NACo INFORMATION SESSION: TREASURY FISCAL RECOVERY FUND

REVENUE LOSS & GOVERNMENT SERVICES

JANUARY 18, 2022

KEY HIGHLIGHTS OF THE GUIDANCE

1. **Final Rule is effective April 1, 2022,** but counties can take advantage of new provisions prior to the effective date
2. **Allows counties to use up to $10 million of ARPA Recovery Funds as "lost revenue" for the provision of general government services** without needing to use the Treasury revenue loss formula
3. Improves revenue loss calculation formula **to include utility revenue and liquor store sales, at option of counties**
4. **Clarifies eligible use of funds for capital expenditures** and written justification for certain projects
5. **Presumes certain populations were "impacted" and "disproportionately impacted" by the pandemic** and therefore are eligible to receive a broad range of services and support – designed to minimize administrative burden
6. **Streamlines options for premium pay,** by broadening the share of eligible workers who can receive premium pay
7. **Authorizes re-hiring of local government staff,** either at or above pre-pandemic levels
8. Allows Recovery Funds to be used for **modernization of cybersecurity,** including hardware and software
9. Broadens eligible use of funds for **water and sewer projects** to include culvert repair, dam and reservoir rehabilitation
10. Broadens eligible **broadband infrastructure investments** to ensure better connectivity to broader populations

REPORTING REQUIREMENTS

On January 7, Treasury released the Project and Expenditure Report and User Guide.

- **The following counties are required to submit a <u>Project and Expenditure Report the Treasury by January 31, 2022</u>:**
  - Counties with populations that **exceed 250,000 residents** (referred to as Tier 1 recipients by Treasury)
  - Counties with a population **below 250,000 residents yet received more than $10 million** in Recovery Funds (referred to as Tier 2 recipient by Treasury)
- The **Project and Expenditure Report will cover the period between March 3, 2021, and December 31, 2021,** and requires the reporting of project, obligations and expenditure data, subaward data, as well as certain required programmatic data
- Counties with **populations below 250,000 residents and received less than $10 million** in Recovery Funds, **<u>are not required to submit</u>** a report by January 31, 2022
  - First reporting deadline is now **<u>April 30, 2022,</u>** and annually afterwards

ILLUSTRATION ONLY OF ***SAMPLE*** ALLOWABLE USES OF RECOVERY FUNDS, PER U.S. TREASURY GUIDANCE

Support Public Health Response

Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff

Address Negative Economic Impacts

Respond to economic harms to workers, families, small businesses, impacted industries, and the public sector

Replace Public Sector Revenue Loss

Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic

Premium Pay for Essential Workers

Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors

Water and Sewer Infrastructure

Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure

Broadband Infrastructure

Make necessary investments to provide unserved or underserved locations with new or expanded broadband access

DECODING *THE LANGUAGE* OF THE GUIDANCE

Throughout the Final Rule, U.S. Treasury uses various ***key words*** that are important to understand in determining the eligible use of funds.

- **“Should” and “must”** = *mandatory* reporting, use and compliance
- **“May” and “encourage”** = Allows county *discretion,* even as a federal preference
- **Proportional & Reasonable** are key terms in determining the level of investment for eligible activities

REPLACING LOST REVENUE

Counties can use Recovery Funds to provide government services, up to the amount of revenue loss experienced using one of two Treasury approaches. Under the Final Rule, **counties now have two options:**

KEY NEW FEATURES IN FINAL RULE

1. **NEW $10 MILLION REVENUE LOSS ALLOWANCE**
    - Counties may allocate up to $10 million of their total Recovery Fund allocation to spend on government services
    - Counties may still calculate actual revenue loss through Treasury formula – both must pick 1 of the 2 approaches
    - Simplifies reporting requirements for counties using the standard $10M standard allowance
    - 2,137 counties (70%) now eligible to invest entirety of allocated Recovery Funds in general government services

2. **IMPROVEMENTS TO THE REVENUE LOSS FORMULA**
    - Revenue loss **growth rate changed from 4.1% to 5.2%** as the new standard default allowance for the formula
    - General revenue now includes **utility revenue and liquor store** revenue, *at the discretion of the county*
    - Counties may choose to calculate revenue loss on a **fiscal year or calendar year** basis – *must pick & stay with 1 option*
    - Counties must adjust actual revenue totals for the effect of **tax cuts/increases adopted after January 6, 2022**

