

October 21, 2021

County Administrative Office
Carol J. Huchingson, County Administrative Officer
255 North Forbes Street
Lakeport, California 95453

RE: COVID-19 Pandemic Supplemental Funding Request

Greetings Ms. Huchingson:

As the proud provider of health care services for the Lake County Correctional Facility, Wellpath strives to exceed your expectations regarding the quality of services we provide. The United States is in the midst of a nursing crisis, with the most acute supply-demand imbalance in many generations. We are asking our Partners to help us meet the challenge so that we can together continue to provide quality care and meet our constitutionally mandated requirements.

Background

The demand for nurses has increased dramatically over the past decade, fed by the aging of the baby boomers into Medicare and increased access to healthcare with the passage of the Affordable Care Act. At the same time, the nursing workforce has been aging along with the rest of the country (more than half of all nurses are over 50), and nursing schools are not graduating enough nurses to meet rising demand.

The COVID-19 pandemic has become the proverbial straw that broke the camel's back, increasing the demand for nurses to inoculate the population and care for the rising number of (largely unvaccinated) COVID patients. And the stress, anxiety, and exhaustion brought on by COVID have driven just enough nurses out of the field to create the current crisis.

As one would expect, this imbalance has driven up the cost of nurses (when they can be found) to levels we have never seen. Across many markets, temporary agencies and nurse travel companies have bid hourly rates, in some cases, north of \$100 per hour.

[‘Nursing Is in Crisis’: Staff Shortages Put Patients at Risk - The New York Times](#) published August 21, 2021, cites the danger of this widespread shortage, noting a health system that “has been losing experienced nurses to recruiters who offer \$20,000 signing bonuses and \$140-an-hour wages.”

Unfortunately, the pain of the shortage has not been shared equally. The CARES Act included a **\$178 billion** Provider Relief Fund to help acute care hospitals manage increased costs during the pandemic. This enormous subsidy allowed hospitals to pay ever-increasing rates, while providers in correctional settings, who have received NO CARES Act funding, are unable to compete.

Because the federal government has subsidized the increased nursing costs for hospitals, the higher costs have not materially affected the prices hospitals charge for their services. This has kept medical services CPI at historically low levels and far below the dramatic increase in Wellpath's largest cost – nursing salaries.



What We Have Done

This is not just a compensation problem, so we are executing on long-range plans intended to create resiliency against this type of challenge in the future. A summary of that plan is included as **Attachment 1**. It is, however, critical that we address nursing compensation now, or the long-range plans will not matter. We already have increased compensation and shift differentials and added signing and retention bonuses in an effort to attract and retain nurses. That is not enough. Our contractual CPI increases simply do not allow us to meet the rapidly rising nursing compensation demands. This challenge is one that we can only solve together and with your leadership.

Addressing the Problem

Fortunately, there are now federal funds available to reward and maintain our experienced nursing team. On May 10th, the U.S. Department of the Treasury (DOT) announced, as part of the American Rescue Plan Act (ARPA), the launch of the Coronavirus State and Local Fiscal Recovery Program (SLFRP), to provide \$350 billion in emergency funding for eligible state and local governments. The DOT's May 10th SLFRP FACT SHEET is included as **Attachment 2**. Approved uses of funding include "to recognize the heroic contributions of essential workers." (Section 5, Page 6.) Correctional nurses and custody staff have put their physical well-being at risk to provide care for others. Governments may use this funding to provide "premium pay directly **or through grants to private employers**" to a broad range of essential workers, including public health and safety staff.

What We Need to Do Together

Our contract states that the base compensation amount and per diem shall be adjusted each year consistent with the prior year's annual average percentage of the Medical Care Component of the Consumer Price Index ("CPI") for Urban Consumers, not to exceed 3.0%. The 2020 annual average percent change was 5.3% for Medical Care in the West.

Due to the 3.0% cap, we received a CPI increase that was 2.3% below the inflation rate at the time. Wellpath requests an exception to the 3.0% CPI cap and asks to receive an additional increase equal to the remaining 2.3%. This will help us catch up to the actual inflation rate by recouping the shortfall, and would allow for current year pay increases over 3%. If Lake County agrees, application of the additional 2.3% increase would revise the year-three base compensation amount for medical services by **\$65,877.81**. The rate would increase from \$2,950,180.03 (\$245,848.34 monthly) to \$3,016,057.84 (\$251,338.15 monthly).

We also propose implementing a monthly supplemental staffing surcharge to help us compete for the shrinking pool of nurses and mental health staff in this time of crisis. Because we believe that the current situation is not permanent, we propose implementing this surcharge on an interim basis, in addition to our contractual CPI. This surcharge will be fully transparent, with 100% going directly to our nursing staff. This temporary increase is similar to the model being deployed in many hospitals.

