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MEMORANDUM

TO: Counties, Cities, and Towns

FROM: Tammy R. White, CPA, Deputy State Examiner

RE: Accounting Processes for ARPA Subtitle M-Coronavirus State and Local Fiscal Recovery Funds

DATE: Original March 18, 2021; Updated May 12, 2021 for U.S. Treasury Interim Final Rule; Updated February 16, 2022 for U.S. Treasury Final Rule, Updated March 22, 2022

This memorandum has been updated to reflect guidance provided by the U.S. Treasury Final Rule (FR), which may be found at this link: <https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf>. We recommend that every recipient of money under the American Rescue Plan Act read this document in its entirety. The FR is effective April 1, 2022, but the provisions in the FR may be implemented prior to April 1, 2022. The Interim Final Rule is effective until April 1, 2022, and is available at this link: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>.

The purpose of this memorandum is to provide guidance to recipients of funding available under Section 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021 (ARPA). The ARPA established the Coronavirus Local Fiscal Recovery Fund (the Fund) and appropriated \$130,200,000,000 to remain available through December 31, 2024, for making payments to metropolitan cities, non-entitlement units of local government, and counties to mitigate the fiscal effects stemming from the public health emergency with respect to COVID-19.

The allocations for metropolitan cities, non-entitlement units, and counties may be found on our website at <https://www.in.gov/sboa>. Metropolitan cities and all counties received funding directly from the federal government. Cities and towns determined to be non-entitlement units received the allocation through the State of Indiana. The information on SBoA website about allocations also provides which cities are determined metropolitan and which cities and towns are designated as non-entitlement units.

The federal government made the first payment from the Fund to the State of Indiana, the metropolitan cities, and Indiana Counties in 2021. A second payment will be received in 2022 by the State of Indiana, the metropolitan cities, and the Indiana counties not earlier than 12 months after the first payment. The State of Indiana will distribute the second payment received from the Fund within 30 days based on the allocation provisions contained in the ARPA.

It is important to follow the prescribed accounting system procedures and documentation requirements for the use of these funds. According to the ARPA, a detailed accounting for the uses of the funds is required. Any unit that fails to comply with the provisions of the ARPA shall be required to repay an amount equal to the amount of funds used in violation of the ARPA. The Secretary of the Treasury may issue additional regulations related to these funds.

Ordinance and Plan. The governing body must adopt an ordinance establishing a local ARPA Coronavirus Local Fiscal Recovery Fund to receive the allocation in accordance with State Examiner Directive 2021-1 (Directive). For a county, the ARPA Coronavirus Local Fiscal Recovery Fund must be established by ordinance of the County Commissioners. For a city or town, the ARPA Coronavirus Local Fiscal Recovery Fund must be established by ordinance of the legislative body. The ordinance should specifically list the uses described in Section 603(c) that are applicable to the unit and that the unit envisions utilizing. The ordinance should reference a plan that will provide the details for the use of these funds. The plan should be laid out in a way that corresponds to the elements as laid out in Section 603 of the ARPA. The ordinance and plan may be amended as any other ordinance or plan as long as the amendment complies with Section 603.

Appropriations and Disbursements. As stated in the Directive, funds must be appropriated by the fiscal body before use in accordance with the Section 603, the ordinance, and the plan. Only local appropriation is required. All disbursements must go through the normal claims process in IC 5-11-10-1.6 and be supported with sufficient documentation. All disbursements must be made directly from the ARPA Coronavirus Local Fiscal Recovery Fund. Money in the fund may not be transferred to another fund of the unit.

Fund Uses. The uses of the fund are specified in Section 603(c) as follows:

"(1) USE OF FUNDS – Subject to paragraph (2), and except as provided in paragraphs (3) and (4), a metropolitan city, nonentitlement unit of local government, or county shall only use the funds provided under a payment made under this section to cover costs incurred by the metropolitan city, nonentitlement unit of local government, or county, by December 31, 2024

(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(B) to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;

(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or

(D) to make necessary investments in water, sewer, or broadband infrastructure."

Section 603(c)(1)(A). Grants and programs to respond to the public health emergency or its negative economic impacts under Section 603 (c)(1)(A) should be through written agreement with the recipient. Disbursements to grantees and program recipients must be documented and in compliance with the written agreement.

Section 603(c)(1)(B). Premium pay allowed for eligible workers of your unit under Section 601(c)(1)(B) is for work performed during the COVID-19 Public Health Emergency. Premium pay is defined in Section 602(g) as "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. Such amount may not exceed \$25,000 with respect to any single eligible worker."

State Examiner Directive 2021-3 covers the Indiana State Board of Account's audit position and accounting expectations related to premium pay for eligible workers who are employees of the governmental unit.

Grants to eligible employers under Section 603(c)(1)(B) should be through written agreement with the eligible employer. Disbursements to grantees must be documented and in compliance with the written agreement.

Section 603(c)(1)(C). Section 603(c)(1)(C) allows the funds to be used for costs incurred for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency. Generally, services traditionally provided by recipient governments are government services, unless Treasury has stated otherwise. The U.S. Treasury Final Rule provides for a standard allowance of \$10 million for revenue reduction which the governmental unit may select as part of the reporting process to the U.S. Treasury through the U.S. Treasury Portal.

