

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES
ISSUED BY STATE BOARD OF ACCOUNTS

MARCH 2022

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JUNE TRAINING SCHOOL

This year's June Training School will be held in Michigan City as part of the Indiana League of Municipal Clerks and Treasurers' Annual Conference during the week of June 13 through June 16, 2012.

The State Board of Accounts will provide training on June 14 and 15 at the Conference which will be State-called meeting days.

Please mark these dates on your calendar. An explanatory letter along with a tentative agenda will be sent out prior to the meeting.

GOVERNMENT TECHNICAL ASSISTANCE AND COMPLIANCE DIRECTORS



We are renaming the Directors' division of the State Board of Accounts so that our title provides more clarity on the functions we perform and services we provide. For the last few years, the title of each director has been "Director of Audit Services" and our new title is "Government Technical Assistance and Compliance Directors". Our responsibilities are not changing as we will continue to strive to provide the most beneficial training and technical assistance possible to each governmental unit.

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SBOA RESOURCE LIBRARY

The State Board of Accounts (SBOA) is pleased to present an online resource library for our clients and the citizens of Indiana. We have received many requests in the past to provide the information available on our website in a searchable format. The following information can now be searched in the resource library.

- SBOA Uniform Compliance Guidelines (including previously issued bulletin articles)
- State Examiner Directives
- Best Practice Documents
- Indiana Code Section Summaries
- Frequently Asked Questions
- Other Miscellaneous Materials

SBOA Resource Library Home Page: <https://www.in.gov/sboa/library/>

We highly recommend you review the short tutorial video linked below. This video addresses how to navigate the resource library and what information is included in the library. If you have questions for SBOA, we recommend first to search through the library before contacting SBOA personnel.

SBOA Resource Library Tutorial: <https://www.youtube.com/watch?v=bf82lq6pQZk>

If you have any questions about how to use this library or would like additional information on a topic you were unable to find, you can contact us at Cities.Towns@sboa.in.gov.

STATE AND LOCAL FISCAL RECOVERY FUNDS UPDATE

On February 28, 2022, we received the following program update from the US Department of Treasury:

“Thank you for your interest in the Department of the Treasury’s Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program, authorized by the American Rescue Plan Act.

On February 28, 2022, Treasury released [updated Compliance and Reporting Guidance \(Reporting Guidance\)](#) for the SLFRF program. This Reporting Guidance includes updates to reporting requirements to reflect the final rule that Treasury adopted on January 6, 2022. These updates take effect for the next Project and Expenditure Report that all state, local, and Tribal governments need to submit by April 30, 2022.

To access the update Reporting Guidance and learn more about the SLFRF program, please visit <https://www.treasury.gov/SLFRPReporting> website.”

If you have questions or need additional information, please send an email to SLFRP@treasury.gov.

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DISASTER RECOVERY AND BACKUPS

A disaster recovery is a written plan that contains detailed instructions on how the city or town will respond to incidents such as a natural disaster, cyber-attack, or other disrupting events. The plan will allow for continuity of service despite these events. This includes access to data as well as access to critical documents and resources. One of the key components for protecting data is adequate backup of the data.

A disaster recovery plan should include procedures for backing up financial data frequently, if not daily, and for storing those backups in a separate and secure location. Backups that are saved on the same server as the financial software will most likely be affected by the same malware as the main data, leaving the backup useless. Storing the backup in a secure location not connected to the main server is the safest option. The plan should also include procedures to test this data regularly to ensure that the backup system is working. Storage of back-ups may be on an isolated server, in the cloud or on a server maintained by your software vendor. Being able to quickly restore access to the financial and other data of the city or town will greatly aid the city or town's ability to continue to provide service. In addition, by statute, all transactions that occur in the accounting system must be recorded and accessible upon request whether for audit or a public records request.

Governmental entities also should keep their anti-virus software up-to-date and apply security patches in a timely manner. Additional training for staff in recognizing and avoiding malware would also be beneficial in avoiding a disruption to service from a cyber-attack. The Indiana State Office of Technology has a website with a wealth of information available on cyber security and can be a great resource. The website can be found at www.in.gov/cybersecurity/.

