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June 28th, 2021

The Honorable Janet Yellen, Ph.D
Secretary, U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C., 20220

Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments
Submitted By: The United States Conference of Mayors
Docket (TREAS-DO-2021-0008)

Secretary Yellen:

This letter serves as The United States Conference of Mayors' (USCM) initial comments to the U.S. Department of Treasury's (Treasury) Interim Final rule--Coronavirus State and Local Fiscal Recovery Funds (Docket (TREAS-DO-2021-0008)).

USCM applauds Treasury for its expeditious determination and distribution of allocations to Recipients under the CSLFRF program of the American Rescue Plan Act (ARPA) and for establishing an office within Treasury to oversee the program and its implementation.

Cities are committed to the critical and accountable implementation of the CSLFRF, which directs funding to "metropolitan cities" and nonentitlement jurisdictions (NEUs). We look forward to working with the Treasury to achieve this end, given the magnitude of negative impacts of the Coronavirus on the health of the American people and their economic well-being.

The United States Conference of Mayors is the official non-partisan organization of cities with populations of 30,000 or more. There are over 1,400 such cities in the country today. Each city is represented in the Conference by its chief elected official, the mayor.

Docket (TREAS-DO-2021-0008)

Since the onset of the COVID-19 Public Health Emergency, the United States Conference of Mayors has worked directly with cities across the nation to help them respond and ultimately recover from the COVID-19 pandemic. The Conference has played an integral role in helping cities access federal resources available to them, including the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF), made possible through the American Rescue Plan Act. As such, the U.S. Conference of Mayors is currently assisting mayors and their staff to navigate the guidance provided in the CSLFRF Interim Final Rule. The Conference is also providing public comment on the U.S. Department of the Treasury's Interim Final Rule to help it maximize the effectiveness of the CSLFRF, as the program's federal regulations are finalized.

We have provided our responses to the questions that appeared in the IFR. Below is a summary of our main responses:

1) We agree and support the methodology for calculating revenue loss 603(c)(1)(c) contained in the IFR, but disagree that repayment of short-term operational debt should be prohibited as an eligible use of funds. Short-term operational debt is, in fact, used as a tool for managing and bridging shortfalls in general fund revenues, the basis for calculating such revenue loss. In addition, retiring such debt issued before March 3, 2021, but after January 27, 2020, should be allowed, given that such debt was applied to government services during the public health emergency.

2) We agree with the uses of funds as articulated in the IFR in responding to COVID 19 603(c)1)(A), and to the presumptions made in the IFR for Qualified Census Tracts (QCTs) and other designated geographical areas. However, we think those uses should be significantly expanded beyond direct assistance to individuals to the broader context of community-based responses that benefit the health of populations impacted by COVID-19. For example, enhancing and expanding the "built environment" in QCTs to promote physical activity that combats obesity directly addresses underlying health conditions that impact an individual's vulnerability to COVID-19; development of grocery stores, farmer's markets, and community gardens addresses food deserts and promotes healthier diets, with similar health benefits; development of community and educational centers for social activities combats individual isolation, builds social cohesion, and improves likely participation in and acceptance of public health initiatives, such as vaccinations.

3) Similarly, we agree with the uses of funds articulated in the IFR for responses to the negative economic impacts of COVID 603(c)(1)(A), and the presumptions included for QCTs; however, we believe such presumptions should be extended to include the enhancement and expansion of the "built environment" that responds to negative economic impacts within a defined community/neighborhood or QCT. Such eligible activities should include those listed within the Housing and Community Development Act of 1974, including demolition, blight reduction, acquisition of property, and community infrastructure. Additional activities should include brownfield cleanup, and construction of

community, educational, and public safety facilities to improve access to career development, workforce training, job search programs, and other critical services.[1]

4) The IFR should presume that public health and safety personnel, who primarily serve QCTs, or other geographical areas of low and moderate-income populations, are responding to COVID-19 given the health, income, and safety disparities, previously referenced in the IFR.

5) Use of funds should include the redevelopment or sustaining of existing business districts negatively impacted by COVID, to promote and/or maintain viable business environments and ecosystems and to retain and create jobs. Funds could be used for the redevelopment of such districts through assistance to new businesses, including their start up, and existing businesses for the purpose of expansion; the re-purposing and renovation of vacant business district buildings or commercial spaces; or the provision of rental assistance, grants, or loans to businesses locating in such distressed districts. Such activities should be presumed to be eligible in QCTs. Prohibitions from assistance to new businesses in the IFR for these purposes should be revised.

