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MEMORANDUM

TO: Counties, Cities, and Towns
FROM: Tammy R. White, CPA, Deputy State Examiner
RE: Premium Pay for Elected Officials from ARPA Funds
DATE: March 22, 2022

As stated in Amended State Examiner Directive 2021-3, it is the Indiana State Board of Accounts (SBoA) audit position that elected officials are not eligible to receive premium pay from American Rescue Plan Act (ARPA) funds. Unless the U.S. Treasury states otherwise, payments of premium pay to elected officials will result in a federal finding and questioned cost. The purpose of this memorandum is to address situations in which premium has been paid to elected officials from American Rescue Plan Act (ARPA) funds and offer potential solutions.

According to the Final Rule (FR), "elected officials are prohibited from using their official position and control over SLFRF funds for their own private gain. This policy also prohibits, among other things, elected officials from steering funds to projects in which they have a financial interest or using funds to pay themselves premium pay." It is our audit position that the FR and 2 CFR 200.318 prohibit an elected official from receiving premium pay from ARPA funds regardless of the eligible use category (e.g. premium pay, government services etc.)

For purposes of this memorandum, the term 'premium pay' means an amount of up to \$13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID-19 public health emergency. This memorandum only addresses eligible workers holding an elected office.

If an elected official has received premium pay from the ARPA fund, steps must be taken to reverse that entry out of the ARPA Fund and record the entry in an appropriate fund. The SBoA will not take audit exception to a payment of premium pay to an elected official from the General Fund (or other appropriate fund) as long as the amount of premium pay is included in the salary ordinance and complies with State law. Below are four examples of how to reverse the entry for premium pay out of the ARPA Fund.

Scenario 1: Elected Officials received paid premium pay from the ARPA Fund in 2022 totaling \$5,000. The governmental unit has sufficient appropriation in the General Fund to incur the \$5,000 expense for premium pay to elected officials.

The governmental unit will reverse the entry in the ARPA fund in the amount of \$5,000 for elected official premium pay. This posting correction will reinstate the fund balance and re-appropriate the ARPA fund in a similar manner to IC 6-1.1-18-9(1) for those disbursements.

Once the disbursement is corrected and reversed within the ARPA fund, it should be posted as a \$5,000 disbursement in the General Fund from personal services. Documentation must be maintained for this correction so the audit trail can be followed.

Scenario 2: Elected Officials received paid premium pay from the ARPA Fund in 2022 totaling \$5,000. The governmental unit does not have sufficient appropriation in the General Fund to cover the premium pay for elected officials. However, the governmental unit has incurred \$5,000 in other personal service expenses in the General Fund in 2022 which would be allowable from the government services category of the ARPA Fund.

The governmental unit will reverse the entry in the General Fund for the other personal service disbursement in the amount of \$5,000. This posting correction will reinstate the fund balance and re-appropriate the General fund in a similar manner to IC 6-1.1-18-9(1) for those disbursements. The disbursement for other personal services will then be posted to the ARPA fund under Government Services.

The governmental unit will reverse the entry in the ARPA fund for premium pay disbursement in the amount of \$5,000. This posting correction will reinstate the fund balance and re-appropriate the APRA fund in a similar manner to IC 6-1.1-18-9(1). Once the disbursement is corrected and reversed within the ARPA fund, it should be posted as a \$5,000 disbursement in the General Fund from personal services. Documentation must be maintained for this correction so the audit trail can be followed.

Scenario 3: Elected Officials received paid premium pay from the ARPA Fund in 2022 totaling \$5,000. The governmental unit does not have sufficient appropriation in the General Fund to cover the premium pay for elected officials. However, the governmental unit has incurred \$5,000 in disbursements for other services and charges in the General Fund which would be allowable from the government services category of the ARPA Fund.

The governmental unit will reverse the entry in the General Fund for the other services and charges in the amount of \$5,000. This posting correction will reinstate the fund balance and re-appropriate the General fund in a similar manner to IC 6-1.1-18-9(1) for those disbursements.

The governmental unit will transfer appropriations from the Other Services and Charges appropriation to the Personal Services appropriation by following IC 6-1.1-18-6.

The governmental unit will reverse the entry in the APRA fund for the premium pay in the amount of \$5,000. This posting correction will reinstate the fund balance and reappropriate the ARPA fund in a similar manner to IC 6-1.1-18-9(1) for those disbursements.

Once the disbursement is corrected and reversed within the ARPA fund and the sufficient appropriation has been transferred to personal services, the premium pay should be posted as a \$5,000 disbursement in the General Fund from personal services. Finally, the disbursement of \$5,000 would be posted to other services and charges under Government Services in the ARPA fund. Documentation must be maintained for this correction so the audit trail can be followed.

Scenario 4: Elected Officials received premium pay from the ARPA Fund in 2021.

Based on the following statutes, it is our audit position that elected officials for counties, cities, and towns were not eligible for Premium Pay from any fund in 2021.

For Counties, IC 36-2-5-13(c) states, "Except as provided in subsection (d), the compensation of an elected county officer may not be changed in the year for which it is fixed."

For Cities, IC 36-4-7-2(c) states, "The compensation of an elected city officer may not be changed in the year for which it is fixed nor may it be reduced below the amount fixed for the previous year."

For Towns, IC 36-5-3-2(c) states, "The compensation of an elected town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year."

Premium Pay to elected officials from the ARPA Fund in 2021 will be shown as a questioned cost with a request for repayment.

To restore the ARPA Fund for any amount premium pay paid to elected officials in 2021, the governmental unit may reverse the premium pay disbursement from the ARPA fund and post the disbursement to the General Fund.

If you have any questions, please do not hesitate to contact us.