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## **American Rescue Plan (H.R. 1319)**

On March 11, 2021, President Biden signed into law the [American Rescue Plan \(ARP\) Act of 2021](#). The American Rescue Plan provides \$350 billion in assistance to state, local, tribal, and territorial (SLTT) governments through newly established **Coronavirus State and Local Fiscal Recovery Funds (FRF)**.

Funding will be distributed as follows:

- **State governments** and the **District of Columbia (DC)** are set to receive \$195.3 billion. Each state will receive at least the amount they received under the CARES Act's Coronavirus Relief Fund<sup>1</sup> and DC at least \$1.25 billion. This funding is largely distributed based on the state's share of recently unemployed individuals.
- **Local governments** will receive \$130.2 billion, with \$45.6 billion for metropolitan cities based on the Community Development Block Grant (CDBG) formula, \$65.1 billion to counties based on population, and \$19.5 billion to municipalities with populations under 50,000 based on population (referred to as non-entitlement units of local government, or "NEUs"). Distributions to these governments cannot exceed 75 percent of their most recent budget as of January 27, 2020.
- **Tribal governments** will receive \$20 billion.
- **U.S. territories** will receive \$4.5 billion.

The U.S. Department of the Treasury (Treasury) has finalized funding allocations for all government types. Those allocations, and Treasury's methodologies, can be found [here](#).

**Funding conditions:** According to [Treasury guidance](#)<sup>2</sup> and its [FAQ](#), FRF resources can be used to for activities in the following core areas:

### **1. Responding to the public health and negative economic impacts of the pandemic.**

This includes code department hardware and software needs to enable remote work. The guidance specifically authorizes:

- "[Technology infrastructure](#) resources to improve access to and the user-experience of government information technology systems, including upgrades to hardware and software as well as improvements to public-facing websites or to data management systems, to increase public access and improve public delivery of government programs and services (including in the judicial, legislative, or executive branches);" and
- "expenditures such as technology infrastructure to [adapt government operations](#) to the pandemic (e.g., video-conferencing software, improvements to case management systems or data sharing resources), reduce government backlogs, or meet increased maintenance needs are eligible."

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<sup>1</sup> Enacted in March 2020, CARES Act provided \$150 billion to SLTT governments responding to the coronavirus pandemic through the Coronavirus Relief Fund (CRF). These funds were accessible to building and fire prevention offices for hardware and software investments that aided departmental operations and remote work during the pandemic. Testimonials on code departments utilizing CRF funds can be found [here](#) and [here](#).

<sup>2</sup> Final Rule "Coronavirus State and Local Fiscal Recovery Funds", 87 Fed. Reg. 4,338 (January 27, 2022)



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Eligible activities responding to the pandemic’s public health impacts include, for example:

- [Payroll and benefits](#) for “the portion of the employee’s time that is dedicated to responding to the COVID-19 public health emergency;” and
- “[p]romoting long-term housing security: [affordable housing](#) and homelessness” that “address disparities in public health outcomes.”

Eligible activities responding to the pandemic’s negative economic impacts include, for example:

- “[Restoring pre-pandemic employment](#)” in the public sector. Funds can be used to, “rehire staff for pre-pandemic positions that were unfilled or were eliminated due the pandemic or hire up to 7.5% above the historic baseline where a [prescribed analysis](#) is followed;
- “[affordable housing development projects](#)” . . . if the developments increase the supply of long-term affordable housing for low-income households;” and
- “[certain services for vacant or abandoned properties,](#)” including “[\[i\]nspection fees](#) and other administrative costs incurred to ensure compliance with applicable environmental laws and regulations for demolition, greening, or other remediation activities.”

**2. Providing premium pay to essential workers.** “Eligible workers” refers to workers who “maintain continuity of operations of essential critical infrastructure sectors,” which includes “any work performed by an employee of a State, local, or Tribal government.” “Essential work” involves regular in-person interactions or regular handling of items handled by the public.

**3. Providing government services to the extent of revenue loss due to the pandemic.** Unlike the CARES Act funding, the FRF may be used for the “provision of government services to the extent of the reduction in revenue... due to the COVID-19 public health emergency,” so long as the funds are not used to replace revenues lost because of tax cuts tied to the receipt of State or Local Fiscal Recovery Funds. Government services can include, for example, “the provision of police, fire, and other public safety services.” Per a prior Code Council [survey](#), roughly 6 in 10 code departments experienced or expected budget cuts. Jurisdictions facing revenue downturns may be able to use FRF resources for code department staff salaries and operations. Treasury’s Final Rule gives jurisdictions the option to take a [standard allowance](#) of \$10 million or complete the [full revenue loss calculation](#). If a jurisdiction’s total FRF award is less than \$10 million, the jurisdiction can opt to take its entire award for “government services.”

Treasury clarifies in the Final Rule that under “provisions of government services” funds may be used as the local [cost-match for federal grants](#). The recipient should first confirm with the relevant awarding agency on whether a waiver has been issued to prevent the use of FRF funds for that program.

**4. Invest in Infrastructure.** Funding can be used to address needs for and make improvements to water, sewer, and broadband infrastructure.



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States and territories may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARP and Treasury’s implementing regulations and guidance.

**Prioritization of Funding:** Individual SLTTs receiving funds will prioritize how the funds are to be used based on identification of needs to respond to the public health emergency and its economic consequences. The SLTT receiving funds will also determine the timeline for distributing the funds to departments. In the past, funding announcements have been made through [press releases](#) and [executive orders](#).

**Timeline:** Local governments will receive funds in two tranches, with 50% provided in the first tranche, while states and territories will receive funds in one or two tranches. Depending on unemployment levels, states with lower unemployment rates were subject to split payments. On December 16, 2021, Treasury released the status of split vs. full payment to states [here](#). Treasury did not split the payments of any territories. Municipalities with populations less than 50,000 began receiving payments through their states in June 2021. Some states, citing an “excessive administrative burden” have received as many as seven extensions to distribute NEU funds. Status on payment of funds to these municipalities can be found [here](#). Treasury has indicated that the second tranche of funding will begin going out in May 2022. SLTT recipients have until December 31, 2024, to incur eligible costs. The period of performance for funds ends December 31, 2026.

**What you can do:** Depending on need, Code Council members, partners, and allies are encouraged to advocate to their state, county, city, or other local government that FRF resources be provided to assist code departments in developing virtual capabilities and in maintaining operations. Talking points are available [here](#).

Advocacy should be directed to the office charged with overseeing distribution of the SLTT’s relief funding. Cities and counties have assigned this responsibility to their finance or budget offices. States have assigned this responsibility to their [department of emergency management](#), [department of revenue](#), or a newly established dedicated COVID-relief [administrative entity](#). If the office charged with administering the funds is not clear, advocacy should be directed to the executive branch (e.g., Governor or County Executive). Staff in your jurisdiction with experience accessing federal, state, or county funding may be able to provide additional insight into how to best direct funding requests. We encourage you to coordinate your efforts with [your Government Relations staff liaison](#).