6) A recipient's grant, prior to December 31, 2024, to an Economic Development Corporation, Community Development Corporation, or Land Bank used for eligible activities should be considered obligated funds. The terms of initial loans made by a CDC, EDC or Land Bank prior to December 31, 2024, should not exceed December 31, 2034. Interest earned and repayment of principal from the loan should not be remitted to Treasury, if such funds are re-lent within a QCT, within Recipient jurisdictions that have yet to regain their pre-pandemic levels of employment, (adjusted annually by multiplying employment levels of the Recipient by the national rate of employment growth), or distressed business districts.

<u>Responses to Questions Asked in the Interim Final Rule</u>

II. Eligible Uses

A. Public Health and Economic Impacts

1. Responding to COVID-19

<u>Question 1:</u> **Are there other types of services or costs that Treasury should consider as eligible uses to respond to the public health impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.**

[1] *Housing and Community Development Act of 1974*. HUD Exchange. (1999, January). https://www.hudexchange.info/resource/2184/housing-and-community-development-hcd-act-of-1974/.

A. Eligible Uses to Address Disparities in Public Health Outcomes

Issue Statement: The IFR states **(Page 26795)**: " The pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served."

Page 26791 of the IFR States: "Given the exacerbation of health disparities during the pandemic and the role of pre-existing social vulnerabilities in driving these disparate outcomes, services to address health disparities are presumed to be responsive to the public health impacts of the pandemic. Specifically, recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resources and public assistance programs **and build healthier environments (emphasis added).**"

The IFR acknowledges addressing "pre-existing social vulnerabilities in driving disparate outcomes" and rightly presumes "services to address health disparities" as eligible activities.

Why this is a concern: The examples given in the IFR are far too restrictive and narrow to adequately address a more holistic view of public health and health outcomes. For example, the IFR rightly references "services …..that build healthier environments," but is limiting in its examples of eligible activities. We propose additional eligible activities to address the objective to "build healthier environments."

A healthier environment goes beyond the four walls of a social worker or health care provider's office, or even the four walls of a house. A healthy environment extends into the quality of the neighborhood and the surrounding built environment that encourages increased social and healthy activities.[2]

Obesity, for example, is a growing health concern[3] and exacerbates health disparities that in turn contribute to the severity of COVID-19, and increases vulnerability to the disease.[4] Addressing obesity extends into the community and its surroundings, and should provide opportunities for residents to participate in more active, healthy activities. For example, the Center for Disease Control's (CDC) Built Environment and Health Initiative (also known as Healthy Community Design Initiative) states that "community and street scale design interventions that improve walking and bicycling infrastructure lead to increases in physical activity. This could reduce the estimated annual medical cost of obesity ($147 billion in 2008 U.S. dollars).[5]

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[2] Office of the Surgeon General (US). The Surgeon General's Call to Action to Promote Healthy Homes. Rockville (MD): Office of the Surgeon General (US); 2009. 1, The Need for Healthy Homes. Available from: https://www.ncbi.nlm.nih.gov/books/NBK44196/

[3] *Combined Built Environment Features Help Communities Get Active*. The Guide to Community Preventive Services (The Community Guide). (2018, August 14). https://www.thecommunityguide.org/content/combined-built-environment-features-help-communities-get-active.

[4] Centers for Disease Control and Prevention. (2021, March 11). *Body Mass Index and Risk for COVID-19–Related Hospitalization, Intensive Care Unit Admission, Invasive Mechanical Ventilation, and Death - United States, March–December 2020*. Centers for Disease Control and Prevention. https://www.cdc.gov/mmwr/volumes/70/wr/mm7010e4.htm.

[5] CDC. (n.d.). Data on Healthy Community Design. Department of Health and Human Services. Data on Healthy Community Design.

It is clear that CDC understands the importance of the built environment in fighting and preventing obesity and its disparate outcomes. For example, low-income communities are less likely to have sidewalks, sidewalk lighting, or marked crosswalks.[6] The Final Rule should, therefore, include a presumption that projects in QCTs that increase neighborhood residents' walkability or physical activity by improving the built environment are eligible uses of funds, including but not limited to street scale design, sidewalks, bike paths, recreational facilities (especially for youth), and parks.

