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MEMORANDUM

TO: Counties, Cities, and Towns
FROM: Paul D. Joyce, CPA, State Examiner
RE: Accounting Processes for ARPA Subtitle M-Coronavirus State and Local Fiscal Recovery Funds
DATE: Original March 18, 2021; Updated May 12, 2021

This memorandum has been updated to reflect guidance provided by the U.S. Treasury Interim Final Rule, which may be found at this link: <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>. We recommend that every recipient of money under the American Rescue Plan Act read this document in its entirety. The U.S. Treasury has also provided a list of Frequently Asked Questions as of May 10, 2021 (FAQ) which may be found at this link: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

The purpose of this memorandum is to provide guidance to recipients of funding available under Section 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021 (ARP). The ARPA established the Coronavirus Local Fiscal Recovery Fund (the Fund) and appropriated \$130,200,000,000 to remain available through December 31, 2024, for making payments to metropolitan cities, non-entitlement units of local government, and counties to mitigate the fiscal effects stemming from the public health emergency with respect to COVID-19.

The allocations for metropolitan cities, non-entitlement units, and counties may be found on our website at in.gov/sboa. Metropolitan cities and all counties will receive funding directly from the federal government. Cities and towns determined to be non-entitlement units will receive the allocation through the State of Indiana. The information on SBOA website about allocations also provides which cities are determined metropolitan and which cities and towns are designated as non-entitlement units.

The federal government will make the first payment from the Fund to the State of Indiana, the metropolitan cities, and Indiana Counties by May 11, 2021. The State of Indiana will distribute the first payment received from the Fund within 30 days based on the allocation provisions contained in the ARPA. A second payment will be received by the State of Indiana, the metropolitan cities, and the Indiana Counties not earlier than twelve months after the first payment. The State of Indiana will distribute the second payment received from the Fund within 30 days based on the allocation provisions contained in the ARPA.

It is important to follow the prescribed accounting system procedures and documentation requirements for the use of these funds. According to the ARPA, a detailed accounting for the uses of the funds is required. Any unit that fails to comply with the provisions of the ARPA shall be required to repay an amount equal to the amount of funds used in violation of the ARPA. The Secretary of the Treasury may issue additional regulations related to these funds.

Ordinance and Plan. The governing body must adopt an ordinance establishing a local ARP Coronavirus Local Fiscal Recovery Fund to receive the allocation in accordance with State Examiner Directive 2021-1 (Directive). For a county, the ARP Coronavirus Local Fiscal Recovery Fund must be established by ordinance of the County Commissioners. For a city or town, the ARP Coronavirus Local Fiscal Recovery Fund must be established by ordinance of the legislative body. The ordinance should specifically list the uses described in Section 603(c) that are applicable to the unit and that the unit envisions utilizing. The ordinance should reference a plan that will provide the details for the use of these funds. The plan should be laid out in a way that corresponds to the elements as laid out in Section 603 of the ARPA. The ordinance and plan may be amended as any other ordinance or plan as long as the amendment complies with Section 603.

Appropriations and Disbursements. As stated in the Directive, funds must be appropriated by the fiscal body before use in accordance with the Section 603, the ordinance, and the plan. Only local appropriation is required. All disbursements must go through the normal claims process in IC 5-11-10-1.6 and be supported with sufficient documentation. All disbursements must be made directly from the ARP Coronavirus Local Fiscal Recovery Fund. Money in the fund may not be transferred to another fund of the unit.

Fund Uses. The uses of the fund are specified in Section 603(c) as follows:

- "(1) USE OF FUNDS – Subject to paragraph (2), and except as provided in paragraphs (3) and (4), a metropolitan city, nonentitlement unit of local government, or county shall only use the funds provided under a payment made under this section to cover costs incurred by the metropolitan city, nonentitlement unit of local government, or county, by December 31, 2024
- (A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
 - (B) to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
 - (C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or
 - (D) to make necessary investments in water, sewer, or broadband infrastructure."

Section 603(c)(1)(A). Grants and programs to respond to the public health emergency or its negative economic impacts under Section 603 (c)(1)(A) should be through written agreement with the recipient. Disbursements to grantees and program recipients must be documented and in compliance with the written agreement.

Section 603(c)(1)(B). Premium pay allowed for eligible workers of your unit under Section 601(c)(1)(B) is for work performed during the COVID-19 Public Health Emergency. Premium pay is defined in Section 602(g) as "an amount of up to \$13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID-19 public health emergency. Such amount may not exceed \$25,000 with respect to any single eligible worker." This definition is expanded in the Interim Final Rule on page 134.

Eligible worker is defined in Section 603(g) as "those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each chief executive officer of a metropolitan city, nonentitlement unit of local government, or county may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county." This definition is expanded in the Interim Final Rule on page 131.

The Interim Final Rule defines essential work to mean work that "(1) Is not performed while teleworking from a residence; and (2) Involves: (i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or (ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work." (Interim Final Rule page 132)

The Interim Final Rule clarifies and provides examples of essential critical infrastructure sectors and eligible workers. Please note that if premium pay increases a worker's total pay above 150% of the greater of the state and county average annual wage, written justification must be maintained to show how the premium pay responds to the needs of these workers. (Interim Final Rule page 49 and FAQ 28). Please see the Interim Final Rule for more information.

Grants to eligible employers under Section 603(c)(1)(B) should be through written agreement with the eligible employer. Disbursements to grantees must be documented and in compliance with the written agreement. The Interim Final Rule defines the terms eligible employer, eligible worker, and essential work starting on page 131. The Interim Final Rule imposes additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. (Interim Final Rule page 51)

Section 603(c)(1)(C). Section 603(c)(1)(C) allows the funds to be used for costs incurred for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency. The revenues of the full calendar year of 2019 will be used as the base year to determine the reduction of revenue in the full calendar years of 2020, 2021, 2022, and 2023. Over the covered period, costs incurred for the provision of government services will be limited to the total amount of revenue reduction in these years.

