

Instructions for FY 2022 Execution of American Rescue Plan Act of 2021 Amounts Included in Chapter 1 (2021 Special Session II)



Department of Planning and Budget

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Chapter 1, 2021 Special Session II - Overview

Chapter 1, 2021 Acts of Assembly, Special Session II, passed by the General Assembly on August 9, 2021, and signed by the Governor on August 10, 2021, contains the state appropriation required to execute various federal grants included in the American Rescue Plan Act of 2021 (ARPA). Chapter 1 amends Chapter 552, 2021 Acts of Assembly, Special Session I, by creating an additional Item in Central Appropriations (Item 479.20) where this appropriation is housed. Chapter 1 includes many agency specific provisions that are not covered here. Please read Chapter 1 carefully to ensure familiarity with these agency specific and other requirements. Item 479.20 is organized as follows regarding FY 2022 appropriations:

Paragraph B.1 and B.2 - Contains FY 2022 appropriation amounts for Virginia's share of the ARPA State and Local Fiscal Recovery Fund. Various subparagraphs set-out the agencies and the authorized use of these amounts.

Paragraph B.3 - Contains important provisions on the spending of State and Local Fiscal Recovery Fund amounts. Specifically, these provisions are:

3.a. Prior to initiating any program, service, or spending from the appropriations listed in paragraph 2. above, the responsible agency must ensure that its intended action qualifies for the use of the funds under the ARPA criteria to support health expenditures, to address negative economic impacts caused by the public health emergency, to provide premium pay for essential workers, or to invest in water, sewer, and broadband infrastructure as described in the Interim Final Rule or the guidance issued by the U.S. Department of Treasury. Agencies shall not rely on the provisions for replacing lost public sector revenue as a qualifying criteria without receiving prior written approval from the Governor.

b. Agencies must ensure compliance with all use, documentation, and reporting requirements established in state and federal guidelines and laws.

Paragraph B.5 - Contains provisions that deal with potential 2022-2024 allocations of the State and Local Fiscal Recovery Fund. These amounts must be submitted this Fall as decision packages to be considered for inclusion in the 2022-2024 biennial budget. Instructions for these items will be issued at a later date.

Paragraph C - Contains state appropriation for the Capital Projects Fund. All funds are being provided for broadband improvement projects to be managed by the Department of Housing and Community Development.

Paragraph D.1 - Contains FY 2022 appropriation for various other grants. The table in Paragraph D.1 includes appropriation totals by agency and specific Federal grants authorized in ARPA excluding Virginia's share of the State and Local Recovery Fund and the Capital Project Fund.

Paragraph D.4 - Contains important provisions on the appropriation of other grant amounts. Specifically, these provisions are:

4.a. Agencies are authorized to initiate spending in the second year from these appropriations in order to provide one-time services for purposes authorized and permitted under federal law and in accordance with the guidance issued by the U.S. Department of Treasury and other applicable federal agencies, or to execute requirements of federal law that must be initiated. No such spending shall be initiated for programs or services that create an ongoing commitment of state resources after the conclusion of the federal grant unless such services are required by federal law.

b. Prior to initiating any program, service, or spending from these appropriations, the responsible agency must provide written notification of its intended action to the Governor, the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee, and the Director of the Department of Planning and Budget. Such notice shall be provided no less than ten business days before an agency initiates services or incurs any costs associated with the grant. For purposes of this section, initiating a program includes any public announcement or proposal presented to constituent groups.

c. If an agency wishes to spend any amounts from these grants for purposes that create an ongoing commitment that must be maintained by state resources after the conclusion of the federal grant, it must receive prior approval and authorization of the General Assembly. Agencies must submit such proposals to the Department of Planning and Budget for consideration by the Governor and the General Assembly for the 2022-2024 biennial budget.

d. Agencies must ensure compliance with all use, documentation, and reporting requirements established in state and federal guidelines and laws.