We understand that you, like Wellpath, have fixed budgets. Fortunately, the SLFRP funding includes an allocation of \$12.5 million for Lake County. We recommend that a small portion of that funding be used for bonus payments to the nurses, mental health staff, and custody staff that we must have to meet the constitutionally mandated care needs of our patients.

To ensure Wellpath can retain and recruit staff, we request an additional **\$199,450** applied toward one-time supplemental salary increases. The increase is necessary to bring all our staff's wages to or above the 50th percentile.



Based on our analysis of your local market needs, attached, we propose an Annual Nursing Surcharge of \$8.83/hour per Registered Nurse (RN), \$9.62/hour per Licensed Vocational Nurse (LVN), and \$9.00/hour per Mental Health Professional (MHP). We also propose leadership supplemental COVID pay of \$25,000 paid out over the next year to attract and retain excellent site leaders. We will provide full documentation of the distribution of these funds to our nurses.

| One-Time Supplemental Wage Adjustment | FTEs | Wage Increase Amount | Twelve Month Cost Impact |
|---------------------------------------|------------|----------------------|--------------------------|
| RN Supplemental | 1.8 | \$8.83 | \$45,121 |
| LPN Supplemental | 3.8 | \$9.62 | \$103,779 |
| MHP Supplemental | 1.0 | \$9.00 | \$25,550 |
| Leadership Supplemental COVID Pay | - | - | \$25,000 |
| Total | 6.6 | | \$199,450 |

Explanation of Costs

| Position | FTEs | Wages | Benefits, Payroll Taxes, and Insurance |
|-----------------------------------|------|------------------|--|
| RN Supplemental | 1.8 | \$38,619 | \$6,502 |
| LPN Supplemental | 3.8 | \$88,822 | \$14,957 |
| MHP Supplemental | 1.0 | \$21,868 | \$3,682 |
| Leadership Supplemental COVID Pay | - | \$25,000 | - |
| Total | | \$174,309 | \$25,141 |

Wellpath will invoice the supplemental salary increases monthly as a pass-through to the client not to exceed \$199,450 over a 12-month period. Wellpath will ensure that none of the supplemental payments exceed the maximums established in the legislation.

Thank you for your continued support of our joint mission to provide compassionate, high-quality healthcare to our patients. We understand that this request will warrant further discussion and we look forward to discussing this important topic with you. Please do not hesitate to contact me at 858-283-8619 with any questions that you may have.

We are Wellpath. We are the right people, always striving *to do the right thing*. We appreciate our partnership and look forward to continued success working together.

Sincerely,



Kip Hallman
President

Attachment 1

Wellpath Long-Range Plan Executive Summary

While we do not know how long the current crisis will last, we believe that the rapid spike in compensation is not sustainable and that a year from now, wages will return to numbers below this crisis-driven level, but **above the compensation levels of a year ago**, representing a **New Normal**. While we believe we will need to make some permanent increase to our nursing compensation, we are also executing a multi-pronged strategy to be well-positioned to minimize the financial impact of this New Normal on our partners. This strategy includes:

- Building our own supply through partnerships with nursing schools.
- Developing a pipeline of foreign-trained nurses with a Wellpath Way training program.
- Adding telenursing to our Wellpath Now application to support after-hours intakes.
- Developing alternative staffing models to reduce our nursing requirement.
- Working with government legislators and regulators to modify certifications required to conduct medication passes.
- Increasing our qualified and committed PRN pool through better compensation, orientation, and training.
- Working with suppliers of inmate tablets to provide access to professionals and para-professionals who can help reduce demand on providers and nurses.



FACT SHEET: The Coronavirus State and Local Fiscal Recovery Funds Will Deliver \$350 Billion for State, Local, Territorial, and Tribal Governments to Respond to the COVID-19 Emergency and Bring Back Jobs

May 10, 2021

Aid to state, local, territorial, and Tribal governments will help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery

Today, the U.S. Department of the Treasury announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, to provide \$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments. Treasury also released details on how these funds can be used to respond to acute pandemic response needs, fill revenue shortfalls among these governments, and support the communities and populations hardest-hit by the COVID-19 crisis. With the launch of the Coronavirus State and Local Fiscal Recovery Funds, eligible jurisdictions will be able to access this funding in the coming days to address these needs.