Eligible uses should also extend to building healthier environments as they relate to the availability of and access to healthier foods. Food deserts are well documented as a cause of unhealthy diets and poor health outcomes.[7] Therefore, assistance to grocery store development and to projects that develop and promote urban and community gardening and farmer's markets in QCTs should be eligible activities as they respond directly to disparate health outcomes and promote the overall health of the community.[8]

The COVID pandemic also revealed social and community vulnerabilities that exacerbated personal isolation and hindered community response, such as vaccinations, to the pandemic. For example higher poverty rates as a social vulnerability are associated with lower vaccination rates.[9] Furthermore, the lack of adequate access to places and facilities that provide trustworthy community interaction, social services and social cohesion further compound the negative impacts of COVID-19 in communities by lowering knowledge and acceptance of public health initiatives. This includes vaccinations and preventive health-related practices, which exacerbate pre-existing disparate health impacts. Therefore, development of community and/or educational facilities that provide places for such activities as community meetings, health education activities, youth activities, access to community-based programs, involvement in neighborhood activities, youth health and career counseling services, or job training should be a presumed eligible use of funds in QCTs.

New Recommended Language:

Add to the non-exclusive list of eligible use of funds under **"Eligible Uses to Address Disparities in Public Health Outcomes" (Page 26791)** the following:

- *Development, including construction, of grocery stores, neighborhood gardens, farmers' markets and other projects that increase access to healthy foods.*

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[6] Bridging the Gap. (2012, March). *Income Disparities in Street Features that Encourage Walking*. Bridging the Gap Research. https://www.cityofeastlansing.com/DocumentCenter/View/1583/Income-Disparities-in-Street-Features-That-Encourage-Walking-PDF.

[7] Kelli HM, Kim JH, Samman Tahhan A, Liu C, Ko YA, Hammadah M, Sullivan S, Sandesara P, Alkhoder AA, Choudhary FK, Gafeer MM, Patel K, Qadir S, Lewis TT, Vaccarino V, Sperling LS, Quyyumi AA. Living in Food Deserts and Adverse Cardiovascular Outcomes in Patients With Cardiovascular Disease. J Am Heart Assoc. 2019 Feb 19;8(4):e010694. doi: 10.1161/JAHA.118.010694. PMID: 30741595; PMCID: PMC6405658.

[8] Beaulac J, Kristjansson E, Cummins S. A systematic review of food deserts, 1966-2007. Prev Chronic Dis 2009;6(3):A105. http://www.cdc.gov/pcd/issues/2009/jul/08_0163.htm. Accessed [*2021*].

[9] Orgera, K., & Tolbert, J. (2021, May 12). *Vaccination is Local: COVID-19 Vaccination Rates Vary by County and Key Characteristics*. KFF. https://www.kff.org/coronavirus-covid-19/issue-brief/vaccination-is-local-covid-19-vaccination-rates-vary-by-county-and-key-characteristics/.

- *Development of Neighborhood infrastructure, including construction, such as sidewalks, bike and running paths, safe streets, and recreational facilities, to increase walkability, physical activity, exercise, and safe mobility.*

- *Development of Neighborhood community centers, educational centers, or public health and safety facilities that improve access to service delivery, including construction, to increase community education and promote supportive social networks; career counseling; access to social services, skills training, health and safety service delivery; and other healthy community-building activities.*

<u>Question 2:</u> **The interim final rule permits coverage of payroll and benefits costs of public health and safety staff primarily dedicated to COVID-19 response, as well as rehiring of public sector staff up to pre-pandemic levels. For how long should these measures remain in place? What other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID-19 response, and therefore reimbursable, in an easily administrable manner?**

A. Timeline for Measures Remaining in Place

Issue Statement: The coverage of payroll and benefits costs for Public health and safety staff primarily dedicated to COVID-19 response should remain through the covered period, December 31, 2024. Due to the disproportionate health and safety impacts of COVID, it is clear the need for response to COVID 19 will extend at least to this date, especially for low and moderate-income populations. This is true because of the persistent and long-lasting mental health impacts of COVID, the increase of substance abuse and the need for extended treatment, the long-lasting impacts of learning loss, increased crime levels and the need for long-term crime prevention programs, the resistance of a significant sector of the population that is hesitant or refuses to be vaccinated, the unknown health impacts of future variants of COVID[10], and the fact that other nations have vaccination rates that are far below the U.S. and therefore represent future threats.