REDEVELOPMENT AUTHORITIES

Several communities have established Redevelopment Authorities under IC 36-7-14.5-7. These are separate governmental units. Redevelopment Authorities should not be confused with Redevelopment *Commissions* that are established under IC 36-7-14 and are departments within many cities and towns. Redevelopment Authorities, as separate units of government, should not be reported with the financial activity of a city or town.

The *Accounting and Financial Reporting Regulation Manual* states in Part III "No funds from outside organizations associated with the entity shall be included." If a city, town, or county wants to have a fund on their ledger to account for the financial activity of a Redevelopment Authority, we will not take audit exception. However, the financial activity of the Authority would not be reported on the city's or town's AFR and would not be included on a regulatory basis financial statement. Each Redevelopment Authority would have to be established in Gateway and complete their own AFR and Form 100-R.

ORDINANCE VIOLATIONS BUREAU

Certain ordinances may be enforced by a city or town without proceeding in court through:

1. an admission of violation before the violations clerk of an ordinance violations bureau under IC 33-36; or
2. administrative enforcement under IC 36-1-6-9.

An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5 which requires such cases to be heard in any circuit, superior, county, city, or town court or traffic violations bureau designated by these courts (IC 36-1-6-3).

Please see State Examiner Directive 2015-1 for additional guidance on moving traffic violations.

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OATHS OF OFFICE – COPIES – WHERE TO DEPOSIT

IC 5-4-1-4 requires all officers of a political subdivision who are required to take an oath of office under IC 5-4-1-1 to deposit such oath with the clerk of the circuit court of the county containing the greatest percentage of the population of the political subdivision. IC 5-1-1-1.2 requires that such deposit occur not later than thirty (30) days after the beginning of the term of office.

TRAFFIC VIOLATIONS BUREAU

Any court may establish a traffic violations bureau and appoint a violations clerk who shall serve under the direction and control of the court. The statutory provisions and requirements for a court, court appointed violations clerk, and deputy violations clerk (if any) may be found in IC 34-28-5-7.

WORKER'S COMPENSATION INSURANCE – CITY POLICE OFFICERS AND FIREFIGHTERS

The provisions of the worker's compensation laws (IC 22-3-2 through 22-3-6) do not apply to employees of municipal corporations in Indiana who are members of:

1. the fire department or police department of any such municipality; and
2. a firefighters' pension fund or police officers' pension fund.

However, if the common council elects to purchase and procure worker's compensation insurance to insure said employees with respect to medical benefits under IC 22-3-2 through IC 22-3-6, the medical provisions of IC 22-3-2 through IC 22-3-6 apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

When any municipal corporation purchases or procures worker's compensation insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund, and pays the premium or premiums for such insurance, it is our audit position that the payment of such premiums is an allowable expenditure of funds of any municipal corporation.

Where the common council has procured worker's compensation insurance, any member of such fire department or police department employed in the city carrying such worker's compensation insurance is limited to recovery of certain expenses to the extent that such services are provided for in the worker's compensation policy procured by such city, and shall not also recover in addition to that policy for such same benefits provided in IC 36-8-4. (IC 36-8-4-5 states that the cost of care for injury or illness shall be paid from the general fund of the City.)

If the medical benefits provided under a worker's compensation policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

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OPERATION PULLOVER, DUI TASK FORCE, AND BIG CITY/BIG COUNTY GRANTS

Several city police departments and town marshals participate in the Operation Pullover Grant Program and other similar programs which are administered by the Division of Traffic Safety, Indiana Criminal Justice Institute. These programs provide for additional compensation to police department personnel for performing highway patrol duties which are in addition to their regular patrol duties.

Since in most cases the services are provided during off-duty hours, it is paid to law enforcement personnel in addition to their regular compensation which was established in the salary ordinance. The city or town council should provide in the salary ordinance authorization of the additional compensation and also should provide additional appropriations for program expenses which previously were not budgeted before the fiscal officer can make payments. Additional appropriations must be obtained since funds are provided on a reimbursement basis with prior expenditure of local funds required.

