



AMERICAN RESCUE PLAN ACT FREQUENTLY ASKED QUESTIONS

November 15, 2021

The American Rescue Plan Act of 2021 (“ARPA”) was signed into law by President Biden on March 11, 2021. This federal spending package provides for a total of \$362 billion in state and local fiscal recovery funding, including \$130 billion for local governments, split evenly between municipalities and counties. This funding is intended to help local governments recover from the COVID-19 pandemic’s negative economic and health impacts.

This document contains answers to frequently asked questions the Wisconsin Towns Association and League of Wisconsin Municipalities have received regarding ARPA and the eligible uses of ARPA funds. Under ARPA, local governments may use allocated funds to cover costs of eligible uses within four categories:

- 1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- 2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- 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 prior to the emergency; and
- 4) To make necessary investments in water, sewer, or broadband infrastructure.

All ARPA funds must be obligated by December 31, 2024 (orders or contracts for eligible goods/services must be made by that date), but project completion may occur through December 31, 2026. The funds are generally intended to be used prospectively. ARPA funds may only be used to cover costs incurred beginning on March 3, 2021, with one exception for premium pay. ARPA funds may *not* be used to make an extraordinary contribution to a pension fund; to fund debt service, legal settlements or judgments; or to make deposits to rainy day funds or financial reserves. Local governments will be required to provide reports to the U.S. Department of the Treasury demonstrating compliance with ARPA and all corresponding regulations. These requirements and limitations are explained in more detail in the sections below.

KEY TERMS

This document uses the following abbreviations for terms used in the American Rescue Plan Act of 2021, the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule, and correlating guidance provided by the U.S. Department of the Treasury:

- [American Rescue Plan Act of 2021](#) (“ARPA”)
- [U.S. Department of the Treasury](#) (“the Treasury”)
- [Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule](#) (“the Interim Final Rule”)
- Local Fiscal Recovery Funds / LFRF (“ARPA funds”)
- Coronavirus Relief Fund / CRF (“the CARES Act”)
- Non-Entitlement Unit of Local Government (“NEU”)

ELIGIBLE USE CATEGORIES OF ARPA FUNDS

1) Responding to the Covid-19 Public Health Emergency or its Negative Economic Impacts

“To respond to the **public health emergency** or its **negative economic impacts**, including assistance to households, small businesses, and nonprofits, or aid to impacted industries.”

Responding to the COVID-19 Public Health Emergency

Q1-1. How can local governments use ARPA funds to respond to the COVID-19 public health emergency?

A1-1. ARPA funds may be used for projects needed to respond to, mitigate, or prevent the spread of COVID-19. The Interim Final Rule includes a non-exclusive list of projects for which local governments can use ARPA funds, including PPE purchases and adaptations to public buildings to implement mitigation tactics (e.g., ventilation improvements). ARPA funds can also be used for qualified payroll for public health/safety staff. To assess whether or not a use is eligible, a local government should identify an effect of COVID-19 on public health, including immediate effects or effects that manifest over months or years, and assess how the use of ARPA funds would respond to the identified need.

Q1-2. What are examples of ventilation improvements in congregate settings?

A1-2. Some examples might be HVAC installation, improvements to existing HVAC systems, and installation of ultraviolet/ionization air filtration systems.

Q1-3. If a purchase would have been eligible/reimbursable under the CARES Act/Routes to Recovery program, would it also be an eligible use of ARPA funds?

A1-3. Generally, allowable uses under the CARES Act/Routes to Recovery would be considered eligible as “responding to the public health emergency” under ARPA. However, the Interim Final Rule specifies two exceptions. First, the standard for determining which payroll costs qualify as eligible expenses under ARPA is different than the standard used by the CARES Act (see Q4 below). Second, expenses related to the issuance of tax-anticipation notes are not an eligible funding use under ARPA.

Q1-4. Does ARPA define qualified payroll expenses in the same way as the CARES Act/Routes to Recovery program? Can we use ARPA funds to cover ALL of our public health/safety payroll costs?

A1-4. No, the definition of qualified payroll is narrower under ARPA. ARPA funds may only be used to support the cost of payroll and covered benefits for the portion of an employee’s time that is dedicated to responding to the COVID-19 public health emergency. The Interim Final Rule indicates that a recipient may consider a public health and safety employee to be entirely dedicated to mitigating or responding to the COVID-19 public health emergency only if the employee, or his or her operating unit or division, is “primarily dedicated” to responding to the COVID-19 public health emergency. “Primarily dedicated” means that more than half of the employee’s time is dedicated to responding to the COVID-19 public health emergency.