State, local, territorial, and Tribal governments have been on the frontlines of responding to the immense public health and economic needs created by this crisis – from standing up vaccination sites to supporting small businesses – even as these governments confronted revenue shortfalls during the downturn. As a result, these governments have endured unprecedented strains, forcing many to make untenable choices between laying off educators, firefighters, and other frontline workers or failing to provide other services that communities rely on. Faced with these challenges, state and local governments have cut over 1 million jobs since the beginning of the crisis. The experience of prior economic downturns has shown that budget pressures like these often result in prolonged fiscal austerity that can slow an economic recovery.

To support the immediate pandemic response, bring back jobs, and lay the groundwork for a strong and equitable recovery, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, designed to deliver \$350 billion to state, local, territorial, and Tribal governments to bolster their response to the COVID-19 emergency and its economic impacts. Today, Treasury is launching this much-needed relief to:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and,
- Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic on certain populations.

The Coronavirus State and Local Fiscal Recovery Funds provide substantial flexibility for each jurisdiction to meet local needs—including support for households, small businesses, impacted industries, essential workers, and the communities hardest-hit by the crisis. These funds also deliver resources that recipients can invest in building, maintaining, or upgrading their water, sewer, and broadband infrastructure.

Starting today, eligible state, territorial, metropolitan city, county, and Tribal governments may request Coronavirus State and Local Fiscal Recovery Funds through the Treasury Submission Portal. Concurrent with this program launch, Treasury has published an Interim Final Rule that implements the provisions of this program.

FUNDING AMOUNTS

The American Rescue Plan provides a total of \$350 billion in Coronavirus State and Local Fiscal Recovery Funds to help eligible state, local, territorial, and Tribal governments meet their present needs and build the foundation for a strong recovery. Congress has allocated this funding to tens of thousands of jurisdictions. These allocations include:

| Type | Amount (\$ billions) |
|--|---------------------------------|
| States & District of Columbia | \$195.3 |
| Counties | \$65.1 |
| Metropolitan Cites | \$45.6 |
| Tribal Governments | \$20.0 |
| Territories | \$4.5 |
| Non-Entitlement Units of Local Government | \$19.5 |

Treasury expects to distribute these funds directly to each state, territorial, metropolitan city, county, and Tribal government. Local governments that are classified as non-entitlement units will receive this funding through their applicable state government. Treasury expects to provide further guidance on distributions to non-entitlement units next week.

Local governments should expect to receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered 12 months later. States that have experienced a net increase in the unemployment rate of more than 2 percentage points from February 2020 to the latest available data as of the date of certification will receive their full allocation of funds in a single payment; other states will receive funds in two equal tranches. Governments of U.S. territories will receive a single payment. Tribal governments will receive two payments, with the first payment available in May and the second payment, based on employment data, to be delivered in June 2021.

USES OF FUNDING

Coronavirus State and Local Fiscal Recovery Funds provide eligible state, local, territorial, and Tribal governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. Within the categories of eligible uses, recipients have broad flexibility to decide how best to use this funding to meet the needs of their communities. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to:

- **Support public health expenditures**, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Within these overall categories, Treasury’s Interim Final Rule provides guidelines and principles for determining the types of programs and services that this funding can support, together with examples of allowable uses that recipients may consider. As described below, Treasury has also designed these provisions to take into consideration the disproportionate impacts of the COVID-19 public health emergency on those hardest-hit by the pandemic.

1. Supporting the public health response

Mitigating the impact of COVID-19 continues to require an unprecedented public health response from state, local, territorial, and Tribal governments. Coronavirus State and Local Fiscal Recovery Funds provide resources to meet these needs through the provision of care for those impacted by the virus and through services that address disparities in public health that have been exacerbated by the pandemic. Recipients may use this funding to address a broad range of public health needs across COVID-19 mitigation, medical expenses, behavioral healthcare, and public health resources. Among other services, these funds can help support:

- **Services and programs to contain and mitigate the spread of COVID-19, including:**
 - ✓ Vaccination programs
 - ✓ Medical expenses
 - ✓ Testing
 - ✓ Contact tracing
 - ✓ Isolation or quarantine
 - ✓ PPE purchases
 - ✓ Support for vulnerable populations to access medical or public health services
 - ✓ Public health surveillance (e.g., monitoring for variants)
 - ✓ Enforcement of public health orders
 - ✓ Public communication efforts
 - ✓ Enhancement of healthcare capacity, including alternative care facilities
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities and schools
 - ✓ Enhancement of public health data systems
 - ✓ Capital investments in public facilities to meet pandemic operational needs
 - ✓ Ventilation improvements in key settings like healthcare facilities

- **Services to address behavioral healthcare needs exacerbated by the pandemic, including:**
 - ✓ Mental health treatment
 - ✓ Substance misuse treatment
 - ✓ Other behavioral health services
 - ✓ Hotlines or warmlines
 - ✓ Crisis intervention
 - ✓ Services or outreach to promote access to health and social services
- **Payroll and covered benefits expenses** for public health, healthcare, human services, public safety and similar employees, to the extent that they work on the COVID-19 response. For public health and safety workers, recipients can use these funds to cover the full payroll and covered benefits costs for employees or operating units or divisions primarily dedicated to the COVID-19 response.