If the pandemic has taught us anything, it is that the ongoing public response and community involvement in addressing the long-term negative health, safety, and economic impacts of COVID are essential, given that a significant sector of the population still refuses to acknowledge or understand the seriousness of the disease, its impacts, and the need for individual and community responses to it.

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[10] Centers for Disease Control and Prevention. (2021, June). *About Variants of the Virus that Causes COVID-19*. Centers for Disease Control and Prevention. https://www.cdc.gov/coronavirus/2019-ncov/variants/variant.html.

Current IFR Language:

The IFR States under "Public Health and Safety Staff" (Page 26791): "Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID–19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on the COVID–19 response. Recipients need not routinely track staff hours."

Recommendation:

The IFR should also presume that Public health and safety personnel, who primarily serve QCTs, or other geographical areas of low and moderate-income populations, are responding to COVID-19 given the health disparities, income disparities, health outcomes, and safety disparities previously referenced in the IFR.

This could easily be administered by taking the percentage of low and moderate-income people served by a public health or safety department, unit or employee thereof, and determining that it meets the "primary" threshold of over 50% of total people served, or in the case of geographic areas served, those individuals or units that primarily serve QCTs.

II. Eligible Uses
B. Public Health and Economic Impacts
2. Responding to Negative Economic Impacts

<u>Question 3:</u> **The interim final rule permits rehiring of public sector staff up to the government's pre-pandemic staffing level, which is measured based on employment as of January 27, 2020. Does this approach adequately measure the pre-pandemic staffing level in a manner that is both accurate and easily administrable? Why or why not?**

Answer: The pre-pandemic staffing level should include those employment billets as of January 27,2020, that are filled, budgeted, authorized, in the process of being filled, or temporarily unfilled due to hiring freezes or equivalent action. For example, employment positions that are funded in the city budget at the beginning of the fiscal year but are vacant on January 27, 2020 due to retirement, rehiring processes, training programs or other requirements would be included.

<u>Question 5:</u> **Are there other types of services or costs that Treasury should consider as eligible uses to respond to the negative economic impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.**

A. (Also see answers to Questions 8 and 9 below)

B. Building Stronger Communities through Investment in Housing and Neighborhoods

Issue Statement: The IFR states **(on page 26795)** that: “Treasury will presume that certain types of services are eligible uses when provided in a QCT, to families and individuals living in QCTs or when these services are provided by Tribal governments. Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic.”

The first category of such services is listed on page 26795 as “Building Stronger Communities through Investments in Housing **and Neighborhoods** (emphasis added). The IFR states that “The economic impacts of

COVID-19 have likely been most acute in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity.”

Why this is a concern: While we support the IFR focus on housing development and services, the reality is that building stronger and healthier communities and economic opportunity does not rest with housing development alone. This is made clear through the following statement by the Surgeon General of the United States in 2008.

“The concept of healthy homes extends beyond the four walls of a dwelling to its surroundings--to the land immediately around the house, to adjacent structures and amenities (such as outbuildings, trees, and recreational equipment), and to the neighborhood setting. A house does not exist in isolation.”[11] The Surgeon General.

The Surgeon General’s reference to a “neighborhood setting” can be viewed as a reference to the negative effects on residents of neighborhood blight in the form of vacant homes, abandoned buildings, and vacant land, which leads to lower literacy slopes for pre-K children,[12] violence, higher rates of chronic illness, stunted brain and physical development in children, retreat into unhealthy eating and exercise habits, and the breakdown of social networks and capital.[13]

[11] Office of the Surgeon General (US). The Surgeon General's Call to Action to Promote Healthy Homes. Rockville (MD): Office of the Surgeon General (US); 2009. 1, The Need for Healthy Homes. Available from: https://www.ncbi.nlm.nih.gov/books/NBK44196/

[12] Coulton, Claudia, Robert L. Fischer, Francisca Garcia-Cobian Richter, Seok-Joo Kim, and Youngmin Cho. 2016. “Housing Crisis Leaves Lasting Imprint on Children in Cleveland.” How Housing Matters Brief. Chicago, IL: MacArthur Foundation.