Q1-5. Can we use ARPA funds to reimburse our budgets for qualified payroll costs incurred since March of 2020?

A1-5. No, the use of ARPA funds is generally forward looking. ARPA funds may only be used to cover costs incurred beginning on March 3, 2021. However, there is an exception for premium pay. (See the section on Providing Premium Pay to Eligible Workers, below, for more information.)

Q1-6. The ARPA statute prohibits governments from using ARPA funds for “deposit into any pension fund.” If my local government uses ARPA funds for qualified payroll expenses, can the funds be used to pay employee benefits, such as routine pension contributions?

A1-6. Yes. The Interim Final Rule clarifies that this prohibition only applies to extraordinary deposits to pension funds for the purpose of reducing an accrued, unfunded liability. A prohibited pension deposit would be a payment that both: 1) reduces a liability your local government incurred *prior* to the start of the COVID-19 public health emergency; and, 2) occurs outside of your regular timing for making such payments. The Interim Final Rule makes a distinction between this type of extraordinary pension deposit and a regular payroll contribution. Therefore, in general, if an employee’s wages/salary are an eligible use of ARPA funds (based on the analysis outlined in the above FAQs), recipients may treat the employee’s covered benefits as an eligible use of ARPA funds as well. For the purposes of ARPA, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

Responding to COVID-19’s Negative Economic Impacts

Q1-8. Can our local government use ARPA funds to aid businesses and nonprofits?

A1-8. Yes, local governments may use ARPA funds to aid businesses and nonprofits. The Treasury has provided several examples of eligible uses in the Interim Final Rule, such as:

- 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.

If your local government decides to provide aid to businesses or nonprofits, please be aware that additional legal requirements may apply. For example, the constitutional “public purpose doctrine” requires that local governments spend all public funds for a public purpose. See *Town of Beloit v. County of Rock*, 2003 WI 8. This means that the expenditure of public funds must be reasonably connected to a legitimate government aim of public health, safety, welfare or convenience, and the ultimate gain must be the public’s, not that of an individual or private entity. To ensure that any financial contributions your local government makes will be used for an allowable public purpose, we recommend providing clear guidelines and directives to subrecipients regarding how and for what purposes ARPA funds may be spent, requiring some sort of accounting from subrecipients to show that they have fully performed these obligations, and maintaining thorough records on the part of your local government to demonstrate compliance with both ARPA regulations and the public purpose doctrine.

Q1-9. Are there limitations regarding which types of nonprofits may receive aid through ARPA funds?

A1-9. The Interim Final Rule defines a nonprofit as “a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.” In other words, for a nonprofit to be eligible, they must be legally established as a 501(c)(3).

Q1-10. Our local government has a project in mind to address an economic harm caused by the pandemic, but the project was not included in the Treasury’s list of examples in the Interim Final Rule. How can we determine whether our project is eligible?

A1-10. The Treasury has clarified that the list of projects for addressing the negative economic impacts caused by the public health emergency in the Interim Final Rule is non-exhaustive. Local governments must perform a two-part test to determine whether a project would qualify as eligible to address an economic harm caused by the pandemic:

1. Assess whether, and the extent to which, there has been an economic harm that resulted from the COVID-19 public health emergency; and
2. Assess the extent to which the proposed project would respond to or address that harm.

Projects that bear no relation to or are grossly disproportionate to the type or extent of harm experienced are ineligible. Responses to address negative economic impacts caused by the pandemic must be related to *and* reasonably proportional to the extent and type of economic harm that the project is meant to address.

Q1-11. Our local government heard that ARPA funds could be used to provide direct stimulus payments to our residents. Is that true?

A1-11. Local governments may use ARPA funds to provide direct cash assistance to residents, within certain limitations. The Interim Final Rule requires that local governments perform the two-part test referenced in question Q1-10 to determine whether direct stimulus payments are allowable.

First, a local government must be able to demonstrate that the households receiving stimulus payments have experienced a negative economic impact due to the pandemic. For example, direct cash assistance could be provided to households who experienced unemployment due to the pandemic. Similarly, direct cash assistance may also be provided to low to moderate income families, as they experienced disproportionate economic harms due to the pandemic. Second, a local government must be able to prove that direct stimulus payments are proportionate to the negative economic impacts that they are meant to address. The Interim Final Rule indicates that local governments should take into consideration the amounts that residents received in past federal COVID-19 related aid programs. Stimulus payments that bear no relation to the COVID-19 pandemic or are grossly disproportionate to the type or extent of harm experienced are ineligible.