Starting on page 51, the Interim Final Rule provides definitions and step-by-step instructions for the calculation of the reduction in revenue. Recipients are to 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. The four-step process to be used starts on page 58 of the Interim Final Rule.

Information to calculate the revenue reduction for the local income tax revenue may be obtained from the Local Tax Distribution Report available on the Department of Local Government website at www.in.gov/dlgf. Information to calculate the revenue reduction for the MVH/LRS and other state distributions may be obtained from the Auditor of State website at www.in.gov/aos. Information to calculate the revenue reduction for other funds should be obtained from your records. Documentation must be available to show all calculations.

Certain revenues may not be considered in the calculation for the reduction in revenues. According to the Interim Final Rule (page 133), "General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and inter-governmental transfers from the Federal government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities." (our emphasis).

According to FAQ 18, "Recipients should classify revenue sources as they would if responding to the U.S. Census Bureau's Annual Survey of State and Local Government Finances. According to the Census Bureau's Government Finance and Employment Classification manual, the following is an example of current charges that would be included in a state or local government's general revenue from own sources: "Gross revenue of facilities operated by a government (swimming pools, recreational marinas and piers, golf courses, skating rinks, museums, zoos, etc.); auxiliary facilities in public recreation areas (camping areas, refreshment stands, gift shops, etc.); lease or use fees from stadiums, auditoriums, and community and convention centers; and rentals from concessions at such facilities."

Recipients are to calculate revenue on an entity-wide basis by summing across all revenue streams covered as general revenue. (Interim Final Rule page 54 and FAQ 17)

According to the Interim Final Rule on page 57, any diminution in actual revenue calculated using the prescribed formula would be presumed to have been due to the COVID 19 public health emergency.

The costs incurred for the provision of governmental services may not exceed the total amount of revenue reduction.

Section 603(C)(1)(D). Costs incurred to make investments in water, sewer, or broadband infrastructure under Section 603(c)(1)(D) must be documented and recorded on the capital asset ledger in accordance with the local capitalization policy. The Interim Final Rule clarifies eligible expenses for this category.

Pension Funds. Section 603(c)(2) specifically states the ARP grant fund may not be used to make a deposit into any pension fund. However, payments may be made into a pension fund as a normal part of the employee payroll benefits process if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds. (Interim Final Rule page 80)

Transfers to certain entities or the State. Section 603(c)(3) allows money in the ARP fund to be transferred to a private nonprofit organization, public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government. The term "private nonprofit organization" is defined in 42 USC 11360(17) to mean an organization - "(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; (B) that has a voluntary board; (C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the [Secretary](#); and (D) that practices nondiscrimination in the provision of assistance." If money is transferred under this section, documentation must exist to show that the nonprofit organization meets the required definition.

Section 603(c)(4) allows money in the ARP Coronavirus Local Fiscal Recovery Fund to be transferred to the State of Indiana.

Prior Costs Incurred. Permitted expenses incurred in the fund of a unit after the passage of ARP (March 3, 2021) but before the receipt of the ARPA funds may be shown as an expense from the ARP Coronavirus Local Fiscal Recovery Fund.

For example, if on March 12, 2021, a city incurred expenses in the amount of \$10,000 from the General Fund in response to the public health emergency, the city may transfer that expense to the ARP Coronavirus Local Fiscal Recovery Fund through a reversing entry. The city will first reverse the \$10,000 expense in the General Fund, which will reinstate the expense appropriation line item and the cash balance of the general fund. The city will then post the \$10,000 disbursement to the ARP Coronavirus Local Fiscal Recovery Fund with a link to the original claim and supporting documentation.

Ineligible Costs. The following items are not eligible uses of the ARP money per the FAQ document (FAQ 23, 24, 26, and 27): payment of interest or principal on outstanding long term or short-term debt; payment of fees or issuance costs associated with the issuance of new debt; contributions to the Rainy Day Fund or reserve funds; payment of settlements or judgments; non-federal match for other federal programs.

Reporting Requirements. The Interim Final Rule, starting on page 110, contains information on the required reports to the U.S. Treasury.

Metropolitan Cities and counties will be required to submit one interim report and thereafter quarterly Project and Expenditure reports. The interim report will include a recipient's expenditures by category at the summary level from the date of the award through July 31, 2021. The interim report will be due on August 31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021. The initial quarterly report is due by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Non-entitlement units of local government will be required to submit annual Project and Expenditure reports. The initial annual Project and Expenditure report will be due on October 31, 2021. The Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds. The initial annual Project and Expenditure report will cover activity from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

Metropolitan Cities and counties with a population of greater than 250,000 will also be required to submit annual Recovery Plan Performance report. The initial report will be due August 31, 2021.


The U.S. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

Internal Controls. Internal controls must be designed, implemented, and documented to provide reasonable assurance that the ARPA funds will be safeguarded and used in accordance with the ARPA. Each of the five components of internal control is necessary to form a complete internal control process: Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring Activities. For more information on the establishment of internal controls, see the *Uniform Internal Control Standards for Indiana Political Subdivisions* and the Best Practice Documents on our website at www.in.gov/sboa.

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This memorandum is considered to be part of the Uniform Compliance Guidelines of the State Board of Accounts and is intended to provide guidance that will promote transparency and accountability of funds received from the Coronavirus Local Fiscal Recovery Fund pursuant to the American Rescue Plan Act of 2021. This memorandum may be amended or rescinded at any time in writing by the State Examiner or Deputy State Examiner.

Respectfully,


Paul D. Joyce, CPA
State Examiner

SG/DG