[13] Branas, Charles C., David Rubin, and Wensheng Guo. 2012. “Vacant Properties and Violence in Neighborhoods.” *International Scholarly Research Network, Public Health*: 1–23.

Furthermore, boarded up housing that has yet to be demolished has been associated with sexually transmitted diseases (e.g. gonorrhea), premature mortality, diabetes, homicide, and suicide.[14] Abandoned property and land also occurs in the form of polluted brownfield sites that often dot the low-income neighborhoods where manufacturing facilities once stood and provided economic opportunity within the neighborhood. Their redevelopment would return economic opportunity to these same neighborhoods that have suffered further from disinvestment.

In short, healthy housing and strong neighborhoods are interdependent and both are needed to provide healthy and strong communities essential to address health disparities, improve health outcomes and increase economic opportunity among those who have been disproportionately impacted by COVID.

New Recommended Language:

"Treasury will presume that certain types of services are eligible uses when provided in a QCT, to families and individuals living in QCTs or when these services are provided by Tribal governments. Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. Eligible uses include building stronger communities through Investments in housing and neighborhoods as well as community development activities to address neighborhood blight; demolition of abandoned and vacant properties; repurposing and redevelopment of vacant land, including infrastructure improvements; rehabilitation of existing properties; brownfield redevelopment, including assistance to businesses that locate on remediated brownfield sites; development and modernization of recreational facilities, parks and green space; development, modernization and redesign of streets including the promotion of pedestrian safety; assistance to local businesses; modernization of neighborhood business districts, and amenities that promote safe and vibrant neighborhood districts."

C. Responding to Diminution of Business Districts and the Business Environment

Issue Statement: It is clear that responding to the negative economic impacts of COVID-19 under 603(c)(1)(A) is an eligible use of funds. The statute provides a non-exclusive list of entities or sectors that are eligible to receive funds if they demonstrate negative economic impacts: "including households, businesses, non-profits and the travel and tourism sectors." Recipients should, therefore, be able to respond to a well-defined negative economic impact, including those that are not listed directly in the statute.

The IFR acknowledges in principle that a defined geographic area could qualify as being negatively impacted. The statute also clearly states that businesses are eligible to receive assistance. Therefore, the final rule should allow a geographically designated business district, defined as a group of businesses, and its existing

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[14] Cohen, Deborah A., Karen Mason, Ariane Bedimo, Richard Scribner, Victoria Basok, and Thomas A. Farley. 2003. "Neighborhood Physical Conditions and Health." *American Journal of Public Health* 93 (3): 467–71.

businesses to be eligible for assistance, assuming the business districts can demonstrate such impact by using criteria such as, but not limited to, higher vacancy rates or business closures compared to pre-pandemic levels, employment loss to the district due to work-from-home practices, higher rates of vacancies or closures than the national average, or whose growth is needed to provide employment opportunities to QCTs or populations of high unemployment. For example, populations, businesses, and cities may have suffered negative economic impacts from business districts that have been negatively impacted by closed businesses or businesses that have experienced serious reductions in revenues.

Clearly, businesses that have lost revenues and employees may be assisted directly due to the negative impact on the individual businesses themselves. But cities with business districts that have faced business closures or a general decline in the business environment due to workers who have vacated the business district (in part as a result of unemployment, work-from-home practices, or public health closures), will find it difficult to re-populate or attract businesses to the District without assistance and incentives directed to new business formation, existing business expansion, or business re-openings. Therefore, rebuilding or reconstituting business districts that have been negatively impacted by losing businesses, or having significant rates of vacancies, should be an eligible expense, as it is a response to a negative economic impact.

Without vibrant business districts that create economic opportunities, create jobs, reduce poverty rates, and support community-based services and civic institutions, the health outcomes of residents within that community are more likely to suffer and be disproportionate.