Q1-12. How can our local government use ARPA funds to assist local tourism, travel, and/or hospitality industries?

A1-12. ARPA funds may be used to support the economic recovery of tourism, travel, and hospitality industries. The distinguishing feature of providing aid to tourism, travel, and/or hospitality industries is that these sectors have been specifically identified by the Treasury as having experienced economic harm due to the pandemic. Other sectors may also be eligible for aid; however, your local government must be able to identify what pandemic-related economic harm those sectors experienced.

Aid provided to tourism, travel, and hospitality industries using ARPA funds must respond to the negative economic impacts of the COVID-19 pandemic on those and similarly impacted industries. Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, and business districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Some examples from the Interim Final Rule include:

- Assistance to implement COVID-19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services.
- Improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professions to develop safe reopening plans.
- Aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID-19 public health emergency, as well as aid for planned expansions or upgrades of tourism, travel, and hospitality facilities that were delayed due to the pandemic.

2) *Providing Premium Pay to Eligible Workers*

“To respond to workers performing *essential work* during the COVID-19 public health emergency by providing premium pay to *eligible workers*.”

Q2-1. What is premium pay?

A2-1. Premium pay is an amount (up to \$13 per hour) that may be paid in addition to the regular wages or compensation that a worker otherwise receives.

Q2-2. Can premium pay be used to cover the base wages that an employee would receive?

A2-2. No, premium pay is for pay above what an employee would normally receive.

Q2-3. Who may receive premium pay?

A2-3. Only “eligible workers” performing “essential work” may receive premium pay. Determining which employees may be considered eligible workers requires a fact specific analysis. Local governments should perform the following two-part test to determine whether a worker is eligible for premium pay.

First, check whether the employee fits the definition of an “eligible worker” using the guidance provided by the Treasury. The Treasury defines eligible workers as “workers needed to maintain continuity of operations of essential critical infrastructure sectors.” The Interim Final Rule provides a non-exhaustive list of critical infrastructure sectors. It also notes that the list of critical infrastructure workers is based off of the HEROES Act, which references an [advisory memorandum](#) from the Cybersecurity Infrastructure Security Agency. Some sectors include but are not limited to public health work; vital services to tribes; any mission critical work performed by an employee of a state, local, or tribal government; and elections work. Please reference the definitions in the Interim Final Rule for a complete list.

Second, determine whether the work the eligible worker is performing is “essential work,” based on the following criteria provided by the Treasury. Essential work means work that:

1. is not performed while teleworking from a residence; and
2. involves:
 - a. regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or
 - b. 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.

Local governments may also choose to provide premium pay to eligible workers who perform work for other employers through grants to eligible employers. The same two-part analysis is required to determine which of a grant recipients’ employees may receive premium pay via ARPA funds.

Q2-4. Can premium pay be provided to employees who work from home?

A2-4. No. Based on the Treasury’s definition of essential workers, premium pay cannot be provided to employees for time spent working from home.

Q2-5. Are there any limits on premium pay?

A2-5. Premium pay cannot exceed \$13 per hour in addition to an employee’s regular wages/compensation, and the maximum amount a local government may pay per eligible worker is

\$25,000. Additionally, if premium pay were to increase an employee's total pay above 150 percent of Wisconsin's average annual wage for all occupations (as defined by the [Bureau of Labor Statistics' Occupational Employment and Wage Statistics](#)) or the employee's residing county's average annual wage (similarly defined by the [Bureau of Labor Statistics](#)), *whichever is higher*, your local government must provide the Treasury with a written justification of how the premium pay is responsive to workers performing essential work during the public health emergency. This written justification would need to be made publicly available. It would also need to be provided if your local government gave a grant to an employer to provide premium pay to their eligible workers.

Q2-6. Can premium pay be provided to a third-party employer?

A2-6. Yes, although, as noted above, there will be additional monitoring and reporting requirements if your local government decides to provide grants to third-party employers of essential workers. Third-party contractors are also eligible to receive grants to provide premium pay. Selection of these third-party recipients is at the discretion of the local governing body.

Q2-7. Can we reduce an employee's base wages and use premium pay to cover the difference between their existing wage and old wage?

A2-7. No, the Treasury expressly prohibits this.

Q2-8. Are elected officials eligible for premium pay?

A2-8. No, elected officials are not eligible to receive premium pay.

Q2-9. Can clerks, treasurers, clerk/treasurers, or their deputies receive premium pay?

A2-9. These positions may only receive premium pay if they are appointed (not elected) positions.

Q2-10. Are election workers eligible to receive premium pay?