2. **Addressing the negative economic impacts caused by the public health emergency**

The COVID-19 public health emergency resulted in significant economic hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost between February and April 2020. Although many have since returned to work, as of April 2021, the economy remains more than 8 million jobs below its pre-pandemic peak, and more than 3 million workers have dropped out of the labor market altogether since February 2020.

To help alleviate the economic hardships caused by the pandemic, Coronavirus State and Local Fiscal Recovery Funds enable eligible state, local, territorial, and Tribal governments to provide a wide range of assistance to individuals and households, small businesses, and impacted industries, in addition to enabling governments to rehire public sector staff and rebuild capacity. Among these uses include:

- **Delivering assistance to workers and families**, including aid to unemployed workers and job training, as well as aid to households facing food, housing, or other financial insecurity. In addition, these funds can support survivor's benefits for family members of COVID-19 victims.
- **Supporting small businesses**, helping them to address financial challenges caused by the pandemic and to make investments in COVID-19 prevention and mitigation tactics, as well as to provide technical assistance. To achieve these goals, recipients may employ this funding to execute a broad array of loan, grant, in-kind assistance, and counseling programs to enable small businesses to rebound from the downturn.
- **Speeding the recovery of the tourism, travel, and hospitality sectors**, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.
- **Rebuilding public sector capacity**, by rehiring public sector staff and replenishing unemployment insurance (UI) trust funds, in each case up to pre-pandemic levels. Recipients may also use this funding to build their internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.

3. Serving the hardest-hit communities and families

While the pandemic has affected communities across the country, it has disproportionately impacted low-income families and communities of color and has exacerbated systemic health and economic inequities. Low-income and socially vulnerable communities have experienced the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000.

Coronavirus State and Local Fiscal Recovery Funds allow for a broad range of uses to address the disproportionate public health and economic impacts of the crisis on the hardest-hit communities, populations, and households. Eligible services include:

- **Addressing health disparities and the social determinants of health**, through funding for community health workers, public benefits navigators, remediation of lead hazards, and community violence intervention programs;
- **Investments in housing and neighborhoods**, such as services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling and housing navigation assistance to facilitate moves to neighborhoods with high economic opportunity;
- **Addressing educational disparities** through new or expanded early learning services, providing additional resources to high-poverty school districts, and offering educational services like tutoring or afterschool programs as well as services to address social, emotional, and mental health needs; and,
- **Promoting healthy childhood environments**, including new or expanded high quality childcare, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

Governments may use Coronavirus State and Local Fiscal Recovery Funds to support these additional services if they are provided:

- within a Qualified Census Tract (a low-income area as designated by the Department of Housing and Urban Development);
- to families living in Qualified Census Tracts;
- by a Tribal government; or,
- to other populations, households, or geographic areas disproportionately impacted by the pandemic.

4. Replacing lost public sector revenue

State, local, territorial, and Tribal governments that are facing budget shortfalls may use Coronavirus State and Local Fiscal Recovery Funds to avoid cuts to government services. With these additional resources, recipients can continue to provide valuable public services and ensure that fiscal austerity measures do not hamper the broader economic recovery.

Many state, local, territorial, and Tribal governments have experienced significant budget shortfalls, which can yield a devastating impact on their respective communities. Faced with budget shortfalls and pandemic-related uncertainty, state and local governments cut staff in all 50 states. These budget shortfalls and staff cuts are particularly problematic at present, as these entities are on the front lines of battling the COVID-19 pandemic and helping citizens weather the economic downturn.

Recipients may use these funds to replace lost revenue. Treasury's Interim Final Rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Specifically, recipients will compute the extent of their reduction in revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year prior to the public health emergency and projects forward at either (a) the recipient's average annual revenue growth over the three full fiscal years prior to the public health emergency or (b) 4.1%, the national average state and local revenue growth rate from 2015-18 (the latest available data).