If the standard allowance is not selected, then the governmental unit may calculate the reduction in revenue based on the formula provided in the Final Rule. For purposes of the revenue reduction calculation, the revenues of the full calendar year of 2019 will be used as the base year to determine the reduction of revenue in the full calendar years of 2020, 2021, 2022, and 2023. Information to calculate the revenue reduction for the local income tax revenue may be obtained from the Local Tax Distribution Report available on the Department of Local Government website at www.in.gov/dlqf. Information to calculate the revenue reduction for the MVH/LRS and other state distributions may be obtained from the Auditor of State website at www.in.gov/aos. Information to calculate the revenue reduction for other funds should be obtained from your records. Documentation must be available to show all calculations.

If the standard allowance is not selected, costs incurred for the provision of government services will be limited to the total amount of revenue reduction in these years. The revenue reduction calculation is not applicable if the standard allowance is selected.

All disbursements for eligible uses, including government services, must be made directly from the ARPA Fund to ensure compliance with the U.S. Treasury Final Rule, uniform guidance, conflict of interest requirements, federal, state, and local laws. Money may not be transferred to the General Fund or any other fund of the governmental unit.

Section 603(C)(1)(D). Costs incurred to make investments in water, sewer, or broadband infrastructure under Section 603(c)(1)(D) must be documented and recorded on the capital asset ledger in accordance with the local capitalization policy. The Interim Final Rule clarifies eligible expenses for this category.

Transfers to certain entities or the State. Section 603(c)(3) allows money in the ARPA fund to be transferred to a private nonprofit organization, public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government. The term "private nonprofit organization" is defined in 42 USC 11360(17) to mean an organization - "(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; (B) that has a voluntary board; (C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the [Secretary](#); and (D) that practices nondiscrimination in the provision of assistance." If money is transferred under this section, documentation must exist to show that the nonprofit organization meets the required definition.

Section 603(c)(4) allows money in the ARPA Coronavirus Local Fiscal Recovery Fund to be transferred to the State of Indiana.

Prior Costs Incurred. Permitted expenses incurred in the fund of a governmental unit after March 3, 2021, may be shown as an expense from the ARPA local grant fund.

For example, if on March 12, 2021, a city incurred expenses in the amount of \$10,000 from the General Fund in response to the public health emergency, the city may transfer that expense to the ARPA Coronavirus Local Fiscal Recovery Fund through a reversing entry. The city will first reverse the \$10,000 expense in the General Fund, which will reinstate the expense appropriation line item and the cash balance of the general fund. The city will then post the \$10,000 disbursement to the ARPA Coronavirus Local Fiscal Recovery Fund with a link to the original claim and supporting documentation.

Ineligible Costs. The ARPA grant fund may not be used to make extraordinary contributions into any pension fund for the purpose of reducing an accrued, unfunded liability. In addition, the following types of disbursements are prohibited: payments for debt service and replenishments of rainy day funds; satisfaction of settlements and judgments; uses that contravene or violate the American Rescue Plan Act, Uniform Guidance conflicts of interest requirements, and other federal, state, and local laws and regulations.

Reporting Requirements. The U.S. Treasury has released updated Compliance and Reporting Guidance, which can be found at this link: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>

For metropolitan cities and counties with a population that exceeds 250,000 residents, the initial Project and Expenditure Report was due January 31, 2022, and then 30 days after the end of each quarter thereafter; the Recovery Plan Performance Report was due by August 31, 2021, or 60 days after receiving funding, and annually thereafter by July 31.

For metropolitan cities and counties with a population below 250,000 residents which received more than \$10 million in funding from the State and Local Fiscal Recovery Fund, the initial Project and Expenditure Report was due January 31, 2022, and then 30 days after the end of each quarter thereafter. The Recovery Plan Performance Report is not required.

For metropolitan cities and counties with a population below 250,000 residents which received less than \$10 million in funding from the State and Local Fiscal Recovery Fund, the Project and Expenditure Report is due by April 30, 2022, and then annually thereafter. The Recovery Plan Performance Report is not required.

For nonentitlement units, the Project and Expenditure Report is due by April 30, 2022, and then annually thereafter. The Recovery Plan Performance Report is not required.

Internal Controls. Internal controls must be designed, implemented, and documented to provide reasonable assurance that the ARPA funds will be safeguarded and used in accordance with the ARPA. Each of the five components of internal control is necessary to form a complete internal control process: Control Environment, Risk Assessment, Control Activities, Information and Communication, and Monitoring Activities. For more information on the establishment of internal controls, see the *Uniform Internal Control Standards for Indiana Political Subdivisions* and the Best Practice Documents on our website at www.in.gov/sboa.

This memorandum is considered to be part of the Uniform Compliance Guidelines of the Indiana State Board of Accounts and is intended to provide guidance that will promote transparency and accountability of funds received from the Coronavirus Local Fiscal Recovery Fund pursuant to the American Rescue Plan Act of 2021. This memorandum may be amended or rescinded at any time in writing by the State Examiner or Deputy State Examiner.

SG/DG