A2-10. Determining whether a worker is eligible to receive premium pay requires a fact specific analysis (see above). Based on the eligibility requirements in the Interim Final Rule, election workers are likely able to receive premium pay. This is because election workers are necessary to maintain a critical infrastructure sector (i.e., the functioning of democracy), are needed to be physically present at the polling place to help with elections, and regularly physically handle items that have been or will be handled by multiple individuals.

Q2-11. Are members of our road maintenance crew eligible to receive premium pay?

A2-11. Determining whether a worker is eligible to receive premium pay requires a fact specific analysis (see above). If members of your road maintenance crew regularly interact in person with coworkers or members of the public and/or physically handle items that have been or will be handled by multiple individuals, they would likely be eligible to receive premium pay.

Q2-12. Can we provide premium pay for past work performed?

A2-12. Yes. While ARPA funds are usually required to be used prospectively, premium pay is an

exception to this general rule. Premium pay can be provided for any essential work performed by eligible worker since March 11, 2020.

Q2-13. Is premium pay subject to state and federal withholding taxes?

A2-13. Yes, premium pay is subject to withholding just like any other compensation.

3) Providing Government Services to the Extent of Reduction in Revenue

“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 prior to the emergency.”

Q3-1. Our community only has a few revenue sources, mainly property tax, that were not significantly negatively affected by the pandemic. How can the lost revenue provision help us?

A3-1. Local governments may use ARPA funds to replace lost revenue experienced due to the COVID-19 public health emergency. Although many communities might think they have not lost any revenue, ARPA defines “revenue loss” much differently than one might expect. Instead of being defined as actual revenue lost, ARPA calculates revenue loss using a formula that compares general revenue in the chosen comparison year (2020, 2021, 2022, or 2023) to revenue collected in 2019. The formula assumes revenues in comparison years should have grown a minimum of 4.1% annually (average national growth rate). So, if your actual general revenues are growing less than 4.1% annually, it is likely you have lost revenue under ARPA’s terms.

Q3-2. Is there a way to calculate revenue loss for my community?

A3-3. The Wisconsin Towns Association and League of Wisconsin Municipalities have created a calculator to help you determine revenue lost in 2020. This calculator can also be used to project revenue loss in 2021, 2022, and 2023. Communities should be careful about using “potential” lost revenue in advance of the revenue actually being lost. If the loss does not materialize and the money was used for a purpose not consistent with ARPA guidelines, your community will have to pay the money back.

Q3-3. For what purposes can we use ARPA funding that replaces lost revenue?

A3-4. ARPA funds that are used to replace lost revenue can fund a broad array of government services. Some of the examples that the Interim Final Rule references are infrastructure (including roads) and public health/safety expenses.

4) Investing in Water, Sewer, or Broadband Infrastructure

“To make necessary investments in **water, sewer,** or **broadband** infrastructure.”

Investing in Water or Sewer Infrastructure

Q4-1. What sorts of water and sewer projects may be completed using ARPA funds?

A4-1. Under the Interim Final Rule, the Treasury aligns allowable uses of ARPA funds with the range of projects that would be eligible to receive funding assistance through the Environmental Protection

Agency's Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF). If a project would be eligible under either of those programs, it would also be eligible under ARPA.

If your town or village is considering spending ARPA funds on a sewer or water related project, we strongly encourage you to read through the [Overview of Clean Water State Revolving Fund Eligibilities \(May 2016\)](#) and the [Drinking Water State Revolving Fund Eligibility Handbook \(June 2017\)](#). We have identified some, but not all, of the eligible uses in this document.

Q4-2. What are examples of common types of eligible sewer and water projects?

A4-2. Local governments that have public sewer and/or water systems may use ARPA funds for capital projects and equipment, such as the following:

- Projects “inside the fence” of a wastewater treatment plant, such as construction of headworks, clarifiers, aeration basins, stabilization ponds, sludge storage facilities, onsite administrative buildings, etc.
- Projects “outside the fence” of a wastewater treatment plant, such as sanitary sewer replacement or rehabilitation; lift station or headworks upgrades; and construction of new interceptors, lift stations, pretreatment facilities, septage receiving stations and other treatment works facilities outside the fence of the wastewater treatment plant.
- Projects that upgrade, replace, repair or install new pipes, pump stations, force mains, etc. are also eligible. Replacement of lead service lines is especially encouraged by the Interim Final Rule.
- Projects to make sewer and water systems more climate resilient. For example, ARPA funds may be used for things such as backup generators, portable pumps, floodwater pumping systems, flood-proofing of structures, installation of overflow tanks/tunnels, etc.
- Projects to enhance the security of public water systems and treatment works with measures such as fencing, gates, cameras, lighting, and motion detectors. Similarly, ARPA funds may be used for the development of cybersecurity measures that will help protect public water or sewer infrastructure.
- Energy conservation projects for publicly owned water systems and treatment works. For example, installation of energy efficient equipment (lighting, HVAC, etc.) or installation of onsite renewable energy that serves the utility (wind, solar, or hydroelectric systems). Water conservation projects that reduce the demand on publicly owned treatment works capacity through reduced water consumption are also eligible. For example, pipe projects that prevent water loss, pump refurbishment to optimize pump efficiency, and leak detection devices and equipment would all be allowable uses.
- Projects to upgrade, rehabilitate or replace existing public water systems and treatment works facilities, administration buildings, transmission mains, distribution mains, meters, valves, hydrants, pump stations, service lines, water mains, and storage facilities.

