



The American Rescue Plan Act – Coronavirus State and Local Recovery Fund

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Can I use ARPA funds to make improvements to a park in the town?



But first...

- NEU's should have received first installment from DOB
- Metro entities should have received first installment from Treasury
- Second installment will be distributed around same time next year
- NEU's will be receiving another much smaller check (think between \$50-1000) from declined ARPA funding that is being redistributed



General Considerations

- Funds can generally be used to cover allowable costs that were incurred March 3, 2021 or later
- Deadline to obligate funds is December 31, 2024
- Deadline to SPEND funds is December 31, 2026



General Considerations

- You may be able to fit the same project under more than one category
- Maintain records supporting your determination that a project is eligible
- Maintain records on the project itself
- No preapproval of projects



How can funding be used?

1. To respond to the COVID-19 public health emergency or its negative economic impacts
2. To provide premium pay to essential workers
3. To cover loss of revenue to provide government services
4. To make necessary investments in water, sewer, and broadband infrastructure



How can funding be used?

1. To respond to the COVID-19 public health emergency or its negative economic impacts including assistance to households, small businesses, and non-profits or to assist impacted industries such as tourism, travel and hospitality (Sec 603[c][1][A]; CFR § 35.6[b])



Respond to Public Health Emergency or its Negative Economic Impacts

Really this one category can be broken down into three subcategories

- a. Responding to COVID19 / Supporting Public Health Response
- b. Addressing the negative economic impacts of COVID19
- c. Assisting disproportionately impacted communities

Respond to Public Health Emergency or its Negative Economic Impacts

1a. Responding to Public Health Emergency/Supporting Public Health

Regs have list of eligible uses under this category (list is NOT exclusive) (CFR 35.6[b][1]-[12])

If proposed use is not on the list, the Interim Rule suggests this analysis to determine eligibility

1. Identify effect of COVID19 on public health (those already felt or those that may manifest over years)
2. Assess how proposed use of funds would respond to or address that effect COVID19 response and prevention (Guidance Sec II[A])

Respond to Public Health Emergency or its Negative Economic Impacts

Uses specifically listed as responding to the public health emergency include but are not limited to:

COVID–19 Mitigation and Prevention

- Capital improvements to public facilities to meet pandemic operational needs
- Expenses for PPE
- Expenses to disinfect public areas in response to COVID19
- Expenses for public communications related to vaccine programs
- Expenses for improvement of ventilation system in public facilities
- Enforcement related expenses associated with COVID19 public health orders

Payroll and benefits for public employees to the extent their time is spent mitigating or responding to COVID19

- Need records like payroll and attestations from supervisors, or regular correspondence to demonstrate work on COVID19 response (Guidance Sec II[1])
- Public health and safety employees can be assumed to spend all their time responding to COVID19 (id.)

Respond to Public Health Emergency OR its Negative Economic Impacts

1b. Negative Economic Impacts Caused by Public Health Emergency

To determine whether a program or service not listed in regulations would be eligible to use in response to negative economic impact

1. Assess whether service or program experienced economic harm from COVID19
 2. Would the planned use of funds respond to this economic harm?
- Response must be proportional and related



Respond to Public Health Emergency OR its Negative Economic Impacts

Specifically listed uses include:

- Assistance to small businesses and nonprofits
- Assistance to impacted industries (such as tourism) or households
- Assistance to Unemployed Workers
- Rehiring State, Local, and Tribal Government Staff
 - A negative economic impact could include “decrease[s] to a state or local government’s ability to effectively administer services’



Respond to Public Health Emergency OR its Negative Economic Impacts

- DON'T FORGET ABOUT NYS CONSTITUTION ARTICLE VIII SECTION 1 – PROHIBITION ON GIFTS AND LOANS
- Not a violation of Art 8 Sec 1 if money to a private entity serves a proper public use, the public benefits overall, and the private benefit is incidental
- OSC likes to see a local law and contract

These hedging hedgehogs want you to remember Article 8 Section 1



Respond to Public Health Emergency OR its Negative Economic Impacts

1c. Assisting hardest hit/disproportionately impacted communities

- What are hardest hit communities?
 - Within a qualified census tract (area designated by HUD in which 50% or more of households have an income less than 60% of the median gross income for the area or poverty level is 25% or greater)
 - Other areas or populations disproportionately impacted by pandemic as determined by the town board (must support determination)

Respond to Public Health Emergency OR its Negative Economic Impacts

- Eligible services in hardest hit communities include but not limited to:
 - remediation of lead paint or other lead hazards
 - Increase affordable housing development
 - Services to address homelessness
 - Evidence-based community violence intervention programs
 - Promoting healthy childhood environments
 - Building stronger communities through investments in housing and neighborhoods

Respond to Public Health Emergency OR its Negative Economic Impacts

Can we fit improvements to a park under the first
category?

Respond to Public Health Emergency OR its Negative Economic Impacts

General considerations for uses under Category 1

- Always connect uses as responding to some aspect of COVID-19 (either the public health aspect or economic impact)
- Keep records of how your project or how the assistance provided to small businesses etc. responds to the health emergency or negative economic impact

Premium Pay to Essential Workers

2. To provide premium pay to workers performing essential work during the COVID–19 public health emergency (sec 603[c][1][B]; CFR § 35.6[c])

‘Eligible Workers’ = workers needed to maintain continuity of operations of essential critical infrastructure sectors

Premium Pay to Essential Workers

List of Essential Sectors

1. Healthcare
2. Public Health and Safety
3. Childcare
4. Education
5. Sanitation
6. Transportation

Town Board has discretion to add to this list so long as sectors considered critical to protect the health and well being of residents

Premium Pay to Essential Workers


- ‘Essential Work’ = work involving regular, in person interactions with the public or coworkers or regular physical handling of items that were also handled by others during the COVID19 Public Health Emergency (CFR § 35.3)
- Does NOT include telework performed from a residence (id.)
- Prioritize lower income eligible workers that perform essential work
- Can provide grants to third party employers with eligible workers performing essential work

Premium Pay to Essential Workers

What does 'premium pay' mean?