REPLACE LOST REVENUE

U.S. Treasury's guidance **establishes an updated methodology to calculate lost revenue.**

Under the Final Rule, counties will follow the same formula with a few changes:

- Recipients will compute the extent of reduction in revenue by comparing **actual revenue** to a **counterfactual trend** representing what could have plausibly been expected to occur in the absence of the COVID-19 pandemic
- For purposes of measuring revenue growth in the counterfactual trend, recipients may use a **growth adjustment <u>of either</u>:**

    1. 5.2% per year (based on the national average of state and local revenue growth 2015-19)

    <u>OR</u>

    2. The recipients average annual revenue growth over the last three full fiscal years prior to the COVID-19 pandemic

Recipients should choose the **higher of the two options** when determining their growth adjustment figure

REPLACING LOST REVENUE

Recovery Funds may be used to provide government services **to the** extend of reduction in revenue experienced due to COVID-19:

- **Definition of general revenue:** Based on Census Bureau's definition and includes revenue from taxes, current charges, miscellaneous general revenue, intergovernmental transfers between state and local governments, <u>**revenue generated by utilities and liquor store sales**</u>
  - Excludes refunds and other correction transactions proceeds from issuance of debt or the sale of investments, agency or private trust transactions, intergovernmental transfers from the federal government (federal transfers made to a state/locality)
- Recipients should calculate revenue on an **entity-wide basis, rather than source-by-source basis**
- Recipients cannot use pre-pandemic projections as a basis to estimate the reduction in revenue
- **Definition of base year revenue:** Recipient's general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency
- Recipients can calculate revenue loss on either a **fiscal year <u>OR</u> calendar year** basis – need to maintain

REPLACING LOST REVENUE

Counties may use "lost revenue" for **<u>general government services up to the *revenue loss* amount</u>**, whether that be the standard allowance amount ($10 million) or the amount calculated using Treasury's formula:

- **Government services generally include any service traditionally provided by a government,** unless Treasury has stated otherwise
- **Common examples** include, but are not limited to:
  - Construction of schools and hospital
  - Road building and maintenance, and other infrastructure
  - Health services
  - General government administration, staff and administrative facilities
  - Environmental remediation
  - Police, first responders and other public safety services (including purchase of fire trucks and police vehicles)

RECOVERY FUNDS USED TO REPLACE "REVENUE LOSS" ARE MORE FLEXIBLE AND MAY BE USED FOR A BROAD RANGE OF GOVERNMENT SERVICES, PROGRAMS AND PROJECTS OUTSIDE OF TYPICAL ELIGIBLE USES OF RECOVERY FUNDS UNDER THE FINAL RULE. **HOWEVER, REVENUE RECOUPMENT CANNOT BE USED FOR RAINY DAY FUNDS, DEBT SERVICES, AND EXTRAORDINARY PENSION CONTRIBITIONS**

REPLACING LOST REVENUE

Counties may use "lost revenue" for **general government services up to the *revenue loss* amount**, whether that be the standard allowance amount ($10 million), or the amount calculated using Treasury's formula:

HOWEVER, the following activities are NOT an eligible use of a county's "revenue loss" allowance:

- Extraordinary contribution to a **pension fund**
- **Debt service** payment, including Tax Anticipation Notes (TANs)
- Rainy day or **reserve account**
- **Settlement agreement, judgment, consent decree or judicially confirmed debt** *(with limited exceptions)*
- **(NEW) Activity that conflicts with the purpose of the American Rescue Plan Act statute** (e.g. uses of funds that conflict with COVID-19 mitigation practices in line with CDC guidance and recommendations)
- **Violations of Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance**

REPLACING LOST REVENUE

HOWEVER, the following activities are NOT an eligible use of a county's "revenue loss" allowance:

TWO NEW ADDITIONS TO THE LIST OF INELIGIBLE USES

- **(NEW) Activity that conflicts with the purpose of the American Rescue Plan Act statute** (e.g. uses of funds that conflict with COVID-19 mitigation practices in line with CDC guidance and recommendations)
- **(EXPANDED) Violations of Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance,** such as federal conflict of interest (e.g. self dealing), civil rights, discrimination and environmental standards

REPLACING LOST REVENUE

KEY TAKEAWAYS

- **Counties have two options to calculate revenue loss:**

  1. **Up to $10 million** of ARPA allocation standard allowance, **OR**
  2. Calculate revenue loss with Treasury formula, with a **new 5.2% default growth rate**