Q4-3. Can our local government use ARPA funds to install sewer/water infrastructure for a new subdivision development that is being planned?

A4-3. Likely no. The creation of a new community water system would only be eligible if it is needed to address existing public health problems (such as unsafe drinking water provided by individual wells). The installation of sewer mains, interceptors, and other similar expansions of an existing public water system simply in anticipation of future population growth would likely be *ineligible*.

Q4-4. Can we use ARPA funds to pay for the ongoing operation or maintenance costs of our existing facilities?

A4-4. No. Fiscal Recovery funds may be used for construction activity and equipment purchases, but not for ongoing operation or maintenance costs.

Q4-5. Our community owns a dam. Can we use ARPA funds to make some necessary dam repairs?

A4-5. No. Under the Interim Final Rule, projects involving the construction or rehabilitation of dams are not eligible.

Q4-6. Can we use the funds to install a dry hydrant?

A4-6. A dry hydrant is a government service and could be funded under the lost revenue provisions. Outside of using the lost revenue provision, no. Water projects needed primarily for firefighting are not eligible under the Interim Final Rule.

Q4-7. Our community does not offer public sewer or water services. Are there any sorts of sewer and water infrastructure projects that we might consider?

A4-7. Certain projects that manage, reduce, treat, or recapture stormwater may be eligible *if they have a water quality benefit*. For example, creation of stormwater detention pond that reduces phosphorous and sediment prior to discharge into a body of water would likely be eligible. Installation of a new culvert may qualify *if* it can be shown to improve water quality. For example, ARPA funds could be used to replace an undersized culvert with a larger culvert that allows water to flow more quickly and easily, if the local government could demonstrate that the project would reduce stagnant water and water quality problems associated with the increased temperatures of standing water.

ARPA funds may also be used for other stormwater management related purposes. Examples include:

- Development and implementation of a municipality-wide stormwater management plan.
- Development or implementation of a watershed partnership with property owners to address nonpoint sources of pollution.
- Projects that reuse stormwater or subsurface drainage water.

Examples of eligible clean water projects include:

- Water quality projects that remediate or prevent contamination from mining or quarrying operations (whether active or abandoned).
- Remediation of contaminated sites like brownfields.
- Landfill closures and landfill leachate collection and treatment projects.

- Habitat protection and restoration projects like shoreline activities, instream activities, and capital costs associated with the control of invasive vegetative and aquatic species.
- Purchase of water rights to support fish and aquatic life habitat.
- Water quality projects that remediate or prevent pollution from certain silviculture (forestry) activities.

Q4-8. I heard the funds can be used for “green infrastructure.” What is “green infrastructure” and do you have any examples?

A4-8. Section 502 of the Clean Water Act defines green infrastructure as “...the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters.” Examples of green infrastructure include: rainwater harvesting collection (e.g., rain barrels); rain gardens, storage, and distribution systems; wetland/riparian/shoreline creation, protection, and restoration projects; permeable pavement; green roofs; bioswales; and infiltration basins. For more information, see <https://www.epa.gov/green-infrastructure/what-green-infrastructure>.

Q4-9. Do our projects have to meet the eligibility requirements of the State of Wisconsin’s Clean Water Fund Program or the Safe Drinking Water Loan Program?

A4-9. No, water and sewer projects paid for with ARPA funds only need to meet the federal eligibility requirements.

Q4-10. Are these projects subject to Davis-Bacon wages?

A4-10. No, but local governments are encouraged to support the economic recovery by paying wages at or above prevailing wage rates, and the U. S. Treasury will seek information from recipients on their workforce plans and practices related to sewer and water projects undertaken with ARPA funds as part of the reporting process.