If there are questions concerning the funding and allowable expenditure purposes for these grants, it is recommended you contact the Indiana Criminal Justice Institute's Division of Traffic Safety.

PARKS AND RECREATION – NONREVERTING CAPITAL FUND AND NONREVERTING OPERATING FUND

IC 36-10-3-20 concerns establishment and use of a special nonreverting capital fund and states:

“(a) Upon the request of the board, the fiscal body of the unit may establish, by ordinance, a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the board's annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance. The fiscal body may not repeal the ordinance under suspension of the rules.”

IC 36-10-3-22 relates to charging fees for park services and authorizes establishing either a special nonreverting operating fund or a special nonreverting capital fund and states:

“(a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(b) The unit's fiscal body may establish by ordinance upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the unit's fiscal body; or

(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the unit's fiscal body.

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PARKS AND RECREATION – NONREVERTING CAPITAL FUND AND NONREVERTING OPERATING FUND (continues)

The unit's fiscal body shall designate the fund or funds into which the unit's fiscal officer (or county treasurer) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the unit's fiscal officer (or county treasurer) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the unit's general fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board."

Official Attorney General Opinion No. 54 of 1965 states there is no expressed authorization by the legislature to allow the park board to expend the activity fees in the special nonreverting fund without prior appropriation, and such money cannot be disbursed without a prior appropriation ordinance having been adopted according to law by the city council, county council, or town council.

Legislative intent was for the park special nonreverting operating fund to pay for park and recreation activities that were to be conducted on a self-supporting basis. For instance, such activities as horse shoe tournaments, swimming meets, little league, arts and crafts, and other similar activities. The special nonreverting capital fund was to be funded from an item within the park and recreation board's annual budget with an appropriation made for "these specific purposes." It was never suggested such activities should be undertaken in an effort to relieve local tax levies.

Notwithstanding apparent legislative intent, with the passage of the aforementioned statutes along with the authority provided in IC 36-1-3, the Home Rule Statute, we feel the city common council or town council has the authority to create by ordinance as many funds as they feel necessary to operate their unit. When nonreverting funds, capital or operating, are established properly pursuant to the statutes mentioned, no audit exceptions will be taken by the State Board of Accounts. An article in the September, 2020 Cities and Towns Bulletin sets out the State Board of Accounts audit position relating to the creation and use of nonreverting funds. The article also lists items that should be included within the enabling ordinances.

There are three situations that should be considered when creating the nonreverting funds.

- (1) On diverting revenues from the Park Operating Fund to the new nonreverting funds, this will reduce the revenue available for funding operating fund expenditures.
- (2) All expenditures from the nonreverting operating and/or nonreverting capital funds must have been authorized by the enabling ordinance(s) and prior appropriation(s) must be available. The appropriations need not go before the Department of Local Government Finance but do need approval by "the board or the unit's fiscal body" for the nonreverting operating fund and the "unit's fiscal body" for the nonreverting capital fund.
- (3) If the city or town appeals to the Department of Local Government Finance (DLGF) for an excessive levy, the DLGF may insist that any balance or balances of such nonreverting funds be transferred to the park operating fund prior to any consideration of relief to the operating fund.

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PENSION PLANS

In reviewing the Indiana Code, the following pension plans are available to employees of a city or town. Pursuant to IC 5-10.2-2-1, a city or town does not have authority to establish a pension plan by ordinance, resolution, or contract after January 1, 1995, without specific statutory authority.

	<u>Indiana Code</u>
Public Employees' Retirement Fund	5-10.3
Police Pension Fund – First Class Cities	36-8-7.5
1925 Police Pension Fund	36-8-6
1937 Firefighter's Pension Fund	36-8-7
1977 Police Officers' and Firefighters' Pension & Disability Fund	36-8-8
Municipal Utility Employees' Pension Fund	8-1.5-3-7
City Hospitals - Third Class Cities	16-23-1-25(c)
Housing Authorities	36-7-18-10(d)
Department of Redevelopment	36-7-14-12.2
Deferred Compensation	5-10-1.1

Federally authorized individual retirement accounts and social security are the only other pension plans available to city and town employees. Inquiries relative to participation in the Public Employees' Retirement Fund should be directed to INPRS at 844-GO-INPRS or questions@inprs.in.gov.

