li></ul>
<b>3</b> Other Restrictions on Use	<b>For all recipients:</b> <ul style="list-style-type: none"><li>• Funds may not be used for debt service, replenishing rainy day funds/financial reserves, or satisfaction of a settlement or judgment</li><li>• Uses of funds may not undermine COVID-19 mitigation practices in line with CDC guidance and recommendations</li><li>• Uses of funds may not violate Uniform Guidance conflict-of-interest requirements or other applicable laws</li></ul>