NATIONAL ASSOCIATION of COUNTIES NACo

NACo UPDATE:

OVERVIEW OF U.S. TREASURY'S FINAL RULE

FOR ARPA FISCAL RECOVERY FUND

January 2022

KEY HIGHLIGHTS OF THE GUIDANCE

1. **Final Rule is effective April 1, 2022,** but counties can take advantage of new provisions prior to the effective date
2. **Allows counties to use up to $10 million of ARPA Recovery Funds as "lost revenue" for the provision of general government services** without needing to use the Treasury revenue loss formula
3. Improves revenue loss calculation formula **to include utility revenue and liquor store sales, at option of counties**
4. **Clarifies eligible use of funds for capital expenditures a**nd written justification for certain projects
5. **Presumes certain populations were "impacted" and "disproportionately impacted" by the pandemic** and therefore are eligible to receive a broad range of services and support – designed to minimize administrative burden
6. **Streamlines options for premium pay,** by broadening the share of eligible workers who can receive premium pay
7. **Authorizes re-hiring of local government staff,** either at or above pre-pandemic levels
8. Allows Recovery Funds to be used for **modernization of cybersecurity,** including hardware and software
9. Broadens eligible use of funds for **water and sewer projects** to include culvert repair, dam and reservoir rehabilitation
10. Broadens eligible **broadband infrastructure investments** to ensure better connectivity to broader populations

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REPLACING LOST REVENUE

Counties can use Recovery Funds to provide government services, up to the amount of revenue loss experienced using one of two Treasury approaches. Under the Final Rule, **counties now have two options:**

KEY NEW FEATURES IN FINAL RULE

1. **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
   - 2,137 counties (70%) now eligible to invest entirety of allocated Recovery Funds in general government services

2. **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 1 option*
   - Counties must adjust actual revenue totals for the effect of **tax cuts/increases adopted after January 6, 2022**

REPLACING LOST REVENUE

Counties may use “lost revenue” for **<u>general government services up to the *revenue loss* amount</u>**, 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)

RECOVERY FUNDS USED TO REPLACE “REVENUE LOSS” ARE MORE 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 FINAL RULE. **HOWEVER, REVENUE RECOUPMENT CANNOT BE USED FOR RAINY DAY FUNDS, DEBT SERVICES, AND EXTRAORDINARY PENSION CONTRIBUTIONS**

REPLACING LOST REVENUE

<u>KEY TAKEAWAYS</u>

- **Counties have two options to calculate revenue loss:**

  1. **Up to $10 million** of ARPA allocation standard allowance, <u>**OR**</u>
  2. Calculate revenue loss with Treasury formula, with a **new 5.2% default 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

REPLACING LOST REVENUE

Counties may use “lost revenue” for **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:

HOWEVER, 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**

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