Treasury Guidance for the Coronavirus State and Local Fiscal Recovery Funds

I've been asked to review the Department of the Treasury's guidance for the 2021 Federal Coronavirus State and Local Fiscal Recovery Funds. Below is a synopsis of the guidance.

Four broad categories can be funded:

1. Respond to the **public health emergency or its negative economic impacts**, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
2. Respond to workers performing essential work during the COVID-19 public health emergency by providing **premium pay to eligible workers**;
3. For the provisions of government services to the extent of the **reduction in revenue due to the COVID-19** public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency (FY 2019); and
4. To make necessary **investments in water, sewer, or broadband infrastructure**.

Two prohibitions: 1) depositing funds into any pension fund and 2) directly or indirectly offsetting a reduction in the net tax revenue resulting from a change in law, regulation or administrative action. *** On the depositing funds into a pension fund, Treasury has interpreted the language to mean lump sum payments to pension systems and not pension payments associated with current employees. An example of what is prohibited is if Metro decided to write a $350 million CERS check to pay off future liabilities. Normal pension or retirement payments associated with employees are eligible expenses just like all other payroll fees and taxes. *** The second prohibition is you cannot cut taxes or fees that support your General Fund over the lifespan of the grant (December 31, 2024).

1. (a) Public Health and (b) Economic Impacts

(a) Public Health

Criteria:

- Identify a need or negative impact of the COVID-19.
- Identify how the program, service, or other intervention addresses the identified need or impact.

- Expenses can include programs such as COVID mitigation and prevention, medical expenses, behavioral health care, public health and safety staff, and public health programs. Other allowable items include vaccination shots, contact tracing, enforcement, vaccination campaigns, capital investments in public facilities to meet pandemic operational needs such as hospitals, monitoring "long COVID" patients, monitoring variants, etc.
- Eligible uses to address disparities in public health outcomes. Treasury guidance states that a broader range of services and programs will be presumed to be responding to the public health emergency when provided in qualified census tracts (QCT).

- Those uses include funding community health workers to help community members access health services and services to address the social determinants of health.
- Funding public benefits navigators to assist community members with navigating and applying for available Federal, State and local public benefits or services.
- Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness.
- Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children.
- Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic.

b. Economic Impact

Criteria:

- Identify whether an economic harm exists.
- Whether this harm was caused or made worse by the public health emergency.

- Eligible uses:
  - Aid to impacted industries like tourism, travel and hospitality industries. It goes on to say that when considering providing aid to industries other than tourism, travel, and hospitality, Metro should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute.
  - Direct aid to households, small businesses, nonprofits, and impacted industries such as tourism, travel, and hospitality.
  - Direct assistance to households means food assistance, rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance; emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training.
  - Assistance to unemployed workers such as job training.
  - Payments towards the state's unemployment insurance trust fund.
  - Expenses to improve efficacy of economic relief programs such as data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.
  - Small businesses and non-profit loans or grants to mitigate financial hardship such as declines in revenues or impact of periods of business closure.
  - Rehiring governmental staff up to the pre-pandemic staffing level of Metro.

Below are specific types of services eligible when provided in a qualified census tract (QCT) or to families and individuals living in QCTs:

- Building stronger communities through investments in housing and neighborhoods.
  - Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
  - Affordable housing developments to increase supply of affordable and high-quality living units; and
  - Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents.

- Addressing educational disparities.
  - New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, and other Pre-K programs;
  - Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;
  - Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other extended learning and enrichment programs; and
  - Evidence-based practices to address the social, emotional, and mental health needs of students.

- Promoting healthy childhood environments.
  - New or expanded high-quality childcare to provide safe and supportive care for children;
  - Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, and child development; and
  - Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

While grant flexibility is given to meet the most pressing local needs, Treasury encourages recipients (Metro) to provide assistance to those households, businesses, and non-profits in communities most disproportionately impacted by the pandemic.

Ineligible expenses:

- No infrastructure projects. The only eligible infrastructure projects would be one’s that responded to a specific pandemic public health need (e.g. investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (e.g. affordable housing in a QCT). Those are the two examples that were included in the Treasury guidance.
- No rainy-day fund contributions.
- No payment of principal or interest on current or future debt (e.g. capital budget expenses).

- No payment to satisfy any obligation arising pursuant to a settlement agreement, judgement, consent decree, etc.

2. Premium Pay

This category is narrowly focused on workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors. They define essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. The following are crude summaries of the classification of workers.

- Staff at nursing homes, hospitals, home care, etc.
- 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.
- Social service and human services staff.

Ineligible employees for premium pay would include one's who performed telework from a residence.

The ARPA defines premium pay to mean an amount up to $13 per hour in addition to wages the worker otherwise receives, in an aggregate amount not to exceed $25,000 per eligible worker.

Funds should prioritize compensation of lower income eligible workers that perform essential work.

Premium pay cannot increase the employee's annual salary above approximately $73,800. No one can have their salary increase above 150% of their residing average annual wage for all occupations. Jefferson County's average annual wage for all occupations is $49,200. So, 150% of that is $73,800).

Premium pay must be entirely paid to the worker and may not be used to reduce or substitute for a worker's normal earnings.

Treasury encourages Metro 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.

Treasury requires enhanced reporting and public disclosure for grants to third-party employers. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract.

3. Revenue Loss

General revenue is defined as revenues collected by Metro and generated from its underlying economy that capture a range of different types of tax revenues. In calculating revenue, Metro should sum all revenue streams including intergovernmental transfers between State and local governments (excludes transfers with the Feds.)

Excludes revenues generated by utilities and insurance trusts (e.g. Water Company).

The baseline year is the most recent pre-pandemic fiscal year (FY 2019) as serves as the starting point for estimating revenue growth absent the pandemic.

For purposes of measuring revenue growth, Metro may use a growth adjustment rate of 4.1% per year or its average annual revenue growth, whichever is higher. That means FY 2019 serves as a baseline for projecting revenue growth of at least 4.1%, compounded year-over for the next five years. This growth adjustment rate provides recipients with a standardized growth adjustment when calculating revenue trends.

Governmental services or spending can include, but not limited to, maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and, the provisions of police, fire, and other public safety services.

Expenses associated with debt or refinancing debt are not eligible.

4. Investments in Infrastructure

Water and sewer infrastructure projects are all eligible for funding including privately-owned infrastructure. Guidance mentions improving drinking water infrastructure by building facilities, transmission, distribution, and storage systems as well as funding for replacing lead service lines.

Broadband infrastructure is designed to provide services that meet adequate speeds and are focused on providing service to unserved and underserved households/businesses. Unserved or underserved households/businesses are defined as those who do not have access to 25 Mbps download and 3 Mbps upload speeds. Eligible projects would install systems with a minimum download speed of 100 Mbps. This threshold is consistent with other federal broadband programs.

Other things:

It explicitly states that the consolidated local government receives the city and county portions of the funding (pages 97-98). * Metro will be required to submit quarterly Project and Expenditure reports that must include information on contracts and subawards over $50,000. Also required is an annual Recovery Plan Performance report that must be posted on the public-facing website of the recipient. * Nonentitlement units of local governments (NEUs), cities who generally have populations below 50,000, will be allocated money strictly based upon population through the state. The total allotment cannot exceed 75% of a NEUs most recent budget. They will annually report their expenditures. * This is the link to the proposed rule: https://public-inspection.federalregister.gov/2021-10283.pdf