New Recommended Language:

State, Local, and Tribal Governments may also use funds toward the redevelopment or sustaining of existing business districts to promote a viable and vibrant business environment and ecosystem. Funds may be used for the redevelopment of such districts through assistance to new businesses and existing businesses for the purpose of expansion; the re-purposing and renovation of vacant business district buildings or commercial spaces; or the provision of rent assistance, grants, or loans to businesses to locate in districts that have been negatively impacted. Such activities are presumed to be eligible in QCTs, other business districts with vacancy rates above pre-pandemic levels (as of January 27, 2020), or citywide for cities with unemployment rates above the national average, documented business loss above pre-pandemic levels, commercial vacancy rates above pre-pandemic levels or the national average, or jurisdictions negatively impacted by work-from-home practices. Assistance to new businesses development located in any one of the above areas is presumed an eligible use of funds.

D. Implementation through Economic Development Corporations, Community Development Corporations, or Land Banks

Issue Statement: New business development, assistance to existing businesses for retention of jobs or expansion, and land acquisition and assembly for housing and business development, are often carried out within cities by Economic/ Community Development Corporations and such entities as Land Banks. This assistance is frequently given in the form of short or long-term loans at reduced interest rates. Proceeds from the repayment of the loans are then re-lent to other businesses for the same purpose, or for additional acquisition of land. The term of loans at times will extend beyond the December 31, 2024 deadline in order to provide businesses with necessary payback provisions and time to implement the expansion or "start up" of the new enterprise. The IFR should allow for such extended terms ending no later than December 31, 2034, given the longer lead time of business development activities and the uncertainty of business markets in QCTs and business districts negatively impacted.

Funds provided by the Recipient to the CDC or EDC by December 31, 2024 should be considered obligated, provided the funds are in turn used for eligible projects within QCTs and other determined geographical areas. Proceeds from the re-paid loans should not be remitted to Treasury, as long as they are used in QCTs or areas meeting the criteria articulated above.

New Recommended Language:

Under the "Eligible Uses" section on Page 26793, the following language should be included:

A Recipient's grant, prior to December 31, 2024, to an Economic Development Corporation, Community Development Corporation, or Land Bank to be used for eligible use of funds under the Final Rule shall be considered expended funds. The terms of initial loans made by a CDC, EDC or Land Bank prior to December 31, 2024, shall not exceed December 31, 2034. Interest earned and repayment of principal from the loan shall not be remitted to Treasury, if such funds are relent in a QCT, within jurisdictions that have yet to regain their pre-pandemic levels of employment, (adjusted annually by multiplying employment levels by the national rate of employment growth.), or distressed business districts with higher than national average vacancy rates. Eligible costs include a loan-loss reserve up to 10%.

E. Revision of Language to Further Allow Job Creation and Business Development

Issue Statement: While there is a substantial amount of much-needed federal assistance available to existing businesses that have been negatively impacted, the IFR seems not to allow assistance to 1) new business formation by those who have lost their business and want to start up a new enterprise, 2) existing businesses that need assistance to expand and therefore provide new job opportunities, and 3) start up companies that also provide additional jobs to the local economy. Responding to the negative economic impacts of COVID, such as high rates of unemployment or lost jobs, need not be directed solely to the entity or business that lost the jobs. An allowable response should also include creating jobs to provide economic opportunity to those who lost jobs. Therefore, assistance to new business formation should be an eligible use of funds.

There are far fewer federal opportunities and resources for individuals who are interested in starting new businesses post the COVID-19 Pandemic. Many business communities and local downtown areas have been devastated, especially among no or slow-growth cities. Being able to use fiscal recovery funds to help create new businesses would enormously benefit local economies and create new jobs. However, as the IFR language is currently written in this section, on page 26794, new businesses would not be eligible to receive fiscal recovery funds because they do not exist yet.

Current IFR Language (on Page 26794) States:

"**While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.** In addition, the eligible use must ''respond to'' the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Where there has been a negative economic impact resulting from the public health emergency, States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact. Sections 602(c)(1)(A) and 603(c)(1)(A) describe several types of uses that would be eligible under this category, including assistance to households, small businesses, and nonprofits and aid to impacted industries such as tourism, travel, and hospitality.

New Recommended Language:

"While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category, unless such assistance occurred in a QCT, led to the creation or retention of jobs, or resulted in an improved business environment in a distressed business district. Therefore, eligible use of fiscal relief funds may include assisting in the creation and promotion of new businesses and business districts in order to promote economic growth and job creation."