Requesting Transfer of State and Local Fiscal Recovery Fund Amounts (Item 479.20, Paragraph B.2)

With a few exceptions, the Department of Planning and Budget will be transferring the State and Local Recovery Fund amounts for FY 2022 as included in Paragraph B.2 of Item 479.20 in bulk to applicable agencies. These transactions will be in fund detail 12110 for all agencies other than higher education institutions. For higher education institutions the fund detail will be 03210. These amounts will be transferred to agencies as unallotted appropriations. After DPB transfers these amounts from Item 479.20 to agency budgets, the Department of Accounts will move the applicable State and Local Recovery Fund cash to agencies. Agencies will not need to do anything to initiate this bulk transfer or move the cash involved.

Agencies will need to submit subsequent budget execution (BEX) transactions to request allotment of the funding needed for FY 2022 and to move the funds internally to the correct programs, service areas, and subobjects as applicable. The BEX transaction brief should detail which of the ARPA criteria applies to the proposed funding as required by paragraph B.3. In addition, agencies will be required to attach an electronic copy of a certification form to their BEX allotment requests.

This certification should be signed by the agency head and will indicate that the agency understands that these amounts are to be expended according to federal guidelines and the provisions of Chapter 1. In addition, the certification indicates the agency's agreement to follow reporting requirements established by the Department of Accounts in order to ensure the Commonwealth's compliance with federal reporting. BEX allotment and related requests will not be approved unless this certification is attached. Please see certification form instructions in Appendix A of this document and the DPB website for a copy of the certification template.

If your agency's request for allotment does not also involve moving amounts between programs with the agency, the BEX should be submitted as a type "L - Adjustment to Allotments" transaction. If in addition to the allotment action, your agency needs to move amounts internally between programs, the BEX should be submitted as a type "P - Appropriation Transfer NGF to NGF" transaction.

Paragraph B.3.a of Item 479.20 includes provisions that require additional consideration prior to the spending of these amounts. Specifically, Paragraph B.3.a indicates the following:

3.a. Prior to initiating any program, service, or spending from the appropriations listed in paragraph 2. above, the responsible agency must ensure that its intended action qualifies for the use of the funds under the ARPA criteria to support health expenditures, to address negative economic impacts caused by the public health emergency, to provide premium pay for essential workers, or to invest in water, sewer, and broadband infrastructure as described in the Interim Final Rule or the guidance issued by the U.S.

Department of Treasury. Agencies shall not rely on the provisions for replacing lost public sector revenue as a qualifying criteria without receiving prior written approval from the Governor.

If you are unsure if your agency's share of these amounts meet the criteria as listed in the first portion of Paragraph B.3.a, contact your DPB Budget Analyst. If your request for allotment is for any funds that would be considered eligible only under the ARPA provisions for replacing lost public sector revenue, contact your DPB Budget Analyst for additional guidance.

State and Local Fiscal Recovery Fund Federal Guidance

If you have not already done so, please familiarize yourself with the federal guidance published on the U.S. Treasury website on the use of State and Local Recovery Fund amounts. Links to various components of this guidance is are located at:

[Coronavirus State and Local Fiscal Recovery Funds main page](#)

[State and Local Fiscal Recovery Fund Interim Final Rule](#)

[State and Local Fiscal Recovery Fund Frequently Asked Questions](#)

[State and Local Fiscal Recovery Fund Compliance and Reporting Guidance](#)

State and Local Fiscal Recovery Fund Reporting

Reporting for the Coronavirus State and Local Fiscal Recovery Funds will be coordinated through the Department of Accounts, and further communications will be forthcoming.

Requesting Transfer of Other Grant Amounts (Item 479.20, Paragraph D.1)

The amounts listed in the table in Paragraph D.1 are for various specific grants included in ARPA. Unlike the amounts for the State and Local Recovery Fund, DPB will not be transferring the appropriation for these amounts in mass. Instead, agencies will be required to submit individual “P - Appropriation Transfer NGF to NGF” transactions in the Performance Budgeting system to request the appropriation transfer.