- Final Rule increases the "average annual growth rate" from **4.1% to 5.2%** when calculating revenue loss, or the county can calculate its own average annual growth rate

- **If your county previously declared "$0" for revenue loss in the Interim Report,** the county may change and update this number in the first Project and Expenditure Report

- **If your county is declaring revenue loss,** you must still abide by the reporting requirements within the Project and Expenditure Report's "revenue loss" category

REPLACING LOST REVENUE

KEY TAKEAWAYS

If your county is declaring revenue loss, **you must still abide by the reporting requirements** within the Project and Expenditure Report's "revenue loss" category

REPORTING REQUIREMENTS

On January 7, Treasury released the Project and Expenditure Report and User Guide.

- **The following counties are required to submit a Project and Expenditure Report by January 31, 2022:**
  - Counties with **populations that exceed 250,000 residents** (referred to as Tier 1 recipients by Treasury)
  - Counties with a **population below 250,000 residents yet received more than $10 million** in Recovery Funds (referred to as Tier 2 recipient by Treasury)
- The **Project and Expenditure Report will cover the period between March 3, 2021, and December 31, 2021,** and requires the reporting of project, obligations and expenditure data, subaward data, as well as certain required programmatic data
- Counties with populations below 250,000 residents and received less than $10 million in Recovery Funds, **are not required to submit** a report by January 31, 2022
  - First reporting for the Project and Expenditure Report is now **April 30, 2022,** and annually afterwards

REPORTING REQUIREMENTS

REVENUE LOSS REPORTING

- **Counties have the option to update or provide information with revenue replacement not previously provided as part of prior submissions (I.e. Interim Report)**

- Counties have the option to make a one-time decision to calculate revenue loss according to revenue loss formula or elect a standard allowance of $10 million
  - Counties using revenue loss formula are permitted to choose whether to use **<u>calendar or fiscal year dates</u>**, but must use the same calculation time frame for remainder of award period
  - **Counties electing the "standard allowance,"** it is presumed by Treasury that up to $10 million (not to exceed the Treasury ARP allocation of the county) has been lost due to the public health emergency

- All counties will be asked the following question when completing the Project and Expenditure Report:
  - ***Is your jurisdiction electing to use the standard allowance of up to $10 million, not to exceed your total award allocation, for identifying revenue loss? Yes/No (Please note electing the standard allowance <u>does not change</u> your total allocation)***