F. Assisting the Unemployed and Minorities in Business Expansion and New Business Development

Issue Statement: Treasury should particularly consider allowing recipients to use funds to foster the development of minority and women-owned business. Minority and women-owned businesses were particularly impacted by the COVID-19 Pandemic. In order to create new jobs for unemployed workers, particularly within underserved and underrepresented communities, it is critical that new businesses are created within these communities. There are two primary ways that we can provide assistance to unemployed workers, particularly those in underserved and underrepresented communities: One is to expand existing businesses, and the second is to create new businesses – both with the purpose of creating jobs. Supporting minority-owned businesses is an effective strategy for reducing minority unemployment because those businesses are more likely to hire people of color.[15] Therefore, we recommend that the final rule of the State and Local Fiscal Recovery Fund Program include language to this effect.

Current IFR Language: The IFR Currently Reads (Page 26822): "(4) Assistance to unemployed workers. Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work."

New Additional Recommended Language:

(Page 26822)*: "Assistance to unemployed workers. Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work. Funds may also be used to help promote the expansion of existing businesses, or to create new businesses, especially those owned by minorities in underserved communities, as a means of creating new jobs for unemployed workers.*

G. Construction of New Facilities to Increase Access to Critical Services

Issue Statement: In the context of assistance to unemployed workers, especially in QCTs, many cities lack the physical location or facilities within which to provide a broad range of services to the unemployed, including but not limited to: job counseling, job and skills training, assistance in the application of governmental services, mental health counseling, and other supportive services.

Access to such services, where lacking, can directly impact 1) the health of the unemployed individual by helping them find a job, and 2) the extent to which the unemployed take advantage of social programs and services that can assist them during unemployment. Such access also accelerates employment by reducing the time it takes for a productive job search to reach a successful result.

The public health emergency exacerbated the disparate social, economic, and health impacts of the unemployed in low and moderate-income neighborhoods. The pandemic has forced many of the unemployed to experience longer periods of unemployment, but also the opportunity to reassess how they might re-enter the labor market with new or better skills to take advantage of a changing job market.

Eligible activities should therefore be extended to include the following:

[15] Michael A. Stoll & Steven Raphael & Harry J. Holzer, 2001. "Why Are Black Employers More Likely to Hire African Americans than White Employers?," JCPR Working Papers 228, Northwestern University/University of Chicago Joint Center for Poverty Research.

New Recommended Language:

(Page 26794), add to “Assistance to Unemployed Workers” as a second paragraph after the first (and currently only) paragraph:

This includes funding capital improvements, including but not limited to building construction or renovation, of a structure that is government owned or is NGO-owned and that will provide a location at which assistance to unemployed workers will be provided, as long as a finding of such need is made by the chief elected official and confirmed by the legislative body of the local jurisdiction.

H. Addressing Educational Disparities

Similarly, it is clear that educational disparities, exacerbated by COVID-19, will have long-term impact on both the health, well-being, and economic earning potential of those affected. Addressing such disparities as soon as possible, before they take further root, is key to the future health of many children and young adults, as poverty is an underlying factor in disparate health outcomes. Therefore, children must have access to a variety of healthy, clean, and safe environments within which to learn. Therefore, we propose the recommended language below.

New Recommended Language:

(Page 26796) Add to “Addressing Educational Disparities” as a fifth bulleted section after Evidence-based practices to address social, emotional, an Mental Health needs of students,”:

This includes funding capital improvements, including but not limited to building construction or renovation, of a structure that is government-owned or is NGO-owned, and that will provide a location at which Educational Disparities will be addressed for the future.

<u>Question 8:</u> Are there other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID-19 on low-income populations and communities? Describe how these respond to the COVID-19 public health emergency or its negative economic impacts, including its exacerbation of pre-existing challenges in these areas.

Issue Statement: COVID-19 is a product of the Anthropocene Epoch where the collective activities of humans is now the dominant influence in nature and society, highlighting the need for building sustainable communities in the context of urbanization and globalization.[16] Social and health inequalities are a byproduct of this dramatic shift, leading to higher risks to low-income communities that generally have weaker health care systems, and limited capacity to respond to shocks.[17] Therefore, Treasury should include eligible uses to ensure greater resiliency in low-income communities by improving neighborhood sustainability.