For administrative convenience, Treasury's Interim Final Rule allows recipients to presume that any diminution in actual revenue relative to the expected trend is due to the COVID-19 public health emergency. Upon receiving Coronavirus State and Local Fiscal Recovery Funds, recipients may immediately calculate the reduction in revenue that occurred in 2020 and deploy funds to address any shortfall. Recipients will have the opportunity to re-calculate revenue loss at several points through the program, supporting those entities that experience a lagged impact of the crisis on revenues.

Importantly, once a shortfall in revenue is identified, recipients will have broad latitude to use this funding to support government services, up to this amount of lost revenue.

5. Providing premium pay for essential workers

Coronavirus State and Local Fiscal Recovery Funds provide resources for eligible state, local, territorial, and Tribal governments to recognize the heroic contributions of essential workers. Since the start of the public health emergency, essential workers have put their physical well-being at risk to meet the daily needs of their communities and to provide care for others.

Many of these essential workers have not received compensation for the heightened risks they have faced and continue to face. Recipients may use this funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers who must be physically present at their jobs including, among others:

- | | |
|---|---|
| ✓ Staff at nursing homes, hospitals, and home-care settings | ✓ Truck drivers, transit staff, and warehouse workers |
| ✓ Workers at farms, food production facilities, grocery stores, and restaurants | ✓ Childcare workers, educators, and school staff |
| ✓ Janitors and sanitation workers | ✓ Social service and human services staff |
| ✓ Public health and safety staff | |

Treasury's Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

In addition, employers are both permitted and encouraged to use Coronavirus State and Local Fiscal Recovery Funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

6. Investing in water and sewer infrastructure

Recipients may use Coronavirus State and Local Fiscal Recovery Funds to invest in necessary improvements to their water and sewer infrastructures, including projects that address the impacts of climate change.

Recipients may use this funding to invest in an array of drinking water infrastructure projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines.

Recipients may also use this funding to invest in wastewater infrastructure projects, including constructing publicly-owned treatment infrastructure, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works.

To help jurisdictions expedite their execution of these essential investments, Treasury's Interim Final Rule aligns types of eligible projects with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving Fund. Recipients retain substantial flexibility to identify those water and sewer infrastructure investments that are of the highest priority for their own communities.

Treasury's Interim Final Rule also encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.

7. Investing in broadband infrastructure

The pandemic has underscored the importance of access to universal, high-speed, reliable, and affordable broadband coverage. Over the past year, millions of Americans relied on the internet to participate in remote school, healthcare, and work.

Yet, by at least one measure, 30 million Americans live in areas where there is no broadband service or where existing services do not deliver minimally acceptable speeds. For millions of other Americans, the high cost of broadband access may place it out of reach. The American Rescue Plan aims to help remedy these shortfalls, providing recipients with flexibility to use Coronavirus State and Local Fiscal Recovery Funds to invest in broadband infrastructure.

Recognizing the acute need in certain communities, Treasury's Interim Final Rule provides that investments in broadband be made in areas that are currently unserved or underserved—in other words, lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. Recipients are also encouraged to prioritize projects that achieve last-mile connections to households and businesses.

Using these funds, recipients generally should build broadband infrastructure with modern technologies in mind, specifically those projects that deliver services offering reliable 100 Mbps download and 100

Mbps upload speeds, unless impracticable due to topography, geography, or financial cost. In addition, recipients are encouraged to pursue fiber optic investments.

In view of the wide disparities in broadband access, assistance to households to support internet access or digital literacy is an eligible use to respond to the public health and negative economic impacts of the pandemic, as detailed above.

8. Ineligible Uses

Coronavirus State and Local Fiscal Recovery Funds provide substantial resources to help eligible state, local, territorial, and Tribal governments manage the public health and economic consequences of COVID-19. Recipients have considerable flexibility to use these funds to address the diverse needs of their communities.

To ensure that these funds are used for their intended purposes, the American Rescue Plan Act also specifies two ineligible uses of funds:

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in law from March 3, 2021 through the last day of the fiscal year in which the funds provided have been spent.** The American Rescue Plan ensures that funds needed to provide vital services and support public employees, small businesses, and families struggling to make it through the pandemic are not used to fund reductions in net tax revenue. Treasury's Interim Final Rule implements this requirement. If a state or territory cuts taxes, they must demonstrate how they paid for the tax cuts from sources other than Coronavirus State Fiscal Recovery Funds—by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be paid back to the Treasury.
- **No recipient may use this funding to make a deposit to a pension fund.** Treasury's Interim Final Rule defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds.

Treasury's Interim Final Rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves. Further, general infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or above the amount allocated under the revenue loss provision. While the program offers broad flexibility to recipients to address local conditions, these restrictions will help ensure that funds are used to augment existing activities and address pressing needs.