

## Coronavirus Local Fiscal Recovery Fund Guidance:

### Premium Pay

American Rescue Plan Act (ARPA) Local Fiscal Recovery Funds may be used to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work

These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.<sup>1</sup>

Workers who are covered by premium pay include:<sup>2</sup>

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

The Interim Final Rule defines essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence.<sup>3</sup>

The definition of eligible worker is “those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State or territory, or

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<sup>1</sup> Interim Final Rule: Coronavirus State and Local Fiscal Recovery Funds, U.S. Department of Treasury (hereinafter “Treasury Guidance”) 40.

<sup>2</sup> Treasury Guidance 41-42.

<sup>3</sup> Treasury Guidance 43.



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each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government.”<sup>4</sup>

Governor of each state has discretion to add additional sectors to this list, so long as additional sectors are deemed critical to protect the health and well-being of residents.<sup>5</sup>

Premium pay means 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.<sup>6</sup>

The Interim Final Rule provides that any premium pay or grants provided should prioritize compensation of those lower income eligible workers that perform essential work.<sup>7</sup>

Premium pay must be entirely additive to a worker’s regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker’s normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID-19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.<sup>8</sup>

**The Treasury Department encourages local governments to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many months.<sup>9</sup>**

Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.<sup>10</sup>

Finally, a grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.<sup>11</sup>

If you have general questions about the Coronavirus State and Local Fiscal Recovery Funds, please email the U.S. Department of Treasury at [SLFRP@treasury.gov](mailto:SLFRP@treasury.gov) or call 844-529-9527.

The information contained here is not legal advice. It will be subject to change based on updates from the U.S. Department of the Treasury, and any recipients should confirm applicability to their specific situation.

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<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Treasury Guidance 45.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> Treasury Guidance 46.