CASH CHANGE FUND

IC 36-1-8-2 states:

“(a) The fiscal body of a political subdivision may permit any of its officers or employees having a duty to collect cash revenues to establish a cash change fund. Such a fund must be established by a warrant drawn on the appropriate fund of the political subdivision in favor of the officer or employee, in an amount determined by the fiscal body, without need for appropriation to be made for it.

(b) The officer and employee who establishes a cash change fund shall convert the warrant to cash, shall use it to make change when collecting cash revenues, and shall account for it in the same manner as is required for other funds of the political subdivision. (c) The fiscal body shall require the entire cash change fund to be returned to the appropriate fund whenever there is a change of the custodian of the fund or if the fund is no longer needed.”

A claim should be filed by the officer or employee designated by the fiscal body. The claim should contain a statement regarding the necessity for such fund together with the statutory reference (IC 36-1-8-2) authorizing its establishment. We do caution officials the amount advanced should not be greater than seems reasonably needed by the officer or employee.

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PETTY CASH FUND

IC 36-1-8-3 states:

“(a) The fiscal body of a political subdivision may establish a petty cash fund for any of its offices in a like manner to that prescribed by Section 2 of this chapter.

(b) The custodian of a petty cash fund shall use it to pay small or emergency items of operating expense. A receipt shall be taken for each expenditure made from the fund.

(c) The custodian of a petty cash fund shall periodically file a voucher, with all original receipts totaling the cash claimed expended being attached to it, so that the fund can be reimbursed for expenditures from it. Reimbursements must be approved and made in the same manner as is required for other expenditures of the political subdivision.”

A claim for expenditures must be prepared and filed for reimbursement to the petty cash fund. Such reimbursement shall be approved, allowed and paid in the same manner as other claims. If desired, for safeguarding funds and providing proper records, the petty cash fund may be maintained and accounted for through a separate bank account under jurisdiction of the responsible officer or employee with bank issued check forms used for all payments from the account. If this method is desired, it should have prior approval by ordinance of the fiscal body of the political subdivision.

CASH CHANGE AND PETTY CASH FUNDS – CHANGING THE AMOUNTS SET BY COUNCIL

Because IC 36-1-8-2 and IC 36-1-8-3 require the fiscal body to set the amount of each cash change and petty cash fund, our audit position that any change in the amount of either fund would require the approval of the fiscal body.

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CERTIFICATION OF NAMES AND ADDRESSES TO COUNTY TREASURER

The following questions concerning delinquent property taxes owed by city and town employees were recently posed at a training meeting for new Clerk-Treasurers.

Question: If a city or town employee appears on the list certified by the County Treasurer as being delinquent in the payment of his/her property taxes, is a Clerk-Treasurer required to make deductions from the employee's payroll check?

Answer: Yes. IC 6-1.1-22-14 states that on or before June 1 and December 1 of each year, the disbursing officer of each political subdivision shall certify the name and address of each person who has money due the person from the political subdivision to the county treasurer of each county in which the political subdivision is located. Upon the receipt of this information, the county treasurer shall search the records to ascertain if any person so certified is delinquent in the payment of property taxes. IC 6-1.1-22-15 states that if the county treasurer finds that a person whose name is certified to him under 6-1.1-22-14 is delinquent in the payment of taxes, he shall certify the name of that person and the amount of delinquency to the official of the political subdivision who is to make payment to the person. The disbursing officer shall periodically make deductions from money due the person and shall pay the amount of these deductions to the county treasurer. (Our Emphasis)

Question: How much money should be deducted from an employee's wages when making these periodic deductions?

Answer: While IC 6-1.1-22-15 requires a Clerk-Treasurer to make these deductions, the statute does not address how much can be deducted. We have always recommended to use the garnishment law in IC 24-4.5-5-105 as a guide to determine how much can be deducted. It is recommended that Clerk-Treasurers also consider entering into a written agreement with the employee which sets out the terms of the deductions.