- Up to \$13 per hour paid to an eligible worker in addition to wages otherwise received (in other words premium pay is added on top of the base wage)
- Can be applied retroactively going back to 1/27/20 (CFR § 35.2)
- Treasury encourages focusing on retroactive pay / performance and lower income workers

Premium Pay to Essential Workers

- Limitations on Amount of Premium Pay
 - Amount may not exceed \$25,000 with respect to any single eligible worker (Sec 602[g])
 - If premium pay would increase wage above 150% of NYS's average annual wage for all occupations or their county's average annual wage, must provide a written justification to Treasury (CFR 35.6[c])
 - State and county wage defined by Bureau of Labor Statistics' Occupational Employment and Wage Statistics
 - What about limitations on raising salaries for elected officials ... 

Premium Pay to Essential Workers

Can we fit improvements to a park under the second category?

Recovering Lost Revenue to Provide Gov't Services

3. For the provision of government services to the extent of the reduction in revenue ...due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year; (sec 603[c][1][C])
- Is there lost revenue
 - If there is, what can I use funds on?

Recovering Lost Revenue to Provide Gov't Services

Revenue Defined:

- “general revenue” - includes tax revenue and other types generated from underlying economy (fees, fines etc.)
- Does NOT include proceeds from debt issuance, sale of investments, revenue from utilities
- Sum up lost revenue across all revenue streams (on an entity-wide basis)

Recovering Lost Revenue to Provide Gov't Services

Calculating Revenue Loss:

- Calculate lost revenue as of 4 points in time:
 - 12/31/20
 - 12/31/21
 - 12/31/22
 - 12/31/23
- Any decrease in revenue is considered COVID19 related, don't have to show decrease related to COVID

Recovering Lost Revenue to Provide Gov't Services

Calculating Revenue Lost: (CFR 35.6 [d])

- 1. Determine your base year revenue –(i.e. 2019 revenues)
- 2. Estimate your “counterfactual revenue” – i.e. imagine COVID19 didn't happen, what would your revenues be?
 - Can either use 4.1% to represent average annual growth or look at your last 3 years, if average annual growth higher than 4.1% use that
- 3. Determine actual revenues collected during each twelve-month period
- 4. Lost revenue is equal to estimated revenue minus actual revenue for each period

Recovering Lost Revenue to Provide Gov't Services

What can you use lost revenue funding on?

- General government services
 - Broadly defined
 - Includes maintenance of infrastructure INCLUDING HIGHWAYS
 - Provision of police, fire, and other public safety
 - Building of infrastructure that would be funded using cash on hand
 - Modernization of cybersecurity
- NOT included
 - Expenses associated with debt not included
 - Satisfaction of judgments
 - Replenishing reserves

Recovering Lost Revenue to Provide Gov't Services

Can we fit improvements to a park under this category?

Water/Sewer/Broadband Infrastructure

4. To make necessary investments in water, sewer, or broadband infrastructure (sec 603[c][1][D])

Water/Sewer/Broadband Infrastructure

Water and Sewer eligible uses – if a project eligible under the EPA's Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF), it's an eligible for ARPA

- Includes projects like construct, improve, repair wastewater treatment plants, improve resiliency of infrastructure, replace lead service line, install or replace treatment and distribution systems
- Cybersecurity for systems

Water/Sewer/Broadband Infrastructure

Broadband Infrastructure

- Investments in broadband infrastructure must be made in unserved or underserved areas (no wireline that reliably delivers minimum speeds of 25Mbps download and 3Mbps upload)
- Prioritize achieving last mile connections
- Prioritize laying fiber optic cable
- Projects should deliver services that reliably deliver 100Mbps download and upload
- Prioritize support for broadband networks that are non-profits or co-operatives, less profit focused

Other Considerations

You CANNOT use it to cover pension funds (sec 603[c][2])

You CAN transfer money to

- another unit of local government
- a special-purpose unit of State or local government (sec 603[c][3])
- The State (sec 603[c][4])

If you transfer money to another entity (subrecipient) you are still responsible for ensuring the money is spent in accordance with allowable uses

- Put monitoring / record keeping system in place

Reporting Requirements

Report requirements for NEUs

- Must submit ANNUAL Project and Expenditure Reports through December 31, 2026
 - Deadline for initial report extended from 10/31/21 until 4/30/22
 - Treasury will be issuing guide on how and where to file reports



Reporting Requirements

7 Major Expenditure Categories listed in Reporting Guidance (and 66 subcategories)

- Revenue Replacement (1)
- Public Health (12)
- Negative Economic Impacts (14)
- Services to Disproportionately Impacted Communities (16)
- Premium Pay (2)
- Infrastructure (17)
- Administrative (4)



Reporting Requirements

- Before you spend money know how you're going to categorize the expenditure!
- Must maintain records and financial documents for five years after all program funds have been spent or returned to Treasury



Miscellaneous

- GET A SAM.gov ACCOUNT PRONTO
- You are allowed to use ARPA funds to pay for an ARPA consultant
- You still have to follow competitive bidding / prevailing wage / your procurement policy
- Recipients and subrecipients that spend more than \$750,000 in Federal awards in a fiscal year are 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.



Questions?

