



JASON E. MUMPOWER
Comptroller

January 11, 2022

MEMORANDUM

TO: All County Mayors/Executives, and Finance Directors; All City Mayors and Finance Directors

FROM: Jason E. Mumpower, Comptroller of the Treasury

A handwritten signature in blue ink that reads "Jason E. Mumpower".

SUBJECT: American Rescue Plan Act – Final Rule Federal Guidance

The U.S. Treasury released its Final Rule guidance regarding the American Rescue Plan Act on January 6, 2022. We have included a link to the document and the accompanying Overview of the Final Rule document on a website dedicated to the American Rescue Act Plan at:

tncot.cc/covid

Below are some key points included in the new guidance documents we want to bring to your attention. We also recommend that you read through the Overview of the Final Rule document for further information.

- 1) The final rule takes effect on April 1, 2022. Until that time, the interim final rule remains in effect and funds spent consistent with the interim final rule comply with program requirements. However, recipients can choose to take advantage of the final rule's flexibilities and simplifications now, ahead of the effective date.
- 2) One of the most impactful changes in the final rule is found in the revenue loss category. This guidance provides that any government can elect to take a "standard allowance" for revenue loss of up to \$10 million, allowing governments to select between the standard allowance or complete the full revenue loss calculation contained in the guidance. The significance of this change is that the revenue loss category can be used to fund any "government services." This is much less restrictive than some of the other allowable categories.
- 3) The guidance from the interim final rule mentions stormwater projects as an example of allowable uses under the category of sewer and water infrastructure. The final rule expands the guidance of allowed projects under this category and includes detailed examples such as culvert repair; dam and reservoir rehabilitation to provide safe drinking water; lead remediation projects; and improving access to safe drinking water for citizens served by residential wells. Please refer to the final rule for more details of these expanded allowable projects. Our Office continues to believe that the investment allowed for sewer and water infrastructure is one of the most impactful uses of these funds for your citizens, particularly when paired with the Tennessee Department of Environment & Conservation's non-competitive grant program.

- 4) The final rule contains detailed discussions, explanations, and examples of expenses eligible under the category of “responding to the public health emergency” for low-income and underserved communities. Please refer to the final rule documents for details if you are considering these types of programs.
- 5) The final rule has greatly expanded the list of critical sectors and occupations eligible for premium pay. The list has been extended to include all “state, local, or tribal workforce.” The same eligibility criteria are in effect. Please see our memo dated July 9, 2021, for details concerning premium pay eligibility. Our previous memos can also be found at tncot.cc/covid.
- 6) The final rule provides further guidance related to capital expenditures incurred under any of the eligible categories (other than revenue loss). The related reporting in the federal portal will require detailed justification of the capital expenditures. Additionally, the final rule lists categories of capital projects that Treasury will “presume are ineligible.” These include construction of a new correctional facility as a response to increased rates of crime; construction of new congregate facilities to decrease spread of COVID-19 in the facility; and construction of convention centers, stadiums, or other large capital projects intended for general economic development. Please refer to the final rule for further details regarding guidance for capital projects.
- 7) The final rule reiterates the following costs, originally contained in the interim final rule, that remain unallowable across all categories, including the revenue loss category:
 - a) Funds cannot be used to reimburse costs incurred by your government prior to March 3, 2021.
 - b) Funds cannot be used to replenish or make contributions to rainy day funds or other reserve funds.
 - c) Funds cannot be used to pay interest, principal, or costs on debt. This includes long-term debt, short-term revenue or tax anticipation notes, or fees or issuance costs associated with new debt.
 - d) Funds cannot be deposited into a pension fund.
- 8) As a service to local governments, the Tennessee Department of Finance & Administration (F&A) has opened a technical assistance program portal for local governments to submit annual spending plans of American Rescue Plan funds. By submitting your plan through this portal, F&A will provide you feedback regarding the allowability of your proposed uses of funds. Please visit <https://www.tn.gov/finance/coronavirus-local-fiscal-recovery-fund---state-guidance-for-local-governments/tennessee-department-of-finance-and-administration-local-government-support-program.html> for more information regarding this service.

Please be strategic and develop an overall plan to use the money to benefit the greatest number of citizens as you make decisions about spending this money.

Please contact us with any questions at the email address and phone number below:

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615.401.7841