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MEMORANDUM

TO: All Civil Taxing Units
FROM: Tammy R. White, CPA, Deputy State Examiner
RE: Income Tax Distributions for Certified Shares
DATE: February 10, 2022

It has come to our attention that some units are not recording Local Income Tax (LIT) Certified Shares distributions into the General Fund upon receipt. The purpose of this memorandum is to remind civil taxing units of the Indiana State Board of Account's (SBOA) position that LIT Certified Shares be receipted into General Fund. For those civil taxing units that have budgeted LIT Certified Shares with plans on receipting into a fund other than General for the 2022 year, we will not take exception. We will expect that for years 2023 and beyond, LIT Certified Shares be receipted and accounted for in the General Fund.

Indiana Code 6-3.6-6-17 states that LIT Certified Shares can be used for any purpose of the civil taxing unit and does not provide for a designated fund.

The SBOA uniform compliance guidelines provide that LIT Certified Shares must be deposited into the General Fund of the unit, which would align with the principles of fund accounting.

While each unit of government may use its LIT Certified Shares for any purpose, the LIT Certified Shares must be accounted for in a manner that is consistent with fund accounting principles so that the users of the financial statements can have complete confidence in the integrity and accountability of public funds. The SBOA prescribed system of accounting authorized per IC 5-11-1-2 is based on fund accounting principles. According to the SBOA ***Accounting and Financial Reporting Regulation Manual***:

"Fund accounting enables governmental entities to easily monitor and report compliance with spending purposes (fund restrictions), spending limits (budget), and other fiscal accounting objectives. Fund accounting is an accounting system organized on the basis of funds. Each fund is considered to be a separate accounting entity . . .

The purpose of the funds maintained by a governmental entity is established from various sources and depends on the individual fund. Some funds are established and governed by state statute. The sources and uses of these funds are limited to what is authorized per the statute."

The General Fund is the fund used to account for and report all financial resources not accounted for and reported in another fund. **Government Auditing, Accounting, and Financial Reporting (GAAFR)** defines the General Fund as the fund used to account for all financial resources except those required to be accounted for in another fund. As the general operating fund of the unit, tax revenues and other receipts that are not allocated by law to another fund are accounted for in the General Fund.

We are aware that there were some issues in the past where statute restricted the General Fund from being used for certain purposes. Townships, for example, were not allowed to use the General Fund for fire protection due to the wording in the statute for the fire protection fund. This wording was changed in 2017 to allow the General Fund to be used for fire protection and so removed the concern that LIT Certified Shares deposited into General Fund could not be used for fire protection.

There are significant issues when depositing general use money in any fund other than the General Fund.

Special Revenue Funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. This allows the use of those special revenue sources to be transparent. When LIT Certified Shares are comingled with specific revenue sources, the identity of the specific revenue source is no longer evident, and as a result the ability to analyze the sufficiency of the specific revenue source may be skewed, the flexibility for the use of those funds may be lost, and noncompliance with statutory provisions may result.

For example, if LIT Certified Shares are placed into the Township Firefighting Fund established by IC 36-8-13-4, it may appear that the township levy (and other specified revenue sources) is in an amount sufficient to pay costs attributable to fire protection and emergency services, when it is not sufficient. If LIT Certified Shares are placed into the Motor Vehicle Highway (MVH) Fund, meaningful analysis as to whether distributions from the State Highway Account are sufficient would not be possible and the unit would not have the ability to move those funds out of MVH in the event the funds are needed elsewhere. In both of those examples, if the Certified Shares were placed and disbursed from the General Fund for fire protection or MVH, it would be clear from year to year how those purposes had been funded and the balance in the special revenue fund would be directly attributable to the special revenue funding source.

An additional example would be the deposit of LIT Certified Shares into the Rainy Day Fund. If LIT Certified Shares are placed directly into the Rainy Day Fund, the unit may exceed the statutory limitation on the amount which can be transferred from the General Fund to the Rainy Day Fund; in addition, the amount placed into the balance of Rainy Day Fund could not be used to reduce the actual or permissible levy of a unit as if it had been placed in the General Fund.

