



American Rescue Plan Act's Local Coronavirus Fiscal Recovery Fund Frequently Asked Questions

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The American Rescue Plan Act (ARPA) established a \$350 billion program to assist state and local governments with their response and recovery to the COVID-19 pandemic. Of the Coronavirus State and Local Fiscal Recovery Fund, \$27 billion has been allocated directly to the State of California from the State Fiscal Recovery Fund, with Local Fiscal Recovery Fund monies distributed in two installments totaling \$7.67 billion to most of the state's 58 counties, and \$8.22 billion to the state's cities.

Special districts may request a transfer of ARPA funds from the counties or cities in which they provide services. This document addresses frequently asked questions for special districts.

Can special districts directly access the Local Fiscal Recovery Fund?

No. Special districts must pursue these funds through a transfer from the state, a county, or a city.

What provision of federal law grants counties and cities the ability to transfer Local Fiscal Recovery Funds to special districts?

Section 9901 of the [American Rescue Plan Act](#) established the Coronavirus Local Fiscal Recovery Fund within Title VI of the *Social Security Act*. Specifically, the local fund is established under Section 603, of Title VI of the *Social Security Act*.

Section 603(c)(3) outlines the authority granted to counties and cities to transfer funds to special districts:

"Transfer authority. --A metropolitan city, nonentitlement unit of local government, or county receiving a payment from funds made available under this section may, transfer funds to a private nonprofit organization (as that term is defined in paragraph (17) of section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(17)), a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government."

U.S. Department of Treasury's May 17 interim rule [amplifies](#) the intended use of transfers:

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan cities, and nonentitlement units of local government are collectively referred to as "local governments") to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Specifically, under section 602(c)(3), a State, territory, or Tribal government 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, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The U.S. Department of the Treasury’s rule specifically references fire, water, sewer, and mosquito abatement districts. Are transfers limited to these types of special districts?

No, these are merely examples of special districts that may request funding; the intent of the law is be inclusive of all types of special districts.

Is my district disqualified from the Local Fiscal Recovery Funds if it received funds from the \$100 Million Special District Relief Fund or the California Water and Wastewater Arrearage Payment Program?

No, special districts that have received relief resources from other programs, agencies, or organizations are not disqualified from accessing Local Fiscal Recovery Funds. Special districts that have received funds from other sources should be very cautious not to “double dip” and apply for/receive duplicate funds for previously covered impacts.

What are the general categories of eligible use for the Local Fiscal Recovery Fund?

The Local Fiscal Recovery Fund’s use of funding broadly covers four categories:

1. **Expenditures** made after March 3, 2021, in response to COVID-19 to comply with recommended actions and public health orders to prevent/mitigate the spread of the disease.
2. **Revenue loss** incurred during the public health crisis.
3. **Premium pay** for workers who were required to appear in-person for work during the public health emergency
4. “Necessary” water, wastewater, and broadband **infrastructure investments**

When is the Local Fiscal Recovery Fund available?

Local Fiscal Recovery Funds were made available in May 2021 and must be obligated by December 31, 2024.

The State of California received its entire recovery fund allocation in one payment in May 2021. Counties and cities received half of their total recovery fund payments in late May 2021 and will receive the final half of their payments one year after the first payment was received (May 2022).

Eligibility periods differ for each use category:

- Covered expenditures are limited to those made between March 3, 2021, and December 31, 2024. All expenditures obligated prior to December 31, 2024, must be expended by December 31, 2026.
- Revenue loss may be calculated based on the last full fiscal year (or calendar year) prior to January 27, 2020. This most recent full fiscal (or calendar) year is used as base year. A 5.2 percent annual adjustment may be projected from the end of the base year through the end of Fiscal Year 2023 (or Calendar Year 2023). Should a district’s average growth for the three full fiscal years prior to January 27, 2020, exceed 5.2 percent, it may use the greater of the two

figures as its multiplier. Use of fiscal year vs. calendar year must be consistent. The difference between projected revenues and real revenues on the final day of each fiscal (or calendar) year is considered “revenue loss”.

- Premium pay for eligible employees may be considered retroactively to January 27, 2020. The final day to obligate premium pay is December 31, 2024.
- Eligible infrastructure projects may be used on projects that began prior to March 3, 2021; however, only costs incurred on and/or after March 3, 2021, are considered eligible. Costs must be obligated by December 31, 2024, and fully expended by December 31, 2026.

Is my county or city required to approve my request to transfer funding?

No, neither counties nor cities are required to transfer. Section 603(c)(3) grants authority to transfer should a county or city opt to do so.

How much did my county and/or city receive in Local Fiscal Recovery Funds?

More than 3,000 counties and parishes across will directly receive total allocations proportionate to their share of population among all counties. [Click here](#) for county totals in California, to be totally allocated in May 2022.

Metropolitan cities (cities of 50,000 population or greater) receive two direct payments based on a modified Community Development Block Grant formula. [Click here](#) for metropolitan city totals in California, to be totally allocated in May 2022.

Nonentitlement units of government (also cited as NEUs – cities and towns with fewer than 50,000 population) receive two equal payments, which the State of California is required to administer. [Click here](#) for NEU total allocations, of which the final half will be allocated in July 2022.

Whom should I contact regarding Local Fiscal Recovery Funds?

Districts are encouraged to contact their county supervisors to request consideration for upcoming Local Fiscal Recovery Fund programming. **Click here for a template letter to convey your district’s request.**

Special districts with demonstrated, eligible impacts should contact their county’s chief administrative office for details on applying for or requesting funds. Program details vary by locality.

How do ARPA Local Fiscal Recovery Funds differ from the \$100 million state special districts program?

Counties and cities must administer the Local Fiscal Recovery Fund under the U.S. Department of the Treasury’s [interim final rule](#) (applicable until April 1, 2022) and/or the [final rule](#) (optionally applicable after January 6, 2022; and required on and after April 1, 2022). Fund use is subject to regulatory reporting to ensure allocations are used in accordance with program rules. The Local Fiscal Recovery Funds may be used for eligible expenditures made on or after March 3, 2021, and obligated no later than December 31, 2024; revenue loss as outlined; premium pay for eligible employees; and “necessary” water, wastewater, and broadband projects as outlined under the Treasury rule. Recipients of the funds are required to report to Treasury how funds were used under each category.

The California \$100 Million Relief Fund for Special Districts is sourced from general funds allocated under the State Budget Act of 2021. The was fully administered at the state level in December 2021. Eligible expenditures mirrored those of the Coronavirus Relief Fund (CARES Act) and the State and Local Fiscal Recovery Fund (ARPA) made in response to COVID-19 prior to June 15, 2021, and revenue loss as calculated using the difference between FY21 and FY19 including a 4.1 percent annual escalator to accommodate for lost growth.

Neither premium pay nor infrastructure projects funds were considered an applicable impact for the state's \$100 million special district relief fund; however, recipients of the state special district fund were allowed to allocate funds for their general governmental services.

What qualifies as an eligible COVID-19-related expenditure?

Eligible expenditures under the Local Fiscal Recovery Funds are those that were made on or after March 3, 2021, that were necessary to prevent and mitigate the spread of COVID-19, medical expenses, behavioral and mental healthcare, and to prevent and respond to violence in communities.

Eligible expenditures of note for special districts include, but are not limited to:

- Vaccine and testing programs
- Public communications
- Equipment for COVID-19 prevention, treatment, and response (ambulances, fire trucks, ventilators, etc.)
- Personal protective equipment
- Sanitization supplies
- HVAC systems installation and improvement
- Vulnerable populations' transportation to/from vaccination and testing sites.
- Prevention and mitigation of COVID-19 in congregate facilities
- Medical facility expenditures for those "generally dedicated to COVID-19 treatment and mitigation" such as intensive care units or emergency rooms.
- Temporary medical facilities established to treat COVID-19
- Telemedicine measures for COVID-19-related treatment.
- Paid family, medical, and sick leave for public employees in order to comply with health precautions.

What types of infrastructure projects are eligible?

Local Fiscal Recovery Funds may be used on "necessary investments" in drinking water, wastewater/sewer, and broadband infrastructure. Under the final rule, "necessary investments" in drinking water infrastructure includes all [projects eligible for the Environmental Protection Agency's \(EPA\) Drinking Water State Revolving Fund](#). "Necessary investments" in wastewater/sewer infrastructure include [projects eligible for EPA's Clean Water State Revolving Fund](#).

U.S. Treasury's final rule for the Local Fiscal Recovery Funds allows greater flexibility than the interim rule. The final rule set a three-part test infrastructure projects must meet to be considered "necessary investments," which requires projects to be:

1. *Responsive to an identified need to achieve or maintain an adequate minimum level of services, which may include a reasonable projection of increased need, whether due to population growth*

or otherwise. Drinking water projects aimed to accommodate future population growth must be sustainable over its estimated useful life.

2. *A cost-effective means for meeting that need, taking into account available alternatives.*

The final rule also expands eligibility to certain projects authorized under the Water Infrastructure Investments for the Nation (WIIN) Act, such as dam and reservoir rehabilitation, so long as the dam and/or reservoir are primarily used for drinking water resources.