Q4-11. Our community does not provide public sewer or water services, but we do have a local sanitary district that provides services. Can we transfer ARPA funds to them?

A4-11. Yes. Transfers to special purpose districts are allowed under ARPA. Keep in mind that there are a number of criteria that must be met before a transfer may take place and the local government transferring the funds would still be required to comply with the reporting requirements related to transferred funds. (See the section on Transferring ARPA Funds to Other Entities, below, for more information.) Keep in mind, your municipality will be required to report on all transferred funds.

Q4-12. May ARPA funds be used to help local residents replace their own private wells or private septic systems?

A4-12. Under the Interim Final Rule, projects must align with those eligible to receive funding assistance through the Environmental Protection Agency’s Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF). Under those programs, projects that would assist private property owners with privately owned sewer or water systems are typically not eligible. Sewer and water

projects must involve publicly owned sewer treatment works, water system facilities, and related equipment to be eligible under ARPA.

Q4-13. May ARPA funds be used to install a new bathroom at our park?

A4-13. Under the Interim Final Rule, this does not appear to be an eligible sewer or water infrastructure project because this type of project would not be eligible under the CWSRF or DWSRF. That said, if the municipality can demonstrate the bathroom is needed to respond to and mitigate COVID-19, the project may be considered eligible as a response to the public health emergency. (See the section on Responding to the COVID-19 Public Health Emergency, above, for more information.) Likewise, under the lost revenue formula, recipients that have experienced a reduction in revenue have broad latitude to use qualifying ARPA funds for the provision of government services such as this type of project.

Investing in Broadband Infrastructure

Q4-14. What types of broadband projects are eligible uses of ARPA Fiscal Recovery funds?

A4-14. Only projects that are designed to provide broadband to currently “unserved” or “underserved” households and businesses are eligible uses for ARPA funding. The Interim Final Rule defines users as “unserved” or “underserved” if they lack a wireline connection that reliably provides minimum speeds of 25 Mbps download and 3 Mbps upload. Broadband infrastructure projects may also provide service to currently “served” households or businesses, but only if the project prioritizes service to households and businesses that are unserved or underserved. In other words, a project could happen to provide service to already served households or business, but the primary focus of the broadband expansion project must be on the unserved or underserved.

The Treasury discourages local governments from investing ARPA funds in project locations that have existing agreements to expand reliable broadband access in order to avoid duplication of efforts and resources.

Q4-15. Are there download/upload speed requirements for eligible broadband infrastructure projects?

A4-15. Yes. Eligible projects are required to deliver minimum speeds of 100 Mbps download and 100 Mbps upload unless it is impracticable to do so because of the geography, topography, or financial cost to meet those standards. Where those speeds are deemed impractical, projects must still deliver at least 100 Mbps download and 20 Mbps upload, and such projects should be designed with the potential to increase speeds in the future (i.e., they should be scalable).

Eligible projects should also prioritize “last-mile” connections to users, as well as investments in fiber optic infrastructure where feasible.

Q4-16. Is the construction of fixed wireless, cell towers, or other non-wireline broadband service an allowable use of ARPA funds?

A4-16. Yes, but the Interim Final Rule indicates that priority should be given to projects that provide fiber optic and wireline connections.

Q4-17. If we spend ARPA funds on a broadband infrastructure project, does that project need to serve our whole municipality equally?

A4-17. No. The Treasury recognizes that local governments are in the best position to identify local broadband needs, and the Interim Final Rule provides flexibility for each local government unit to prioritize which locations are most in need of service.

Q4-18. Can we use ARPA funds to make existing broadband more affordable?

A4-18. Assistance to households to support internet access and digital literacy is an eligible use of ARPA funds when responding to the public health and negative economic impacts of the pandemic. Assistance provided for this purpose should consider whether, and to what extent, recipients have experienced a negative economic impact from the pandemic. (See the section on Responding to COVID-19's Negative Economic Impacts, above, for more information.)

Q4-19. Can ARPA funds be used to install or upgrade broadband infrastructure in municipal buildings?

A4-19. The Interim Final Rule and related guidance from the Treasury do not specifically address broadband infrastructure investments in municipal buildings. An investment to provide broadband in unserved or underserved municipal buildings, as defined above, is clearly an eligible use of ARPA funding under this category of eligible uses. Upgrading the broadband infrastructure in municipal buildings that are not currently unserved or underserved may be an eligible use of ARPA funding in response to the pandemic or its negative economic impacts. ARPA funds could be used, for example, to support new or continued remote work opportunities for public employees.

ARPA funds may also be used to facilitate virtual meetings, hybrid virtual/in-person meetings, and to provide virtual access to governmental services. These expenses may include staff, software, or equipment needed to stream or broadcast meetings; captioning services to comply with accessibility requirements for virtual attendees; and training for participants on these new tools. (See the sections on Responding to the COVID-19 Public Health Emergency and Responding to COVID-19's Negative Economic Impacts, above, for more information.)

Q4-20. My community already received a state broadband grant and is in the process of implementing a broadband expansion project. May we use ARPA funds to pay for a broadband expansion project that began prior to March 3, 2021?

A4-20. Yes, local governments may use ARPA funds for eligible projects that were planned or started prior to March 3, 2021, but only to cover project costs incurred *after* March 3, 2021. As noted above, all ARPA funds must be obligated by December 31, 2024, but project completion may occur through December 31, 2026.

Q4-21. Broadband expansion is a priority for our community, but we don't know where to begin. How do we develop a plan to use ARPA funding for broadband infrastructure?

A4-21. We expect that many local governments, counties, regional economic development organizations, internet service providers, and others will have a desire to come together in the coming months to collaborate on infrastructure projects that capture economies of scale and leverage regional public and private investments. Local governments are encouraged to reach out to potential partners to begin discussing how you can expand broadband in your community or collaborate on a larger scale project. Most broadband expansion efforts will likely combine local resources, including ARPA funds, with private investment and additional state and federal grant dollars. The state Public Service Commission provides information and resources regarding broadband, including additional broadband grant opportunities, on its [website](#).

TRANSFERRING ARPA FUNDS TO OTHER ENTITIES

QT-1. What types of entities may receive transfers of ARPA funds from a municipality?

AT-1. ARPA permits local governments to transfer their ARPA funds to a “private nonprofit organization, a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of state or local government.” The Interim Final Rule defines a nonprofit as a 501(c)(3) nonprofit organization, and refers to a special-purpose unit of government as one that performs specific functions in the community, such as a fire, water, or sewer district. However, the Interim Final Rule states that this list is not exclusive. The Interim Final Rule does not provide further guidance, so it is not yet clear to what other units of government or private entities ARPA funds could be transferred beyond those listed above.

QT-2. Are there limitations on how transferees may use ARPA funds that have been transferred to them?

AT-2. Yes. The Interim Final Rule refers to direct recipients of ARPA funds, including local governments, as “recipients” and to transferees as “subrecipients.” A transfer must qualify as an eligible use of ARPA funds, meaning that the subrecipient must carry out an eligible program or project on behalf of the recipient local government with the transferred funds and must abide by the same restrictions on use applicable to the recipient. As the recipient, you remain responsible for monitoring and overseeing subrecipients’ use of ARPA funds to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. You will also be responsible for reporting on subrecipients’ use of ARPA payments. (See the section on Reporting Requirements, below, for more information.)

QT-3. Are we required to take any special steps prior to transferring ARPA funds to a subrecipient?

AT-3. Yes. The Treasury’s [Compliance and Reporting Guidance](#) states that recipients must clearly inform subrecipients a) that the money is a subaward of ARPA funds; b) what terms, conditions, and restrictions on use apply to the funds; and c) what reporting requirements the subrecipient must follow. As the recipient, you are also responsible for evaluating a subrecipient’s risk of noncompliance before awarding a transfer of funds, considering factors such as prior experience in managing federal funds, previous audits, personnel, and policies or procedures for award execution and oversight, as well as for ongoing monitoring of each subrecipient to ensure continued compliance with all ARPA regulations. The Treasury’s Compliance and Reporting Guidance recommends that local governments that choose to transfer ARPA

funds to subrecipients should develop written policies and procedures for subrecipient monitoring and risk assessment and maintain records documenting subrecipients' compliance.

QT-4. Can we pool our funds together with other units of government to fund a regional project?

AT-4. Yes. Recipients may either spend their ARPA funds directly on a joint project or transfer funds to another government that is undertaking the project on behalf of multiple recipients. The project must qualify as an eligible use of ARPA funds (such as a regional broadband expansion project), and the original recipients of the funds must monitor and track the use of the funds for compliance and reporting purposes. If you transfer funds to a government outside your municipal boundaries (as opposed to a subunit of your own local government), the Interim Final Rule indicates that you must be able to document that your municipality received a local benefit proportionate to the amount contributed.

QT-5. If we can't use all of the funds allocated to our municipality, can we transfer funds back to the state?