If there is a pledging of LIT Certified Shares receipts for debt purposes, a restrictive fund may be created to account for this financial activity.

A civil taxing unit may pledge its certified shares to the payment of bonds or to lease payments in accordance with IC 6-3.6-6-18. Each unit of government is responsible for budgeting LIT Certified Shares and should work together with its DLGF representative to arrive at the best possible outcome to meet the budgetary needs of the unit. If the unit has pledged its LIT Certified Shares to the payment of debt, the debt could be paid from the General Fund or the unit could establish a local debt service fund to account for the debt repayment.

Examples:

Scenario 1: The unit receives \$100,000 in LIT Certified Shares per month for a total of \$1,200,000 for the year. The unit has pledged certified shares to make the debt service payment on Bond "A," which is \$400,000 for the year; \$200,000 is payable in June and \$200,000 is payable in December. The unit budgeted the payment out of a Debt Service Fund for Bond "A." In this case, the unit will transfer \$400,000 in LIT Certified Shares from the General Fund to the Debt Service Fund for Bond "A." Payment will be made from the Debt Service Fund for Bond "A."

Scenario 2: The unit receives \$100,000 in LIT Certified Shares per month for a total of \$1,200,000 for the year. The unit has pledged certified shares to make the debt service payment on Bond "A," which is \$400,000 for the year; \$200,000 is payable in June and \$200,000 is payable in December. The unit budgeted the payment for Bond "A" out of the General Fund. Payment will be made from the General Fund for the debt service payment on Bond "A."

Again, the professional standards for fund accounting have been created specifically to accommodate the transparency and accountability that government strives to achieve for its constituents. For these reasons, it is important that all units of government deposit LIT Certified Shares into the General Fund to be budgeted and used for any lawful purpose of the unit for the years 2023 and beyond.

This memorandum will not affect the deposit of distributions in 2022.

For years 2022 and prior, the SBOA will not take audit exception to a unit of government following a DLGF budget order that includes LIT Certified Shares as revenue in a fund other than the General Fund.

No changes are required for Local Income Tax for Property Tax Relief, Economic Development, Public Safety, and Special Legislation as these revenues will continue to be accounted for in separate funds.

Questions regarding fund sources and uses should be directed the to the SBOA Directors for your political subdivision at (317) 232-2513.

SG/LR



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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



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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.



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AMENDED STATE EXAMINER DIRECTIVE 2021-1

Date: March 22, 2022

Subject: Accounting for American Rescue Plan Act (ARPA), Accounting Processes for Subtitle M-Coronavirus State and Local Fiscal Recovery Funds

Authority: IC 5-11

Application: This Directive applies Counties, Cities, and Towns

From: Paul D. Joyce, CPA, State Examiner

The purpose of this directive is to prescribe the accounting procedures for federal assistance received through the American Rescue Plan Act of 2021 (ARPA).

Separate Fund Required. Assistance provided through the ARPA must be received into a separate fund. There are many funding provisions in this Act. A separate fund must be established for each separately identified assistance provided with ARPA in the naming title.

The fund name and number for each ARPA grant fund must be assigned as follows:

Counties: ARP (or ARPA) [Name of Grant]; Fund Number Range 8950-8975
Cities and Towns: ARP (or ARPA) [Name of Grant]; Fund Number Range 2401-2499
(formerly 176-199 on the chart of accounts in effect prior to January 1, 2022)

ARPA Coronavirus Local Fiscal Recovery Fund. Counties, Cities, and Towns will each receive an allocation of Coronavirus State and Local Fiscal Recovery Funds. Each local unit that receives an allocation from the Coronavirus Local Fiscal Recovery Fund under Section 603 of the Social Security Act, as added by Section 9901 of the ARP, shall establish by ordinance a separate local grant fund called the ARPA Coronavirus Local Fiscal Recovery Fund within the fund number range described above. For a county, the ARPA grant fund must be established by ordinance of the County Commissioners. For a city or town, the ARPA grant fund must be established by ordinance of the legislative body. The ordinance must specify the uses of the fund in accordance with the purposes outlined in Section 603(c). The ordinance should reference a plan that will provide the details for the use of these funds. All moneys received from the Local Fiscal Recovery Fund must be receipted into the separate ARPA grant fund.

Before money in the fund is disbursed, the fiscal body must appropriate the money in the fund for a use consistent with Section 603(c) as stated in the adopted ordinance and the plan. Only a local appropriation is needed. To ensure accountability and transparency of the use of these funds, all disbursements must be made from the ARPA grant fund; money from the ARPA fund may not be transferred to another fund of the county, city, or town.

A detailed accounting of the fund is required by the ARPA. All related expenditure records (accounts payable vouchers, minutes, correspondence, contracts, etc.) must be maintained in a separate file for future audits of ARPA funds. It is important that you track every dollar disbursed and maintain supporting documentation for those disbursements. Each disbursement must be directly tied to a use listed in Section 603(c). The grant funding may be used to cover costs obligated by December 31, 2024 and expended by December 31, 2026. It is extremely important that these files be complete and accurate for this time period.

Government Services Eligible Use Category. If your unit chooses to use the ARPA funds to cover costs incurred for the provision of governmental services as provided in Section 603(c)(1)(C), you must either select the standard allowance of \$10 million or maintain detailed calculations of the reduction in revenue due to COVID-19 per the formula provided in the U.S. Treasury Final Rule. For purposes of this calculation, the most recent full fiscal year prior to the emergency is 2019.


The use of the funds for the provision of governmental services is limited to the standard allowance of \$10 million or the extent of the reduction in revenue due to the COVID-19 public health emergency per the formula provided in the U.S. Treasury Final Rule.

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, and conflict of interest requirements. Money may not be transferred to the General Fund or any other fund of the governmental unit.

Other ARPA Assistance or Grants. Other assistance or grants may be coming through the ARP. As stated above, each form of assistance or grant must be separately identified and accounted in a separate fund with a fund name and number as described. The Indiana State Board of Accounts will prescribe accounting procedures for these funds as more information becomes available.

Internal Controls. Sufficient internal controls over all transactions must be in place. Separate funds, maintaining records, detailed comments that provide audit trails, appropriate approvals, etc., are all part of good internal controls.

These prescribed accounting procedures will promote transparency and accountability of funds received through the Coronavirus Local Fiscal Recovery Fund. This Directive may be amended from time to time and may be rescinded at any time in writing by the State Examiner or Deputy State Examiner.


Paul D. Joyce, CPA
State Examiner



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AMENDED STATE EXAMINER DIRECTIVE 2021-3

Date: March 22, 2022
Subject: Premium Pay under the American Rescue Plan Act
Authority: IC 5-11
Application: This Directive applies to Counties, Cities, and Towns
From: Paul D. Joyce, CPA, State Examiner

State Examiner Directive 2021-3 is amended to include the provisions of the United States Treasury Final Rule. The purpose of this directive is to prescribe the accounting expectations related to the provision of Premium Pay under the American Rescue Plan Act (ARPA). It has come to our attention that ARPA money is being used to provide Premium Pay in the form of "bonuses" to government employees. The ARPA and Final Rule (FR) define Premium Pay as an hourly rate rather than a bonus or stipend. The amount paid to government employees must comply with the definitions and limitations provided in the ARPA and FR. Noncompliance may be reported as a federal finding and questioned cost in the audit report.