Prior to requesting, it is the agency’s responsibility to ensure that the proper fund details and other accounts have been set-up in the Cardinal system by the Department of Accounts. In addition, agency FY 2022 requests for these amounts are further governed by Paragraph D.4 of Item 479.20 as follows:

- 4.a. Agencies are authorized to initiate spending in the second year from these appropriations in order to provide one-time services for purposes authorized and permitted under federal law and in accordance with the guidance issued by the U.S. Department of Treasury and other applicable federal agencies, or to execute requirements of federal law that must be initiated. No such spending shall be initiated for programs or services that create an ongoing commitment of state resources after the conclusion of the federal grant unless such services are required by federal law.*
- b. Prior to initiating any program, service, or spending from these appropriations, the responsible agency must provide written notification of its intended action to the Governor, the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee, and the Director of the Department of Planning and Budget. Such notice shall be provided no less than ten business days before an agency initiates services or incurs any costs associated with the grant. For purposes of this section, initiating a program includes any public announcement or proposal presented to constituent groups.*
- c. If an agency wishes to spend any amounts from these grants for purposes that create an ongoing commitment that must be maintained by state resources after the conclusion of the federal grant, it must receive prior approval and authorization of the General Assembly. Agencies must submit such proposals to the Department of Planning and Budget for consideration by the Governor and the General Assembly for the 2022-2024 biennial budget.*
- d. Agencies must ensure compliance with all use, documentation, and reporting requirements established in state and federal guidelines and laws.*

Agencies should note that these provisions limit the spending of these amounts to one-time purposes only and require written notification to the Governor, the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee, and the Director of the Department of Planning and Budget no less than ten business days prior to initiating spending or incurring costs. Prior to initiating the ten-day notice of its intent to spend these funds, an agency must coordinate with its respective cabinet secretary to ensure that these requirements have been met and to discuss the

agency's plan that will be submitted. No less than five business days prior to initiating the required ten-day notice, the agency and its respective cabinet secretary shall submit a BEX adjustment to transfer the appropriation to the agency and attach a draft of the plan outlining the proposed spending of the federal grant to the Department of Planning and Budget for review. Agencies also should attach a draft copy of the notification documentation to the BEX request. Five business days after submission of the BEX, the agency may submit the ten-day notification unless further guidance is provided. DPB will not process the transfer until after the ten business days have elapsed.

Please also note that if agencies plan to spend these funds for purposes that create an ongoing commitment, a budget request to that effect must be submitted later this Fall. Instructions for making such requests will be issued at a later date.

Appendix A - State and Local Fiscal Recovery Funds

Certification Form Instructions

The State and Local Fiscal Recover Certification form can be downloaded from the DPB website in Word document format. The certification form is a Word form and as such you have multiple options for creating the form for your agency head's signature.

Regardless of the option used for generating the file for signature (see list below) the Word Form contains fields that must be completed prior to signature.

The name of your agency needs to be entered at the very top of the first page. Other references to your agency's name throughout the form will auto-complete after filling out this first instance. After entering the agency name at the top of the first page, click the "tab" button to advance to the next form field which is on the last page. On the last page of the form, complete your agency head's name and title, and signature date. An example of this form can be found on the next page.

Options for generating the certification form for signature:

Option 1:

- A. Complete the form fields in the Word Form (Agency Title, Agency Head Name, Agency Head Title, and optionally, the signature date).
- B. Print the form in hard copy for your agency head's signature.
- C. After your agency head signs the form, scan it in and attach the electronic copy to the BEX allotment request.

Option 2:

- A. Complete the form fields in the Word Form (Agency Title, Agency Head Name, Agency Head Title, and optionally, the signature date).
- B. Use the Picture control on the Signature Block of the Word Form to insert an image of the Agency Head's signature.
- C. Save the Word Form and attach it (or a PDF version of it) to the BEX allotment request.

Option 3:

- A. Complete the form fields in the Word Form (Agency Title, Agency Head Name, Agency Head Title, and optionally, the signature date).
- B. Save the Word Form without signature as a PDF file.
- C. Open the PDF file in Adobe Acrobat Reader and use the "Fill and Sign" tools to add an electronic signature to the file.
- D. Attach a copy of the PDF file to the BEX allotment request.

Note: Provided for example only - download a standalone copy of this form from the DPB website where these instructions are located. Do not use the example below as your certification form.

