Oklahoma State Auditor and Inspector's Federal Awards Guidance for Counties for Fiscal Recovery Funds

Allowable and Unallowed Costs for Fiscal Recovery Funds

The *American Rescue Plan Act* of 2021 ("ARPA") made available to counties in the State of Oklahoma approximately $767,000,000 in Federal awards under the *Coronavirus State and Local Fiscal Recovery Funds* ("Fiscal Recovery Funds").

In May 2021 the Treasury Department ("USTD") issued their *Interim Final Rule* which provided guidance for how the Federal award was to be used. This 151-page document covered a broad range of topics. Due to the volume of the guidance, and the sections that do not pertain or are unlikely to pertain to County governments, the following *Allowable and Unallowed Costs for Fiscal Recovery Funds* document has been produced to summarize the USTD's *Interim Final Rule* for County use. While much of the text below comes directly from the *Interim Final Rule*, this document does not represent authoritative guidance. Users are encouraged to check the information below against the actual *Interim Final Rule* or potential subsequent regulations for ARPA funding. In the sections below page numbers are listed to show where similar items are addressed in the *Interim Final Rule* appearing in blue text (For example "**10**" refers to page 10 of the *Interim Final Rule*).

The information below appears in three separate sections, as follows:

The section in green indicates costs that are generally allowable

The section in yellow indicates costs that are allowable under certain conditions

The section in red indicates costs that are not allowed

Each of the three sections is split into two columns. The first column ("Items") provides information on the specific cost categories addressed by the *Interim Final Rule*. The second column ("Special Considerations") provides further considerations, reporting and documentation requirements unique to the cost category, and audit expectations or documentation that will likely be reviewed during the County's financial audit.

Allowable Costs

Item	Special Considerations
Public Health and Economic Impacts Fiscal Recovery Funds provide significant resources for counties to meet the wide range of public health and economic impacts of the COVID-19 public health emergency. Accordingly, to assess whether a program or service is included in this category of eligible uses, the County should consider whether and how the use would respond to the COVID-19 public health emergency. This requires the County to, first, identify a need or negative impact of the COVID-19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact. **<u>Such considerations should be adequately documented</u>**. While the COVID-19 public health emergency affected many aspects of American life, eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency. (10)	
Public Health Emergency The *Interim Final Rule* identifies a non-exclusive list of programs or services that may be funded as responding to COVID-19, along with considerations for evaluating other potential uses of the Fiscal Recovery Funds not explicitly listed. (11)	
COVID-19 mitigation and prevention, including: • Vaccination programs, medical care, testing, and contact tracing • Support for isolation or quarantine • Enforcement of public health orders • Public communication efforts • Enhancement to health care capacity, including through alternative care facilities • Personal protective equipment • Support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools • Ventilation improvements in congregate settings, health care settings, or other key locations (18)	**Caution – For any cost that is not self-evidently and directly related to the COVID-19 public health emergency the County should maintain adequate documentation to, first, identify a need or negative impact of the COVID-19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact.** For example, the provisions that Fiscal Recovery Funds may be used to support "isolation or quarantine" or "ventilation improvements in congregate settings" (18) should not be broadly interpreted to mean the expansion of County facilities such as the courthouse, jail, or district barns. Documentation should be maintained to adequately support how such expansions were necessary to address isolation or quarantine or ventilation improvement needs directly related to the COVID-19 public health emergency.
Public health related capital investments Allowable costs include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. These COVID-19 prevention	For any cost that is not self-evidently and directly related to the COVID-19 public health emergency the County should maintain adequate documentation to, first, identify a need or negative impact of the COVID-19 public health emergency and, second, identify how the

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Item	**Special Considerations**
and mitigation programs and services, among others, were eligible expenditures under the CRF (CARES Act) and are eligible uses under this category of eligible uses for the Fiscal Recovery Funds. (18 - 19)	program, service, or other intervention addresses the identified need or impact. The provision that Fiscal Recovery Funds may be used for "capital investments in public facilities" (18) should not be broadly interpreted to mean the expansion of County facilities such as the courthouse, jail, or district barns. Documentation should be maintained to adequately support how such expansions were necessary to address needs directly related to the COVID-19 public health emergency.
Behavioral health care, including: • Mental health treatment • Substance misuse treatment • Other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine (19 - 20)	The *Interim Final Rule* does not provide further guidance on what documentation should be maintained to address the need for behavioral health care costs. OSAI recommends counties use discretion in documenting the use of Fiscal Recovery Funds for behavioral health care needs.
Expenses to improve the design and execution of health and public health programs Fiscal Recovery Funds may be used to engage in planning and analysis in order to improve programs addressing the COVID-19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis. (21)	The *Interim Final Rule* does not provide further guidance on what documentation should be maintained on expenses in this category. OSAI recommends counties use discretion in documenting the use of Fiscal Recovery Funds for improvements to the design and execution of health and public health programs.

Negative Economic Impacts

Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be eligible under this category, the County should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID-19 public health emergency and whether, and the extent to which, the use would respond or address this harm.

The County should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID-19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this

Allowable Costs

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category. In addition, the eligible use must "respond to" the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. (30 - 31) Because of these specifics, OSAI highly recommends **all related costs in this category be adequately documented** to demonstrate how the County considered whether an economic harm exists, to what extent this was caused by or made worse by the COVID-19 public health emergency, and how the costs respond to the identified negative economic impact.	
Assistance to unemployed workers, such as job training to accelerate rehiring of unemployed workers. These services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began and remain so due to the negative economic impacts of the pandemic. (32)	The *Interim Final Rule* does not provide further guidance on what documentation should be maintained related to this category. OSAI recommends counties use discretion in documenting the use of Fiscal Recovery Funds for assistance to unemployed workers.
Assistance to households, including: • Food assistance • Rent, mortgage, or utility assistance • Counseling and legal aid to prevent eviction or homelessness • Emergency assistance for burials, home repairs, weatherization, or other needs • Internet access or digital literacy assistance • Job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training (33 - 34)	In considering whether a potential use is eligible under this category, the County must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. Such considerations should be documented. In assessing whether a household or population experienced economic harm as a result of the pandemic, the County may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low-or moderate-income experienced negative economic impacts resulting from the pandemic. (33 - 34) The *Compliance and Reporting Guidance* (page 5) further notes that counties may use Fiscal Recovery Funds to provide assistance to households for costs incurred by the household prior to March 3, 2021, provided that the County did not incur the cost of providing such assistance prior to March 3, 2021.
Rehiring staff, including payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government (35 - 36)	Costs are allowable to the extent they rehire staff "up to the pre-pandemic staffing level of the government". Counties should document how they determined their pre-pandemic staffing levels. (36)

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Building stronger communities through investments in housing and neighborhoods, including: • Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals • Affordable housing development to increase supply of affordable and high-quality living units • Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents, to help residents increase their economic opportunity and reduce concentrated areas of low economic opportunity (39)	The *Interim Final Rule* does not provide further guidance on what documentation should be maintained related to this category. OSAI recommends counties use discretion in documenting the use of Fiscal Recovery Funds for investments in housing and neighborhoods, including documentation covering how the County determined the costs were designed to address an economic harm resulting from or exacerbated by the public health emergency.
Addressing educational disparities, including: • New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services • Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies • Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other extended learning and enrichment programs • Evidence-based practices to address the social, emotional, and mental health needs of students (40)	The *Interim Final Rule* does not provide further guidance on what documentation should be maintained related to this category. OSAI recommends counties use discretion in documenting the use of Fiscal Recovery Funds for addressing educational disparities, including documentation covering how the County determined the costs were designed to address an economic harm resulting from or exacerbated by the public health emergency. While no specific guidance for determining what qualifies as "educational disparities" is given, the focus of this category is on "particular challenges for lower-income students" (40) which would indicate it would be in the County's best interests to document any considerations over how educational and economic disparities were determined.
Promoting healthy childhood environments, including: • New or expanded high-quality childcare to provide safe and supportive care for children • Home visiting programs to provide structured visits from health, parent	The *Interim Final Rule* does not provide further guidance on what documentation should be maintained related to this category. OSAI recommends counties use discretion in documenting the use of Fiscal Recovery Funds for promoting healthy childhood environments, including documentation covering how the

<table>
<tr><th colspan="2">Allowable Costs</th></tr>
<tr><th>Item</th><th>Special Considerations</th></tr>
<tr><td>educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development
• Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges (40 - 41)</td><td>County determined the costs were designed to address an economic harm resulting from or exacerbated by the public health emergency.</td></tr>
<tr><td colspan="2">Investments in infrastructure
To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Interim Final Rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service.

Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds. <u>Such considerations should be adequately documented</u>.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from counties on their workforce plans and practices related to water, sewer, and broadband projects undertaken. (62 - 63)</td></tr>
<tr><td>Water and sewer infrastructure
Counties may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, counties may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Fiscal Recovery Funds may be</td><td>The Interim Final Rule aligns eligible uses of Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) <u>Clean Water State Revolving Fund</u> (CWSRF) or <u>Drinking Water State Revolving Fund</u> (DWSRF)

Counties should review these sources for detailed guidance on the eligible uses and restrictions on water and sewer infrastructure projects.

The USTD's <u>Compliance and Reporting Guidance</u> (page 5) further notes that counties may use Fiscal Recovery Funds to cover costs incurred for eligible projects planned or started prior to</td></tr>
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Allowable Costs	
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used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works. (63 - 68)	March 3, 2021, provided that the project costs covered were incurred after March 3, 2021.
Administrative costs While administrative costs are addressed in the *Interim Final Rule*, greater clarity can be found in the USTD's *Compliance and Reporting Guidance* (page 7) and FAQ's (question 10.2 and 10.5) regarding the eligibility of administrative costs. According to these documents, audit costs under the Uniform Guidance (2 CFR 200.425) are allowable, as well as costs related to disbursing payments of Fiscal Recovery Funds and managing new grant programs established using Fiscal Recovery Funds. Further, counties may use Fiscal Recovery Funds for costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements.	Counties may experience a significant administrative burden in ensuring payments are made for eligible purposes, reporting requirements are met, and various other compliance requirements of the Fiscal Recovery Funds are met. Counties should adequately document how administrative costs that are paid out of Fiscal Recovery Funds were considered.

Allowed with Restrictions	
Item	**Special Considerations**
Public Health Emergency Fiscal Recovery Funds provide significant resources for counties to meet the wide range of public health and economic impacts of the COVID-19 public health emergency. Many of the eligible costs were described above in the "Allowable Costs" section. The following additional items are allowed with restrictions or under certain circumstances. To assess whether additional uses not addressed in the *Interim Final Rule* would be eligible under this category, the County should identify an effect of COVID-19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need. These considerations should be adequately documented. (17)	
Public health and safety staff Fiscal Recovery Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID–19 public health emergency. Fiscal Recovery Funds may be used to support the payroll and covered benefits for the portion of the employee's time that is dedicated to responding to the COVID-19 public health emergency. The County may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID-19 public health emergency. (20 - 21)	The *Interim Final Rule* uses language similar to the *Coronavirus Relief Fund* (CRF) in that it restricts payroll and covered benefit expenses to those employees who are "primarily dedicated" to responding to the COVID-19 public health emergency. This determination is made at the County-level and should be adequately documented. Counties may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID-19 public health emergency, provided that the County reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on the COVID-19 response. (20 - 21)
Eligible uses to address disparities in public health outcomes Certain types of services are eligible uses when provided in a Qualified Census Tract (QCT)* including: • Funding community health workers to help community members access health services and services to address the social determinants of health • Funding public benefits navigators to assist community members with	Counties may also provide these services to other populations, households, or geographic areas that are disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, counties should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. (22)

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navigating and applying for available Federal, State, and local public benefits or services • Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness • Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children • Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic (21 - 23) *Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents. Using an existing measure may speed implementation and decrease administrative burden, while identifying areas of need at a highly-localized level. (21)	Counties should adequately document how it was determined that communities were disproportionately impacted.

Negative Economic Impacts

Fiscal Recovery Funds provide significant resources for counties to meet the wide range of public health and economic impacts of the COVID-19 public health emergency. Many of the eligible costs were described above in the “Allowable Costs” section. The following additional items are allowed with restrictions or under certain circumstances.

Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be eligible under this category, the County should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID-19 public health emergency and whether, and the extent to which, the use would respond or address this harm.

The County should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID-19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category. In addition, the eligible use must “respond to” the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. (30 - 31)

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Because of these specifics, OSAI highly recommends **<u>all related costs in this category be adequately documented</u>** to demonstrate how the County considered whether an economic harm exists, to what extent this was caused by or made worse by the COVID-19 public health emergency, and how the costs respond to the identified negative economic impact.	
Assistance to households Assistance to households was described above in the "Allowable Costs" section. The *Interim Final Rule* also allows cash assistance to be paid to households under certain conditions. In addition, the County could provide survivor's benefits to surviving family members of COVID-19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID-19 victims. Cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the County would not be considered to be a response to the COVID-19 public health emergency or its negative impacts. (33 - 34)	When considering the appropriate size of permissible cash transfers made in response to the COVID-19 public health emergency the County may consider and take guidance from the per person amounts previously provided by the Federal government in response to the COVID-19 crisis. Cash transfers that are grossly in excess of such amounts would be outside the scope of eligible uses and could be subject to recoupment. (33 - 34) All considerations taken to determine that cash payments to households meet eligibility requirements should be adequately documented.
Small businesses and non-profits, including: • Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs • Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs • Technical assistance, counseling, or other services to assist with business planning needs (34 - 35)	These services should respond to the negative economic impacts of COVID-19. The County may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (e.g., comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. The County should consider local economic conditions and business data when establishing such criteria. (35) All considerations should be adequately documented.
Aid to impacted industries Aid provided to tourism, travel, and hospitality industries and similarly impacted industries may	When considering providing aid to industries other than tourism, travel, and hospitality, counties should consider the extent of the

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include assistance to implement COVID-19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services, for example, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans. Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, business districts, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. For example, the County may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID19 public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic. (**36** - **38**)	economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, on net, the leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide due to the COVID-19 public health emergency. Counties should also consider whether impacts were due to the COVID-19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic. To facilitate transparency and accountability, the *Interim Final Rule* requires that counties publicly report assistance provided to private-sector businesses under this eligible use, including tourism, travel, hospitality, and other impacted industries, and its connection to negative economic impacts of the pandemic. Counties also should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts. (**36** - **38**)
Premium Pay Fiscal Recovery Funds may be used by counties to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work. These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities (see *Interim Final Rule* for examples of eligible workers). Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID-19, it must be entirely additive to a worker's regular rate of wages and other	**Caution – The *Interim Final Rule* provisions for premium pay should not be broadly interpreted to mean any employee of the County. Eligible workers are those performing essential work during the COVID-19 public health emergency. The *Interim Final Rule* gives examples of such workers (46) but also indicates counties have the discretion to add additional sectors to this list, so long as the sectors are considered critical to protect the health and well-being of residents. The County should maintain adequate documentation to support any sectors added to the list of eligible workers.** ARPA defines premium pay to mean an amount up to $13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed $25,000 per eligible worker.

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remuneration and may not be used to reduce or substitute for a worker's normal earnings. Premium pay may be provided retrospectively for work performed at any time since the start of the COVID-19 public health emergency, where those workers have yet to be compensated adequately for work previously performed. Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work. There are additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided (see *Interim Final Rule*, Section VIII). (**45** - **51**)	If premium pay would increase a worker's total pay above 150 percent of their residing state's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, or their residing county's average annual wage, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the County must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a written justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. See U.S. Bureau of Labor Statistics, State Occupational Employment and Wage Estimates and U.S. Bureau of Labor Statistics, May 2020 Metropolitan and Nonmetropolitan Area Estimates listed by county or town. (**45** - **51**) The County should adequately document all considerations taken to ensure these compliance requirements are met.
Revenue Loss Counties may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency. The County's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency. Counties have broad latitude to use the Fiscal Recovery Funds recouped through revenue loss for the provision of County services which can include, but are not limited to, maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or	**Caution – The *Interim Final Rule* provisions for calculating revenue loss are complex and detailed. The information given here is only a summary of the information contained in the *Interim Final Rule*. Counties should carefully read the full provisions for calculating revenue loss and adequately document each step in the process.** To calculate the extent of the reduction in revenue at each of these dates, counties should follow a four-step process: 1. Identify revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue.* 2. Estimate *counterfactual revenue*, which is equal to *base year revenue* * [(1 + *growth*

Allowed with Restrictions

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educational services; and the provision of public safety services. However, Fiscal Recovery Funds recouped through revenue loss may not be used for costs that are specifically prohibited, as noted in the "Unallowed Costs" section. The *Interim Final Rule* provides a uniform and comprehensive methodology for calculating revenue loss. In general, counties will compute the extent of the reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic. The counterfactual trend starts with the last full fiscal year prior to the COVID-19 public health emergency and then assumes growth at a constant rate in the subsequent years. (51 - 61) Per the USTD's FAQ's, where audited data is not available, counties are not required to obtain audited data in calculating revenue loss.	*adjustment*) ^(*n*/12)], where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of 4.1 percent and the County's average annual revenue growth in the three full fiscal years prior to the COVID-19 public health emergency. 3. Identify *actual revenue*, which equals revenues collected over the past twelve months as of the calculation date. 4. The extent of the reduction in revenue is equal to counterfactual revenue less actual revenue. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date. Upon receiving Fiscal Recovery Fund payments, counties may immediately calculate revenue loss for the period ending December 31, 2020. (51 - 61)

Investments in infrastructure

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from counties on their workforce plans and practices related to water, sewer, and broadband projects undertaken. (62 - 63)

Eligible infrastructure uses of the Fiscal Recovery Funds fall into three broad categories of water, sewer, and broadband. The water and sewer categories were described above in the "Allowable Costs" section. The broadband category is described below.

Item	Special Considerations
Infrastructure other than water, sewer, and broadband Fiscal Recovery Funds may not be indiscriminately used on infrastructure projects of the County such as roads, bridges, County barns, the courthouse, or the jail if such projects are not within the scope of an eligible use category. For example, if the project responded to a specific pandemic public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (e.g., affordable housing in a QCT).	**Caution – While infrastructure projects other than water, sewer, and broadband are permissible under certain circumstances (such as responding to specific pandemic public health needs or funded through revenue loss funds) counties should carefully consider whether such costs are in compliance with Fiscal Recovery Fund requirements and whether such compliance and considerations can be adequately documented. For example, an expansion or maintenance of County facilities such as the courthouse, jail, or district barns should be necessary to address needs directly related to the COVID-19 public health**

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Item	**Special Considerations**
Counties may also use Fiscal Recovery Funds recouped through revenue loss (described above) for general infrastructure projects. (**42** - **43**)	**emergency, unless sufficient revenue loss recoupment can cover the cost of the project.** (**42** - **43**)
Broadband infrastructure Eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. The *Interim Final Rule* provides counties with flexibility to identify the specific locations within their communities to be served and to otherwise design the project. Eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. (**69** - **77**)	The *Interim Final Rule* provisions for eligible broadband infrastructure are complex and detailed. The information given here is only a summary of the information contained in the *Interim Final Rule*. Counties should carefully read the full provisions and maintain appropriate documentation to show compliance.

Transfers

When a County transfers Fiscal Recovery Funds to another entity, that entity becomes the County's "subrecipient". Counties may transfer funds to a private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government. Similarly, counties are authorized to transfer Fiscal Recovery Funds to other constituent units of government (e.g., a County is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities.

The County remains responsible for monitoring and overseeing the subrecipient's use of Fiscal Recovery Funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. Counties also remain responsible for reporting to Treasury on their subrecipients' use of payments from the Fiscal Recovery Funds for the duration of the award. Once Fiscal Recovery Funds are received, the subrecipient must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance. (**105** - **107**)

The Treasury's Compliance and Reporting Guidance provides additional guidance on the County's responsibility with its subrecipients as follows: First, the County must clearly identify to the subrecipient:

1. that the award is a subaward of Fiscal Recovery Funds
2. any and all compliance requirements for use of Fiscal Recovery Funds
3. any and all reporting requirements for expenditures of Fiscal Recovery Funds

Next, the County will need to evaluate each subrecipient's risk of noncompliance based on a set of common factors. These risk assessments may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Ongoing monitoring of any given subrecipient should reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

Allowed with Restrictions	
Item	**Special Considerations**
Accordingly, the County should develop written policies and procedures for subrecipient monitoring and risk assessment and maintain records of all award agreements identifying or otherwise documenting subrecipients’ compliance obligations.	

Unallowable Costs

Deposit into pension funds

Fiscal Recovery Funds may not be used for deposits into any pension fund. Treasury interprets "deposit" in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the *Interim Final Rule* does not permit this assistance to be used to make a payment into a pension fund if both:

1. The payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and
2. The payment occurs outside the County's regular timing for making such payments.

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries. (**79** - **80**)

Offset a reduction in net tax revenue

Fiscal Recovery Funds may not be used to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation during the covered period. If a County uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the County must repay to the Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount received by the County under the ARPA.

The *Interim Final Rule* provisions for a reduction in net tax revenue are complex and detailed. If the County is anticipating enacting a reduction in net tax revenue (i.e. a "tax cut") during the covered period, The *Interim Final Rule* should be consulted to ensure the County is in compliance. (**81** - **95**)

Non-Federal matching requirements

Fiscal Recovery Funds may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. (**96** - **97**)

Uniform Guidance restrictions

Fiscal Recovery Funds, as a general matter, will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost. These cost principles include restrictions that would apply to all Federal awards unless otherwise stated. (**97**)

Other restrictions on use

Fiscal Recovery Funds may not be used for contributions to rainy day funds, financial reserves, or similar funds as such payments constitute savings for future spending needs of the County.

Similarly, Fiscal Recovery Funds may not be used for payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs. Fees or issuance costs associated with the issuance of new debt would also not be covered using payments from the Fiscal Recovery Funds because such costs would not themselves have been incurred to address the needs of pandemic response or its negative economic impacts.

Unallowable Costs

Fiscal Recovery Funds may not be used for satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring plan in a judicial, administrative, or regulatory proceeding, except to the extent the judgment or settlement requires the provision of services that would respond to the COVID-19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID-19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to these needs. (42 - 43)