Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule
Final Rule is effective April 1, 2022, but counties can take advantage of new provisions prior to the effective date.

Allowable uses:

- Support Public Health Response
- Replace Public Sector Revenue Loss
- Water and Sewer Infrastructure
- Address Negative Economic Impacts
- Premium Pay for Essential Workers
- Broadband Infrastructure
KEY NEW FEATURES IN FINAL RULE REPLACING LOST REVENUE

NEW $10 MILLION REVENUE LOSS ALLOWANCE

- Counties may allocate up to $10 million of their total Recovery Fund allocation to spend on government services
- Counties may still calculate actual revenue loss through Treasury formula – both must pick 1 of the 2 approaches
- Simplifies reporting requirements for counties using the standard $10M standard allowance
- 89 Nebraska counties are now eligible to invest entirety of allocated Recovery Funds in general government services
KEY NEW FEATURES IN FINAL RULE
REPLACING LOST REVENUE

IMPROVEMENTS TO THE REVENUE LOSS FORMULA

• Revenue loss growth rate changed from 4.1% to 5.2% as the new standard default allowance for the formula

• General revenue now includes utility revenue and liquor store revenue, at the discretion of the county

• Counties may choose to calculate revenue loss on a fiscal year or calendar year basis – must pick & stay with one option

• Counties must adjust actual revenue totals for the effect of tax cuts/increases adopted after January 6, 2022
KEY NEW FEATURES IN FINAL RULE REPLACING LOST REVENUE

Counties may use “lost revenue” for \textbf{general government services up to the revenue loss amount}, whether that be the standard allowance amount ($10 million) or the amount calculated using Treasury’s formula:

Government services generally include any service traditionally provided by a government, unless Treasury has stated otherwise

- Common examples include, but are not limited to:
  - Construction of schools and hospital
  - Road building and maintenance, and other infrastructure
  - Health services
  - General government administration, staff and administrative facilities
  - Environmental remediation
  - Police, first responders and other public safety services (including purchase of fire trucks and police vehicles)
The following activities are NOT an eligible use of a county’s “revenue loss” allowance:

- Extraordinary contribution to a pension fund
- Debt service payment, including Tax Anticipation Notes (TANs)
- Rainy day or reserve account
- Settlement agreement, judgment, consent decree or judicially confirmed debt (with limited exceptions)
- (NEW) Activity that conflicts with the purpose of the American Rescue Plan Act statute (e.g. uses of funds that conflict with COVID-19 mitigation practices in line with CDC guidance and recommendations)
- Violations of Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance
Counties have two options to calculate revenue loss:

1. Up to $10 million of ARPA allocation standard allowance, OR
2. Calculate revenue loss with Treasury formula, with a new 5.2% default growth rate

• Final Rule increases the “average annual growth rate” from 4.1% to 5.2% when calculating revenue loss, or the county can calculate its own average annual growth rate

• If your county previously declared “$0” for revenue loss in the Interim Report, the county may change and update this number in the first Project and Expenditure Report

• If your county is declaring revenue loss, you must still abide by the reporting requirements within the Project and Expenditure Report’s “revenue loss” category
NON-FEDERAL MATCH AND COST SHARE REQUIREMENTS REPLACING LOST REVENUE

- Funds available under the “revenue loss” eligible use category may be used to meet the non-federal cost share or matching requirement of other federal programs (i.e. DWSRF and CWSRF)

- However, these funds may NOT be used for the non-federal share state’s Medicaid and CHIP programs, even under the “revenue loss” category

- Recovery Funds beyond those under the “revenue loss” category, cannot be used as the non-federal match or cost-share requirement of other federal programs other than as specifically provided for by statute (i.e. certain broadband deployment projects and Infrastructure Investments and Jobs Act)
KEY NEW FEATURES IN FINAL RULE

PREMIUM PAY

1. ADDITIONAL STREAMLINING OF PREMIUM PAY
   • Under IFR, counties were able to submit a written justification to Treasury to ensure workers not listed could receive premium pay
   • Final Rule permits counties to award premium pay to workers that are not exempt from the Fair Labor Standards Act overtime provisions WITHOUT submitting a written justification

2. CLARIFICATION ON TYPES OF ELIGIBLE PREMIUM PAY
   • Clarifies that premium pay may be provided in installments or lump sums (i.e. monthly, quarterly, etc.) and
   • Premium pay can be awarded to hourly, part-time or salaried or non-hourly workers
   • Volunteers cannot receive premium pay
The Final Rule outlines three steps for determining premium pay eligibility:

1. Any work performed by an employee of the state, local or tribal government, among others

2. Verify that the eligible worker performs essential work including risk of COVID exposure
   - Work involving regular in-person interactions or regular physical handling of items also handled by others
   - Worker would NOT be engaged in essential work if telework performed from a residence

3. Confirm that premium pay responds to workers performing essential work during the public health emergency
   - Determine average annual wage for county employees
   - Any employee normally eligible for overtime as non-exempt from the FLSA overtime provisions
   - If worker does not meet any of the above, county must submit written justification with presumptive allowance
Final Rule provides additional eligible projects, including: Culvert repair

- Resizing, and removal, replacement of storm sewers, and additional types of stormwater infrastructure
- Infrastructure to improve access to safe drinking water for individual served by residential wells, including testing initiatives, and treatment/remediation strategies that address contamination
- Dam and reservoir rehabilitation if primary purpose of dam or reservoir is for drinking water supply and project is necessary for provision of drinking water
- Broad set of lead remediation projects eligible under EPA grant programs authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act, including:
  - Lead testing
  - Installation of corrosion control treatment
  - Lead service line replacement
  - Water quality testing, compliance monitoring, and remediation activities (i.e. replacement of internal plumbing and faucets and fixtures in schools and childcare facilities)
THE FINAL RULE ALSO INCLUDES THE FOLLOWING CLARIFICATION ON BROADBAND PROJECTS:

- Identify an eligible area for investment
  - Counties are encouraged to prioritize projects that are designed to serve locations without access to reliable wireline 100 Mbps download/20 Mbps upload speeds
  - Beyond the threshold, counties have broad flexibility to define need in a community. Examples of need include:
    - Lack of access to a reliable high-speed broadband connection
    - Lack of affordable broadband
    - Lack of reliable service
- Design a project to meet high-speed technical standards
  - Projects are required to meet or exceed 100 Mbps download/100 Mbps upload (flexibility for 100 Mbps/20 Mbps)
KEY NEW FEATURES IN FINAL RULE
PUBLIC HEALTH AND NEGATIVE ECONOMIC IMPACTS

1. AID TO IMPACTED INDUSTRIES
   • Clarifies how to designate an impacted industry
   • Clarifies eligible uses to impacted industries

2. PUBLIC SECTOR CAPACITY
   • Allows re-hiring of county staff to pre-pandemic levels, OR
   • Adjusted level up to 7.5% above pre-pandemic baseline
   • Support for staff retention, avoiding layoffs and funds for furloughed workers

3. CAPITAL EXPENDITURES
   • Eligible projects must respond to pandemic and be proportional to impact
   • Required written justification for certain projects
NEGATIVE ECONOMIC IMPACTS
AID TO IMPACTED INDUSTRIES

The Final Rule states that an industry can be designated as “impacted”:

1. If the industry is in the travel, tourism or hospitality sectors, the industry is impacted

2. If the industry is outside of travel, tourism or hospitality sectors, the industry is impacted if:
   • The industry experienced at least 8 percent employment loss from pre-pandemic levels, or
   • The industry is experiencing comparable or worse economic impacts as the tourism, travel and hospitality industries as of the date the Final Rule is published (12/6/2022)
   • Recipients (i.e. counties) have flexibility to define industries
   • Aid can only be provided to businesses and attractions that were operating prior to the pandemic and affected by required closures
NEGATIVE ECONOMIC IMPACTS
ASSISTANCE TO SMALL BUSINESSES

Treasury defines small businesses by having no more than 500 employees, in general, and is independently owned and operated and is not dominant in its field of operation.

IMPACTED SMALL BUSINESSES ARE DEFINED AS:

- Decreased revenue or gross receipts
- Financial insecurity
- Increased costs
- Capacity to weather financial hardship
- Challenges covering payroll, rent or mortgage and other operating costs
- Other reasonable factors determined by the county
NEGATIVE ECONOMIC IMPACTS
ASSISTANCE TO NONPROFITS

Treasury defines a nonprofit as 501(c)(3) and 501(c)(19) tax-exempt organizations.

Impacted Non Profits
• Decreased revenue
• Financial insecurity
• Increased costs (i.e. uncompensated services)
• Capacity to weather financial hardship
• Challenges covering payroll, rent or mortgage and other operating costs

ELIGIBLE USES INCLUDE
• Loans or grants to mitigate financial hardship
• Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic
The Final Rule provides a list of enumerated eligible uses for COVID-19 mitigation including, but not limited to:

- Vaccination/testing programs
- Monitoring, contact tracing and public health surveillance
- Public health data systems
- COVID-19 prevention and treatment
- Support for isolation and quarantine
- Transportation to reach vaccination or testing sites, or other prevention and mitigation services for vulnerable populations
- Support for prevention, mitigation or other services in congregate living facilities, public facilities, schools, small businesses, nonprofits and impacted industries
- Emergency operation centers and emergency response equipment (i.e. emergency response radio systems)
Recovery Funds may be used for expenses to households, medical providers, or other incurred medical costs due to the pandemic, including:

- Unreimbursed expenses for medical care for COVID-19 testing or treatment (i.e. uncompensated care costs)
- Paid family and medical leave for public employees
- Emergency medical response expenses
- Treatment of long-term symptoms or effects of COVID-19
PUBLIC HEALTH RESPONSE
BEHAVIORAL HEALTH CARE ELIGIBLE USES

The Final Rule allows a very broad range of activities, including for the general public:

• Behavioral health facilities and equipment
• Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs
• Enhanced behavioral health services in schools
• Services for pregnant women or infants born with neonatal abstinence syndrome
• Support for equitable access to reduce disparities in access to high-quality treatment
• Peer support groups, costs for residence in supportive housing or recovery housing, the 988 National Suicide Prevention Lifeline
• Expansion of access to evidence-based services for opioid use disorder prevention, treatment, harm reduction and recovery
RESTORE PUBLIC SECTOR CAPACITY

Counties may use Recovery Funds to restore and bolster public sector capacity, which supports government’s ability to deliver critical COVID-19 services.

1. **Payroll and covered benefits** for public safety, public health, health care, human services and similar employees of a recipient government

2. Rehiring public sector staff to **pre-pandemic levels or above pre-pandemic levels (7.5 percent growth allowance)**

3. Support and retaining public sector workers by:
   - Providing additional funding for employees who experienced pay reductions or were furloughed
   - Maintain current compensation levels to prevent layoffs
   - Provide worker retention incentives, including reasonable increases in compensation (must be additive to an employee’s regular compensation and are less than 25 percent of the rate of base pay for an individual and no more than 10 percent for a group)
   - Cover administrative costs associated with administering with hiring, support and retention programs

4. **Effective service delivery**
RESTORE PUBLIC SECTOR CAPACITY
PUBLIC SAFETY, PUBLIC HEALTH AND HUMAN SERVICES STAFF

PUBLIC SAFETY STAFF
- Police officers
- Sheriffs/deputy sheriffs
- Firefighters
- Emergency medical responders
- Correctional and detention officers
- Dispatchers and supervisor personnel that directly support public safety staff

PUBLIC HEALTH STAFF
- Employees involved in providing medical, physical or mental health services (i.e. medical staff in schools, prisons, etc.)
- Laboratory technicians, medical examiners, morgue staff
- Other support services essential for patient care
- Employees of public health departments

HUMAN SERVICES STAFF
- Employees providing or administering social services and public benefits
- Child welfare services employees
- Child, elder or family care employees
RESTORE PUBLIC SECTOR CAPACITY
GOVERNMENT EMPLOYMENT AND REHIRING PUBLIC SECTOR STAFF

Counties have two options to restore pre-pandemic employment, depending on the recipient’s needs:

1. Hire back county FTEs for pre-pandemic positions that existed on January 27, 2020
   - OR

2. Hire above the pre-pandemic levels of up to 7.5 percent above pre-pandemic baseline. If a county wants to hire above pre-pandemic baseline, it must complete the following steps:
   - Identify the county’s FTE level on January 27, 2020
   - Multiply the pre-pandemic baseline by 1.075 (adjusted pre-pandemic baseline)
   - Identify county’s budgeted FTE level on March 3, 2021 (actual number of FTEs)
   - Subtract the actual number of FTEs from the adjusted re-pandemic baseline to determine number of FTEs that can be covered. Counties do NOT have to hire for the same role that existed pre-pandemic.
RESTORE PUBLIC SECTOR CAPACITY
EFFECTIVE SERVICE DELIVERY

Recovery Funds may be used to improve the efficacy of public health and economic programs.

Supporting program evaluation, data and outreach through:

• Program evaluation and evidence resources
• Data analysis resources to gather, assess, share and use data
• Technology infrastructure to improve access to and user experience of government IT systems
• Community outreach and engagement activities

Administrative needs:

• Backlogs caused by shutdowns (NACo Note Only: court backlogs, records backlogs, service backlogs)
• Technology infrastructure to adapt government operations to the pandemic (i.e. video-conferencing software, data and case management systems)
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<th>EXAMPLES ELIGIBLE CAPITAL EXPENDITURE PROJECTS</th>
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<tr>
<td>• Schools</td>
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<td>• Childcare facilities</td>
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<td>• Medical facilities generally dedicated to COVID-19 treatment and mitigation (i.e. ICUs, emergency rooms, etc.)</td>
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<td>• Temporary medical facilities</td>
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<td>• Emergency operation centers</td>
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<td>• Behavioral health facilities</td>
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<td>• Affordable housing and permanent supportive housing</td>
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<tr>
<td>• Primary care clinics, hospitals</td>
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<td>• Improvements to vacant/abandoned properties</td>
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<td>• Construction of new correctional facilities</td>
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<td>• Construction of new congregate facilities</td>
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<td>• Construction of convention centers, stadiums and other larger capital projects intended for general economic development</td>
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Counties can use Recovery Funds for capital expenditures that respond to the public health and negative economic impacts of the pandemic.

• Projects must be related to public health and/or negative economic impacts and be proportional to the pandemic impact identified

• No pre-approval is required or provided for capital expenditures

• To ensure the expenditure is eligible, counties are required to write a written justification for capital expenditures equal to or greater than $1 million, which includes the following:

  1. Description of harm or need to be addresses (i.e. number of individuals)

  2. Explanation of why the capital expenditure is appropriate (i.e. why existing resources are inadequate)

  3. Comparison of proposed capital expenditure project against at least two alternative capital expenditures and why the proposed capital expenditure is superior
PUBLIC HEALTH AND NEGATIVE ECONOMIC IMPACTS
CAPITAL EXPENDITURES

• Cost of Capital Expenditure Project is Less than $1 Million there is no written justification required.

• Cost of Capital Expenditure Project is greater than or equal to $1 Million but less than $10 million written justification required but county does not need to submit as part of reporting.

• Cost of Capital Expenditure Project is $10 million or more written justification required and county must submit as part of regular reporting.
Quarterly Reporting is for:

- counties with a population that exceeds 250,000 residents
- counties with a population below 250,000 residents that are allocated more than $10 million in SLFRF funding

For these recipients, the initial quarterly Project and Expenditure Report will cover three calendar quarters from March 3, 2021 to December 31, 2021 and must be submitted to Treasury by January 31, 2022. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 calendar days after the end of each calendar quarter. Quarterly reports are not due concurrently with applicable annual reports.

Annual Reporting is for:

- counties with a population below 250,000 residents that are allocated less than $10 million in SLFRF funding

For these recipients, the initial Project and Expenditure Report will cover from March 3, 2021 to March 31, 2022 and must be submitted to Treasury by April 30, 2022. The subsequent annual reports will cover one calendar year and must be submitted to Treasury by April 30.
DECODING THE LANGUAGE OF THE GUIDANCE

Throughout the Final Rule, U.S. Treasury uses various key words that are important to understand in determining the eligible use of funds.

• “Should” and “must” = mandatory reporting, use and compliance

• “May” and “encourage” = Allows county discretion, even as a federal preference

• Proportional & Reasonable are key terms in determining the level of investment for eligible activities
RECOMMENDATIONS FROM NACO

• Stay clear of using SLFRF funds to buy down levy
• Engage with the community
• Collaborate with cities, village, schools to prevent duplication of services
• Invest in the modernization of cybersecurity infrastructure in the courthouse
• Interested in rural broadband, the state is as well.
• Document, Document, Document
• Join NACo as a member
Additional resources and helpful information from Treasury: If you are unable to log in to Treasury’s State, Local, and Tribal Support portal after establishing your accounts or need technical or other assistance, please send us an email at covidreliefitsupport@treasury.gov for assistance.

- Treasury has posted a series of recorded webinars to assist recipients to understand and comply with relevant reporting requirements and assist recipients in accessing Treasury’s Portal:
  - Project and Expenditure Report – https://youtu.be/6YTsxrEMS1o
  - Reporting Tiers - https://youtu.be/JnoKISwCA-g
  - Account Creation and Login - https://youtu.be/MS7EAO2uCs0
  - User Roles - https://youtu.be/w7vbi94rVDi
  - Bulk Uploads - https://youtu.be/4g6fw3DUQ3k

Slides were created from information provided by NACo and the US Department of Treasury
GOT QUESTIONS?

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