**CERTIFICATION FOR USE OF STATE AND LOCAL FISCAL RECOVERY FUNDS
FOR**

ENTER AGENCY NAME AND CLICK TAB KEY

As the head of ENTER AGENCY NAME, I certify that:

1. On behalf of ENTER AGENCY NAME, I am requesting the allotment of funding from the Commonwealth of Virginia's share of the State and Local Fiscal Recovery Funds pursuant to section 602 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (Mar. 11, 2021) and appropriated in Item 479.20, Chapter 1, 2021 Acts of Assembly, Special Session II.
2. I understand that the Commonwealth of Virginia will rely on this certification as a material representation for distributing State and Local Fiscal Recovery funds to ENTER AGENCY NAME.
3. I understand that it is my responsibility to ensure that ENTER AGENCY NAME's uses of the State and Local Fiscal Recovery funds provided under section 602 of the Social Security Act will be used only to cover those costs that:
 - a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); or otherwise adhere to official federal guidance issued or that will be issued regarding what constitutes an eligible expenditure; and
 - b. fulfill the purposes as appropriated by the General Assembly in Paragraphs B.1 and B.2 of Item 479.20, Chapter 1, 2021 Acts of Assembly, Special Session II.
4. I understand that State and Local Fiscal Recovery funds provided pursuant to this certification are for necessary obligations incurred within the statutory period between March 3, 2021, and December 31, 2024, and must be expended to cover such obligations no later than December 31, 2026, and that any funds that are not obligated on or before December 31, 2024, by ENTER AGENCY NAME or its grantee(s), must be returned to Commonwealth of Virginia no later than December 31, 2024, and any obligated amounts not expended by December 31, 2026, shall be transferred out of the agency and returned to the U.S. Department of Treasury.
5. I understand that ENTER AGENCY NAME will not receive continued funding beyond December 31, 2024, from State and Local Recovery Funds and ENTER AGENCY NAME may not commit to any such expenditures, pay any related expenses, or provide any such services from within existing resources not otherwise designated for such expenditures unless authorized by the General Assembly and the Governor in a future appropriation act. I further understand that after the State and Local Recovery funds are expended, the program and related services will end at that time unless other fund sources have been appropriated for those purposes.
6. I understand that expenditure of the State and Local Fiscal Recovery funds provided pursuant to this certification must adhere to official federal guidance issued or that will be issued regarding what constitutes a necessary and qualifying expenditure. Any State and Local Fiscal Recovery funds that cannot be expended by ENTER AGENCY NAME or its grantee(s) in a manner that adheres to official federal guidance shall be returned to the Commonwealth of Virginia so that it may be

reprogrammed or returned to the federal government. I understand that any funds spent in violation of federal guidance may be subject to repayment by ENTER AGENCY NAME.

7. I understand that ENTER AGENCY NAME is responsible for retaining documentation of all uses of the State and Local Fiscal Recovery funds, including but not limited to contracts, invoices and/or sales receipts, and/or grant award documents. Such documentation shall be produced upon request.
8. I understand that ENTER AGENCY NAME is responsible for maintaining proper accounting records to segregate these State and Local Fiscal Recovery expenditures from those supported by other fund sources and that all such records will be subject to audit.
9. I agree to follow and fully participate in reporting requirements issued by the Department of Accounts for the purposes of ensuring the Commonwealths' compliance with federal reporting guidance for State and Local Fiscal Recovery funds.
10. I understand that State and Local Fiscal Recovery funds provided pursuant to this certification must be used for a qualifying purpose as stated in federal law and guidance and ENTER AGENCY NAME may not identify this qualifying category as revenue replacement unless prior permission has been granted by the Governor pursuant to Paragraph B.3.a of Chapter 1, 2021 Acts of Assembly, Special Session II.
11. I understand that any State and Local Fiscal Recovery funds received pursuant to this certification cannot be used for expenditures for which ENTER AGENCY NAME has received from any other emergency COVID-19 supplemental funding (whether state, federal, or private in nature) for that same expense nor may State and Local Fiscal Recovery funds be used for purposes of matching other federal funds unless specifically authorized by federal statute, regulation, or guideline.

I certify that I have read the above certifications and my statements contained herein are true and correct to the best of my knowledge.

Agency Head Name: Enter Agency Head Name

Agency Head Title: Enter Agency Head Title

Signature:

Date: