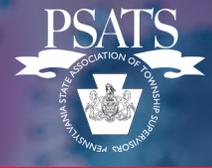


American Rescue Plan Funding for Townships



Final Rule Edition

Townships received new federal funds from the American Rescue Plan to help deal with pandemic-related and other allowable expenses. On May 10, 2021, the U.S. Treasury Department released an Interim Final Rule that provided direction on allowable uses and reporting requirements for the funds. On January 6, 2022, Treasury released the Final Rule which goes into effect on April 1, 2022. Prior to April 1, townships may use these funds in a manner consistent with the Final Rule if it is more beneficial than the Interim Final Rule.

This fact sheet will provide you with guidance on what we know so that your township can plan to properly spend these funds and create the greatest benefit for your township.

Are there prohibited uses for these funds? Yes. Below are prohibited uses of these funds, which apply to all use categories.

- Funds may only be used to cover costs incurred beginning on March 3, 2021. Purchases made for otherwise qualified items before March 3, 2021 are not eligible.
- Funds cannot be deposited into defined benefit pension plans to pay unfunded liability, including the MMO. Normal payroll contributions associated with payroll are permitted.
- Funds cannot be transferred into a financial reserve or “rainy day” account.
- Funds cannot be used for payments of interest or principal on loans or on fees or costs of new debt.
- Funds cannot be used to satisfy settlements or judgments.
- Funds may not be used to undermine COVID-19 mitigation practices that follow Centers for Disease Control guidance.

How can we use these funds? Townships may use the funds for expenses in four major categories. **Please note that the Final Rule greatly expands townships’ options under the allowable uses.** Also note that the rules for each category apply only to that specific category. Below is an overview of the permitted use categories:

Revenue Loss. NEW! The Final Rule allows townships to elect to take a “standard allowance” of up to \$10 million (*but no more than their award amount*) to spend on general government services over the life of the ARP program. This one-time election eliminates the administrative burden of calculating your township’s revenue loss, **allows townships to spend their entire allocation on any general government service** (*except on the prohibited items listed above*), and streamlines reporting. It does not matter if a township did not actually lose revenue.

Any township that plans to use the standard allowance will make a one-time election on the first annual report that will be due April 30, 2022. While a township may choose to calculate revenue loss through the Treasury formula instead

of taking the standard allowance, the standard allowance simplifies the process and maximizes the options for using these funds. Please note that if a township reports lost revenues on their first annual report using the Treasury formula instead of taking the standard allowance, the township will not be able to use the standard allowance in future years.

This category remains the most flexible option and **gives local governments broad latitude to use these funds to provide general government services**, which includes, but is not limited to: roads and bridges, stormwater, water and sewer infrastructure, parks and recreation, public buildings, vehicles and equipment, computers and software, upgrading meeting rooms and equipment, police and fire protection, emergency management, ambulance service, employee pay and benefits, and general administration expenses. In addition, funds used in the lost revenues category may be used as a local match for most federal grants. Most allowable expenses that fall under the other permitted use categories also fall under general government services.

Public Health and Negative Economic Impacts of COVID-19. To determine whether a use falls under this category, the Final Rule states that township officials should consider whether and how the use would respond to the COVID-19 public health emergency. In other words, does it identify a need or negative economic impact, and how does it address that need or impact?

Examples of eligible uses in this category include enforcement of public health orders, new capital investments to meet pandemic operation needs or to implement COVID-19 mitigation tactics, purchases of PPE, paid COVID-19 leave, and ventilation improvements. Townships may also provide aid to households, small businesses, nonprofits, and impacted industries to help address the economic impact of the pandemic.

For an expense to qualify under this use, townships must assess whether economic harm was caused by the pandemic and whether the proposed use would respond to that harm. No aid may be given to a business or organization unless there is a documented negative economic impact, and the funding provided must be proportional to this impact. A township may

contribute to a nonprofit that had a documented negative economic impact under this permitted use, the nonprofits must be a 501(c)(3) or 501(c)(19) organizations. Please note that these restrictions do not apply to the lost revenue category.

The Final Rule allows for additional ways to support local government capacity and workforce, including payroll and covered benefits costs. Townships may use funds to hire employees for positions that existed on January 27, 2020, but that were unfilled or eliminated as of March 3, 2021.

Investments in Water, Sewer, and Broadband Infrastructure. The Final Rule provides wide latitude for water and sewer infrastructure investments under this category. The Final Rule cites eligible projects under the U.S. Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving fund as examples of eligible uses. These programs cover a range of water infrastructure projects to improve water quality and address water pollution, including drinking water and wastewater treatment systems, infrastructure that controls non-point source solutions, green infrastructure, and more. The Final Rule expands eligible stormwater uses to include projects that manage, reduce, treat, or recapture stormwater or subsurface drainage water and allows culvert replacement without water quality improvement. The Final Rule also allows the funds to be used for lead remediation projects, residential well rehabilitation and testing, and dam and reservoir upgrades. Townships may transfer funds to a municipal authority for one of these purposes.

Broadband projects must target unserved and underserved areas, prioritize last-mile connections, and provide download speeds of 100 Mbps and upload speeds of 20 Mbps. Because this is a one-time infusion of funds, townships should consider using it to focus on capacity building and infrastructure. Townships should be prepared to operate without these funds in future years. The Final Rule adds an affordability program requirement for broadband providers, such as the FCC's Affordable Connectivity Program.

Premium Pay for Essential Workers. Township supervisors may authorize township employees who worked in person during the pandemic, from January 27, 2020 to date, to receive premium pay. Employees who teleworked are not eligible. Township supervisors who are also employees must receive auditor approval for premium pay. Elected officials and

volunteers are not eligible. Premium pay must be paid through payroll and may be paid as a bonus. Payroll contributions to pension funds that are part of premium pay are permitted in this category.

Premium pay should address those with heightened risks due to being physically present at their workplace and encourages the prioritization of lower-paid eligible workers. Premium pay cannot exceed \$13 per hour or \$25,000 per worker. The Final Rule clarifies that a written justification is required if the worker's pay (*with or without the premium pay*) exceeds 150% of the state or county average annual wage for all occupations, and if that worker is exempt from FLSA overtime provisions.

How much time do we have to spend these funds? Townships have until December 31, 2024, to obligate the funds (*under contract or purchase order*) and until December 31, 2026 to actually spend them. Any funds that are unspent after these dates will need to be returned.

Must we follow the bidding procedures and other state laws when using the ARP funds? Yes. The final rule makes it clear that other applicable state and federal laws must be followed, including rules for purchasing, nondiscrimination and conflict of interest requirements.

What kind of reporting will be needed? Townships must file an annual report on the use of the funds by April 30, 2022. The first report will cover from March 3, 2021 to March 31, 2022. After that, an annual report will be required each April 30 that will cover the previous April 1 through March 31. These reports will be filed on Treasury's online portal. To learn more about reporting, go to psats.org and choose "American Rescue Plan" in the red bar.

What should we do now? Township officials should carefully evaluate their options and plan how to use these funds to best benefit their communities. Townships should consider taking advantage of the flexibility provided by the standard allowance for lost revenues.

How can I learn more? For more information, including a recorded Town Hall webinar and links to important Treasury documents, go to psats.org and choose "American Rescue Plan" in the red bar.



PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

David M. Sanko, Executive Director

4855 Woodland Drive • Enola, PA 17025-1291
Telephone: (717) 763-0930 • Fax: (717) 763-9732

www.psats.org

[f @PSATS](#) [@PSATS](#)

[in Pennsylvania State Association of Township Supervisors](#)