

Lauterbach & Amen, LLP
ARPA Q&A
Dated: October 29, 2021

Please Note: None of the responses below should be deemed as definitive answers to the questions posed. Lauterbach & Amen, LLP is providing responses based on the most recent available information and our interpretation of that information. Resources are provided in the responses below to contact ARPA related agencies directly with any specific questions.

Q: Would a social worker be covered under ARPA? ARPA seems to cover most, if not all, of behavioral and mental health programs, services, etc. Our Village is very interested in hiring a social worker to work within the Police Dept to assist both the PD and the public. It seems to be covered, but I haven't seen anything specifically (nor did I expect to). If so, I presume that the position would be covered for services through 12/31/24?

A: Based on the current guidance from the U.S. Treasury, we believe that a social worker would be covered under ARPA, likely under Category 1 Expenses: Public Health and Negative Economic Impacts. There is a sub-category that addresses behavioral healthcare needs exacerbated by the Pandemic. But you are correct, our interpretation would be that this position would only be covered for services through 12/31/2024. After that, another funding source would be required to support this expense.

Q: If we waived water bill penalties during COVID, I presume this is NOT an eligible expense because it wasn't actually charged as such.

A: Based on the current guidance from the U.S. Treasury, we do not see a definitive answer to the question above and would recommend contacting a couple of ARPA resources directly for a response on this specific question. You can contact the NEU Support Team through DCEO at (217) 862-2730 | <http://illinois.gov/dceo/neu> or the U.S. Treasury directly at slfrp@treasury.gov.

Q: What if the ARPA funds are being used for lost revenue replacement? Wouldn't they be realized as revenue immediately?

A: No – remember the lost revenue calculation ONLY determines the amount you can spend in this category on the broader list of eligible expenses included on the Interim Final Rule's non-exclusive list of "government services." Revenue is ONLY recognized when you have eligible expenses. The dollar amount you calculate for lost revenue still must be spent on eligible expenses, and the revenue recognition requirements still apply to this category – you must have an eligible expense to recognize revenue.

***Q:** The premium pay eligibility category requires that the pay not increase a worker's total pay above a certain threshold. This threshold is supposed to be available from the Bureau of Labor Statistics. Would you have the detailed URL to be able to identify this threshold for DuPage County? The Interim Final Rule provides a URL; however, it doesn't seem to get to the DuPage County data.*

A: Per the U.S. Treasury's Interim Final Rule, premium pay can "...mean an amount up to \$13 per hour in additional wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed \$25,000 per eligible worker." The Interim Final Rule also goes on to say that "...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 or Wage Statistics, which is higher, on an annual basis, the State, local, or Tribal government 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."

The Interim Final Rule provided a link to Metropolitan and Nonmetropolitan Area Estimates listed by county or town at: https://www.bls.gov/oes/current/county_links.htm.

Then click on Illinois and you will be directed to the listing of counties. The DuPage County link is there. We do not have another or different URL for DuPage County other than the link that is provided via the URL above.

***Q:** Is bonded debt the same as an IEPA loan commitment whereby an entity is drawing on a loan commitment to pay the cost of a project as opposed to having received bond proceeds which have or will be used to pay the cost of a project?*

A: We assume you are referencing the concept of "pay-go" infrastructure, which is covered under the revenue loss eligible expense category. Per the Interim Final Rule, "Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants and other sources, rather than with borrowed sums." Our interpretation would be that bonded debt would be the same as an IEPA loan commitment, as this is also a form of long-term financing.

***Q:** If we do not have an inhouse police department for our Village, can we use the funds to pay our contracted fee for police services?*

A: Based on the current guidance from the U.S. Treasury, we do not see a definitive answer to the question above and would recommend contacting a couple of ARPA resources directly for a response on this specific question. But the revenue loss eligible expense category does provide for a broad non-exclusive list of government services that ARPA funds may be spend on, and likely this would be an eligible expense if you have proven revenue loss. You can contact the NEU Support Team through DCEO at (217) 862-2730 | <http://illinois.gov/dceo/neu> or the U.S. Treasury directly at slfrp@treasury.gov.

***Q:** If you levy for pension contributions, can you reduce your levy and use ARPA funds to make recommended contribution to pension fund?*

A: Pages 79 and 80 in the Interim Final Rule outlines deposits to pension funds and states that "...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. The Interim Final Rule does prohibit the use of ARPA funds for "deposits" to pension plans but interprets "deposits" ... "in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability." The above question would be implied to represent the entity's "payroll contribution" to the plan and not a "deposit" and so our interpretation would be that this could potentially be an eligible expense.

***Q:** Even though reporting has been pushed to 4/30/2022, does L&A know of any good ARPA report formats/models?*

A: In June of 2021, the U.S. Treasury released an article titled "Compliance and Reporting Guidance: State and Local Fiscal Recover Funds," which can be found at the following URL: <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

There is also a specific guide for NEU's that was released on October 7, 2021 and can be found at the following URL: https://home.treasury.gov/system/files/136/SLFRF_Recipient-Reporting-User-Guide-NEU_Non-UGLG.pdf and provides detailed instructions to help with the information that will be needed to be input into the Treasury's reporting templates. Step-by-step instructions are provided in this reporting guide for NEU's in navigating the Treasury's portal and necessary templates and reporting requirements. We encourage all NEU's to review this guide in detail.

***Q:** I talked to Cook County in their open hours this morning and they said that they expect to announce the results from their call for APRA projects mid-December. They also stated that the straight time for police and fire would be eligible as long as you explain covid protocols and procedures.*

A: One of the most frequent questions we are receiving right now relates to the ability to use ARPA funds for police and fire salary costs, like the allowable use under the CARES/CURES guidance. We have been included on correspondence specific to this topic with clients who have reached out directly to GFOA, the U.S. Treasury, as well as the NEU Support Team through DCEO. We have not been able to obtain a consistent response from these entities. We are hopeful to have further guidance on this specific topic. Question 2.14 of the Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions as of July 14, 2021 at the following URL: https://41g41s33vxdd2vc05w415s1e-wpengine.netdna-ssl.com/wp-content/uploads/2021/07/Treasury_SLFRF_FAQ_7.14.21.pdf outlines the eligible use parameters for payroll expenses for public safety, public health, health care, human services, and similar employees. Ultimately, we are awaiting further, more definitive interpretations related to the use of ARPA funds for public safety salaries.

***Q:** Is infrastructure an available use if you don't use the lost revenue calculation? I am looking to purchase a fire truck and ambulance if I cannot submit for straight wages.*

A: Currently, our interpretation is that general infrastructure (excluding water, sewer and broadband infrastructure, which is in its own allowable expense category) is only an allowable expense under the revenue loss calculation.