REPORTING REQUIREMENTS

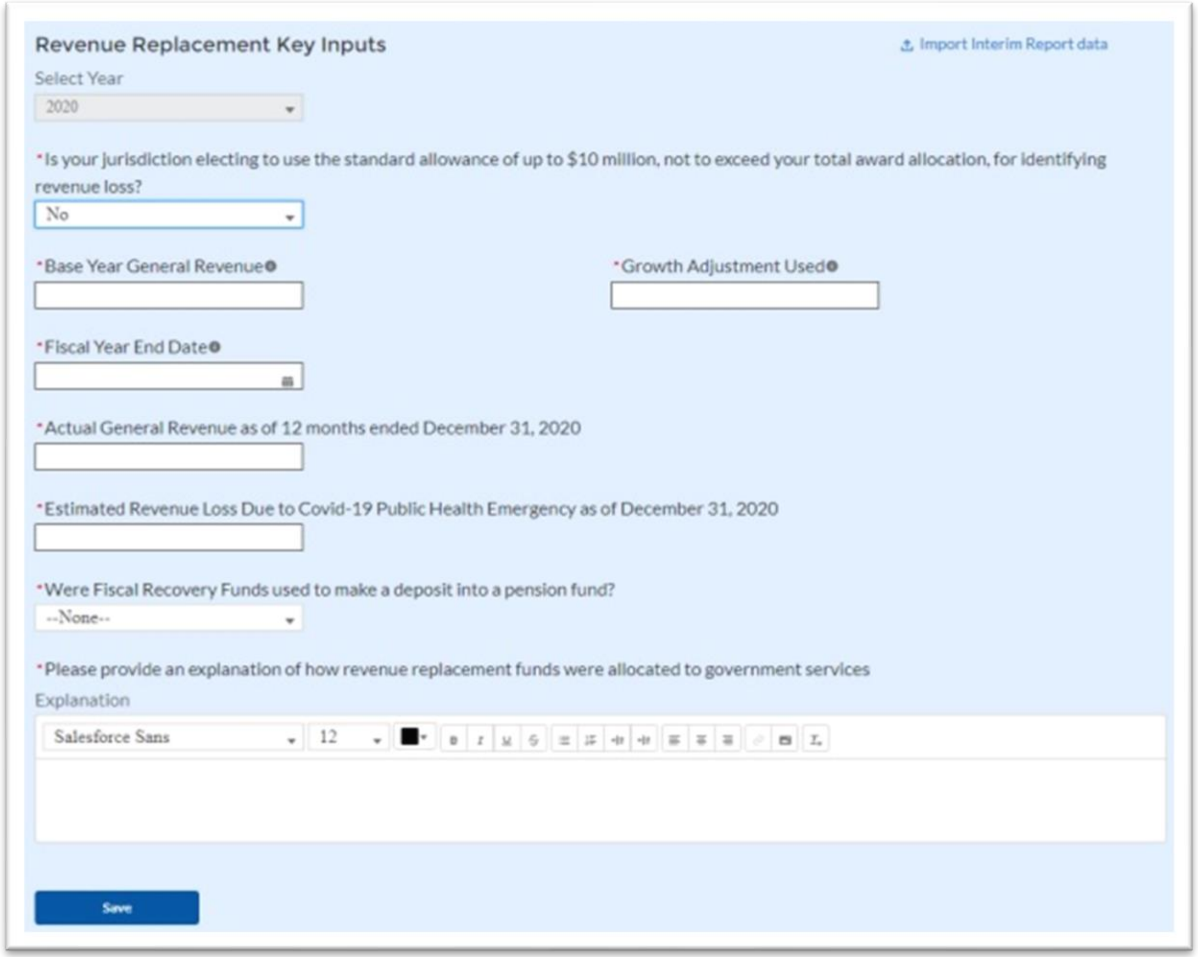
REVENUE REPLACEMENT (EC 6.1)

Based on your county's election, certain information will display on Treasury's portal, which the county will need to complete, as noted in the table, at right:

Data	Standard Allowance – Yes	Standard Allowance- No
Base Year Revenue	N/A	Required
Fiscal Year End Date	N/A	Required
Growth Adjustment Used	N/A	Required
Actual General Revenue as of 12 months ended December 31, 2020	N/A	Required
Estimated Revenue Loss	N/A	Required
Select whether Fiscal Recovery Funds were used to a make a deposit into a pension fund. Please note that no recipients except for Tribal governments may use Fiscal Recovery Funds to make a deposit to a pension fund	Required	Required
Provide an explanation of how revenue replacement funds were allocated to government services: Please provide an explanation	Required	Required

REPORTING REQUIREMENTS

REVENUE REPLACEMENT (EC 6.1)



Revenue Replacement Key Inputs

Import Interim Report data

Select Year

2020

*Is your jurisdiction electing to use the standard allowance of up to $10 million, not to exceed your total award allocation, for identifying revenue loss?

No

*Base Year General Revenue

*Growth Adjustment Used

*Fiscal Year End Date

*Actual General Revenue as of 12 months ended December 31, 2020

*Estimated Revenue Loss Due to Covid-19 Public Health Emergency as of December 31, 2020

*Were Fiscal Recovery Funds used to make a deposit into a pension fund?

--None--

*Please provide an explanation of how revenue replacement funds were allocated to government services

Explanation

Salesforce Sans 12

Save

NATIONAL ASSOCIATION of COUNTIES NACo

REPORTING REQUIREMENTS

REVENUE REPLACEMENT (EC 6.1)

- **Counties are required to submit a description of services provided**
- Description of government services reported to Treasury **may be narrative**
- Counties may report **based on existing budget processes** to minimize administrative burden
- Counties must indicate Recovery Funds **are not used directly to make a deposit in a pension fund**
- Obligation and expenditures reported under Revenue Replacement (EC 6.1) **do not need to have subrecipients, subawards or expenditures separately reported**

NACo

STRONGER COUNTIES. STRONGER AMERICA.

National Association of Counties
660 North Capitol Street, N.W. | Suite 400
Washington, D.C. 20001
202.393.6226 • www.NACo.org

fb.com/NACoDC
@NACoTweets
youtube.com/NACoVideo
linkedin.com/company/NACoDC