AT-5. Yes. This type of transfer does not make the state a "subrecipient" of the funds. Instead, this will result in a cancellation or termination of the award on the part of your local government and a modification of the award to the state. If you choose to do this, you must provide notice of the transfer to the Treasury in a format specified by the Treasury. For more information on how to provide the Treasury with notice of transfer to the state, email SLRedirectFunds@treasury.gov.

REPORTING REQUIREMENTS

QR-1. Are local governments required to get pre-approval prior to spending ARPA funds?

AR-1. No. Proposed expenditures will not be pre-approved by the Treasury or the Wisconsin Department of Revenue. Recipients of ARPA funds are responsible for ensuring the funds are used for eligible purposes as outlined in the Interim Final Rule and for properly reporting those expenditures to the Treasury. If you have questions or need assistance with analyzing whether an expense would be eligible under one of the categories outlined above, you can email the Treasury at SLFRP@treasury.gov.

QR-2. What reports are towns and villages required to submit to prove that their ARPA funds were used for eligible purposes?

AR-2. ARPA has different reporting requirements for "Metropolitan Cities" and "Non-Entitlement Units of Local Government" ("NEUs"). The Treasury's website includes a [list of local governments that qualify as Metropolitan Cities](#) in each state; all other municipalities are considered NEUs. All Wisconsin towns and the vast majority of villages are considered NEUs.

Under the Interim Final Rule, NEUs are required to submit annual Project and Expenditure Reports to the Treasury. The initial annual Project and Expenditure Report for NEUs will cover any activity from the date your town received its first ARPA check to March 31, 2022 and must be submitted to the Treasury by April 30, 2022 (NEUs must submit this report even if you do not spend any ARPA funds prior to March 31, 2022). Subsequent annual reports must be submitted to the Treasury by April 30 each year through 2027.

The Treasury released its [Compliance and Reporting Guidance](#) in late June, 2021. NEUs should reference this document for additional details and clarification regarding compliance and reporting responsibilities. Part 2, Section B, beginning on page 15, outlines the specific information that must be included in an NEU's annual Project and Expenditure Report, which depends in part on how the funds were used. You will be required to provide information regarding all projects and investments funded in whole or in part with ARPA funds, including a description of how the project/investment falls within one of the eligible categories outlined above.

With the first annual Project and Expenditure Report, due April 30, 2022, NEUs will also be required to provide the following information:

- a copy of the signed award terms and conditions agreement (which was signed and submitted to the Wisconsin DOR as part of your request for funding);
- a copy of the signed assurances of compliance with Title VI of the Civil Rights Act of 1964 (which was signed and submitted to the Wisconsin DOR as part of your request for funding); and
- a copy of actual budget documents validating the top-line budget total provided to the Wisconsin DOR as part of your request for funding.

Note that NEUs must have a registered number with the System for Awards Management (SAM) in order to submit annual Project and Expenditure Reports. If you have not already registered at <https://www.sam.gov>, we encourage you to complete this process as soon as possible to ensure you will be able to meet the April 30, 2022 reporting deadline. Additional guidance for completing and filing the required reports will be provided by the Treasury later this year.

QR-3. What reporting is required if my local government transferred a portion of our ARPA funds to a subrecipient?

AR-3. As the original recipient of the ARPA funds, your local government is accountable to the Treasury for overseeing, monitoring, and reporting on spending of ARPA funds by subrecipients, including ensuring that subrecipients comply with all statutory and regulatory requirements and terms and conditions of the award. Your local government is responsible for clearly communicating all compliance and reporting requirements to the subrecipient and maintaining proper documentation of subrecipients' spending and compliance with ARPA regulations for the duration of the reporting period. In your reports to the Treasury, you must provide detailed obligation and expenditure information for any contracts and grants awarded, loans issued, transfers made to other government entities, and any direct payments made that are greater than or equal to \$50,000.

QR-4. Do the Single Audit requirements for federal grants apply to awards of ARPA funds?

AR-4. Yes. Most of the provisions of the [Uniform Guidance](#) for federal awards apply to ARPA, including the Single Audit requirements. This means that recipients and subrecipients that spend more than \$750,000 in federal awards during a fiscal year will be subject to an audit under the Single Audit Act. Compliance guidance and more detailed information can be found on the [Office of Management and Budget website](#). Single Audit checklists, instructions, and forms can be accessed through the [Federal Audit Clearinghouse](#).

QR-5. How long must records related to our municipality's ARPA funds be saved?

AR-5. Generally, financial records related to your municipality's award of ARPA funds, as well as supporting documents demonstrating that the funds were used appropriately, must be maintained for at least five years after all funds have either been spent or returned to the Treasury, whichever is later. Records must be made available to the Treasury and other oversight bodies upon request.