If granted access to funds, may the district backfill financial reserves used during the pandemic?

No, ARPA's Local Fiscal Recovery Fund must be used to directly respond to the pandemic or recover from the pandemic's economic impacts. Neither special districts, nor other public agencies, may utilize funds to refill or build their financial reserves or set asides for pension obligations and debt services.

Can Local Fiscal Recovery Funds be used to reimburse paid employee sick/medical leave?

Yes, Local Fiscal Recovery Funds may be used to cover sick, medical, and family leave programs dating back to March 3, 2021.

What is premium pay?

Premium pay may be considered a type of hazard pay for employees responsible for the continuity of essential and critical infrastructure throughout the pandemic, and it is geared toward low- to mid-income individuals. The premium pay provision allows up to \$13 per hour in addition to normal wages, but normal wage plus premium pay cannot exceed 150 percent of the state's average wage for all occupations for any given employee (unless the agency provides a written justification), and cannot exceed an aggregated total of \$25,000 per employee.

Which employees are considered eligible to receive premium pay?

Employees eligible for premium pay are those who were required to appear to work in-person and interacted with other people throughout the pandemic, risking exposure to COVID-19. Premium pay may be given to employees who are non-exempt from the Fair Labor Standards Act or falls below 150 percent of a state's average wage for all occupations, as calculated by the U.S. Bureau of Labor and Statistics.

The final rule allows all public employees of an agency receiving Local Fiscal Recovery Funds as eligible, but an employee must work in-person, and either receive pay less than the income threshold and/or be non-exempt.

Teleworking employees are not permitted to receive premium pay.

What is the maximum premium pay allowance for California per the 150 percent of average pay for all occupations?

Workers receiving premium pay in California are limited to a total wage (regular wage plus premium pay) of \$47.41 per hour.

For example, a worker earning \$40 per hour is limited to receiving only \$7.41/hour in premium pay until the \$25,000 limit is met. The public agency providing premium pay would be required to submit written justification for premium pay higher than \$7.41 per hour, describing how the pay meets the intended goals of the program intended for low- and mid-income individuals.

Furthermore, a worker earning \$34.41 or less per hour may access the full \$13 per hour premium pay, with a limit of \$25,000, without submitting written justification for providing the full premium pay.

Can I use available funds for workforce recruitment and retention?

Yes, Local Fiscal Recovery Funds may be used to restore public agencies' staffing levels to the pre-pandemic era. Funds may be used to hire employees up to a pre-pandemic and/or enhance the level of employment prior to the pandemic by up to 7.5 percent of the budgeted workforce spending.

Are capital expenditures and improvements be covered for Local Fiscal Recovery Fund use?

Yes, but with limitations. Any capital improvements/investments must be made to mitigate the spread of COVID-19 or accommodate for capacity needs, such as expansions at medical facilities. Any capital expenditure must be reasonable and proportional in response. For example, construction of wholly new facilities – such as convention center space or entire congregate facilities to decrease spread of COVID-19 – are not a reasonable and proportionate use of the funds.

Capital expenditures totaling less than \$1 million are not subject to written justification for use of funds.

Projects greater than or equal to \$1 million but less than \$10 million will be subject to written justification that describes the specific pandemic-related harm the project remedies, explains why a capital expenditure to remedy the problem is appropriate, and provide an assessment of why the selected project is appropriate over considered alternatives. A one-time justification is sufficient, and ongoing reporting of the project to the county or city is not federally required; however, local restrictions may apply.

Projects of \$10 million or more are federally required to submit abovementioned written justification to Treasury via the city and county that is responsible for sub-granting the Local Fiscal Recovery Fund monies.

What agency would oversee administration of Local Fiscal Recovery Funds my district receives?

Special districts accessing Local Fiscal Recovery Funds are considered a sub-recipient of the receiving agency, i.e., a county or city. As direct recipients, counties and cities, are responsible for collecting all required information and reporting to U.S. Treasury.

Can a county or city apply additional restrictions for a sub-recipient's use of funds?

Yes, a city or county is responsible for all federal regulatory reporting and compliance and may grant sub-recipient funds in line with, or more stringent than, the federal final rule.

Can water, wastewater, or other utility arrearages be covered with the Local Fiscal Recovery Fund?

Yes – water, wastewater, sanitation, electricity, and home heating fuel arrearages may be covered as “assistance to households” to address economic impacts of the pandemic. “Reasonable accrued late fees” may also be covered.

Can water, wastewater, or other utility arrearages arrears be counted toward revenue loss calculations?

Yes, the final rule allows arrears to be considered in calculation of lost revenues