American Rescue Plan Act. According to the American Rescue Plan Section 603(c)(1)(B):

Funds may be used for costs incurred "to respond to workers performing **essential work** during the COVID-19 public health emergency by providing **premium pay** to **eligible workers** . . . that are performing such **essential work** . . ." (our emphasis)

Definitions. The following definitions apply to this category of expenditure:

Premium Pay. 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. Such amount may not exceed \$25,000 with respect to any single eligible worker. (ARPA Section 602(g)(3) and Section 603(g)(6))

Eligible Workers. The term 'eligible workers' means those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each chief executive officer of a metropolitan city, nonentitlement unit of local government, or county may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county. (ARPA Section 603(g)(2))

Essential Work. The term "essential work" means work that: (1) Is not performed while teleworking from a residence; and (2) Involves: (i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or (ii) 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. *(Final Rule)*

Essential Critical Infrastructure Sectors. The term Essential Critical Infrastructure Sectors includes ". . . any work performed by an employee of a State, local, or Tribal government . . ." *(Final Rule)*

Determination of when Premium Pay "Responds to" Eligible Workers Performing Essential Work.

The FR provides that Premium Pay is responsive to eligible workers performing essential work during the public health emergency if each eligible worker who receives premium pay falls into one of three categories:

1. The worker's pay is below the wage threshold of 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 and Wage Statistics, whichever is higher, on an annual basis;
2. The worker is not exempt from the Fair Labor Standards Act (FLSA) overtime provisions; or
3. Written justification is submitted to Treasury if the worker is exempt from FSLA overtime provisions and 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 and Wage Statistics, whichever is higher, on an annual basis. *(Final Rule)*

Elected Officials

According to the FR, "elected officials are prohibited from using their official position and control over SLFRF [ARPA State and Local Fiscal Recovery Fund] 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." *(Final Rule)*

According to the award terms and conditions for ARPA SLFRF, "Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112."

Based on the FR and 2 CFR 200.318, it is the State Board of Accounts audit position that elected officials are not eligible to receive premium pay. Unless the U.S. Treasury states otherwise, payments of premium pay to elected officials will result in a federal finding and questioned cost, whether such payment was made before or after the effective date of the FR.

Limitations.

Payments for premium pay are subject to certain limitations:

1. **Maximum.** "The ARPA recognizes this by defining premium pay to mean an amount up to \$13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed \$25,000 per eligible worker." The FR clarified that the \$25,000 maximum is over the entire period of performance rather than an annual cap. *(Final Rule)*
2. **Work from Home.** "A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence." *(Final Rule)*
3. **Elected officials.** 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 . . . using funds to pay themselves premium pay." *(Final Rule)*

Audit Expectations

During an audit, we will be reviewing the following items regarding Premium Pay:

1. Documentation must be available to show that the payment of premium pay "responds to" eligible workers performing essential work.
2. The amount of Premium Pay provided to an employee must be supported by an hourly rate for hours worked; all calculations must be maintained for audit. According to the FR, the unit of government has "discretion with respect to the way in which premium pay is awarded to eligible workers (e.g. monthly, quarterly, lump sum)." *(Final Rule)*
3. Documentation must be available for audit showing that Premium Pay provided to an employee was for hours worked with regular in-person interaction or physical handling of items, rather than telework from a residence.
4. Documentation must be available for audit to show that the amount of Premium Pay provided to an employee did not exceed \$13 per hour or the maximum of \$25,000 per worker.
5. If the amount of premium pay exceeded the 150 percent of the State or County average annual wage and the worker is exempt from FSLA provisions, the written justification for that payment must be provided.
6. Premium Pay provided to employees must comply with Indiana statute and be included in the salary ordinance or amended salary ordinance.
7. Written internal control procedures and evidence of those internal control procedures must be established to provide reasonable assurance that the financial, compliance and reporting objectives for ARPA funds will be achieved.
8. The procedures outlined in all State Examiner Directives and related memorandums must be followed.


You must maintain documentation and explanation that the premium pay meets the definitions of the ARPA and the FR. Any payments that are not in compliance with the ARPA or FR may be identified as a federal finding and questioned cost in the audit report.

If you have any concerns about the provision of Premium Pay, please contact the Directors for your unit:

Counties: Lori Rogers or Ricci Hofherr counties@sboa.in.gov

Cities and Towns: Todd Caldwell or Susan Gordon cities.towns@sboa.in.gov

This Directive may be amended from time to time and may be rescinded at any time in writing by the State Examiner or Deputy State Examiner.


Paul D. Joyce, CPA
State Examiner

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