Increasing neighborhood green space is essential to address disparities exacerbated by the COVID-19 pandemic. The pandemic and the resulting economic recession have negatively affected people's mental health and created new barriers for people already suffering from mental illness. Residents who live near greened vacant spaces and parks report less stress, and lower rates of depression. Furthermore, green space can include pollution remediation programs to address concerns of environmental justice by improving air quality, and remediating soil and water contamination.[18]

The urban heat island effect is when an urban area or metropolitan area is significantly warmer than its surrounding rural areas due to human activities. Specifically, low-income communities and QCTs are exposed to higher temperatures than wealthier communities.[19] The extreme heat is dangerous and creates poor air quality that aggravates respiratory conditions making these communities more vulnerable to COVID-19.[20] Urban vegetation, tree planting efforts, and weather stripping are a cost-effective way to improve local air quality, lower temperatures, and reduce building energy use.[21]

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16 Rafferty, J. P. (2020, March 28). *Anthropocene Epoch*. *Encyclopedia Britannica*. https://www.britannica.com/science/Anthropocene-Epoch

17 Silva, C., & Arbilla, G. (2020). COVID-19: challenges for a new epoch. *Revista da Sociedade Brasileira de Medicina Tropical*, *53*, e20200270. https://doi.org/10.1590/0037-8682-0270-2020

18 Yeager, R., Riggs, D. W., DeJarnett, N., Tollerud, D. J., Wilson, J., Conklin, D. J., O'Toole, T. E., McCracken, J., Coulter, J. M. C. B., Lorkiewicz, P., Xie, Z., Zafar, N., Krishnasamy, S. S., Srivastava, S., Finch, J., Keith, R. J., DeFilippis, A., Rai, S. N., Liu, G., & Bhatnagar, A. (2018, December 5). *Association Between Residential Greenness and Cardiovascular Disease Risk*. Journal of the American Heart Association. https://www.ahajournals.org/doi/10.1161/JAHA.118.009117.

19 Bannin, N. (2021, April 19). *What is 'urban heat island' effect and how does it impact low-income populations*. KXAN Austin. https://www.kxan.com/weather/weather-blog/what-is-urban-heat-island-effect-and-how-does-it-impact-low-income-populations/.

20 Anderson, M., & McMinn, S. (2019, September 3). *As Rising Heat Bakes U.S. Cities, The Poor Often Feel It Most*. NPR. https://www.npr.org/2019/09/03/754044732/as-rising-heat-bakes-u-s-cities-the-poor-often-feel-it-most.

21 Nowak, D., & Heisler, G. (1970, January 1). *Air quality effects of urban trees and parks*. Research Series Monograph. Ashburn, VA: National Recreation and Parks Association Research Series Monograph. 44 p. https://www.fs.usda.gov/treesearch/pubs/52881.

The COVID-19 pandemic has highlighted the vulnerabilities and inequalities facing low-income communities through anthropogenic changes.[22] Households in marginalized communities contribute a significant portion of their income towards the fixed cost of their electrical utility connection, and microgrids can provide sustainable, flexible, reliable, and low cost energy to marginalized communities.[23] Microgrids ensure that low-income communities who have been disproportionately economically impacted by the pandemic have access to affordable energy and are able to respond to shocks moving forward.

New Recommended language:

To address the public health concerns and the economic harm caused by COVID-19, we recommend adding the language below to the non-exhaustive list of eligible uses on page 26795 under "Building Stronger Communities through Investments in Housing and Neighborhoods." These new recommended eligible uses are referenced in the CDC's Healthy Communities Program.[24]

To promote sustainable neighborhoods such as development of green space, urban tree cover, microgrids, pollution remediation programs, community recycling or composting programs, and energy efficiency programs.

__Question 9:__ **The interim final rule includes eligible uses to support affordable housing and stronger neighborhoods in disproportionately impacted communities. Discuss the advantages and disadvantages of explicitly including other uses to support affordable housing and stronger neighborhoods, including rehabilitation of blighted properties or demolition of abandoned or vacant properties. In what ways does, or does not, this potential use address public health or economic impacts of the pandemic? What considerations, if any, could support use of Fiscal Recovery Funds in ways that do not result in resident displacement or loss of affordable housing Units?**

A. Other Uses to Support Affordable Housing and Stronger Neighborhoods

Issue Statement: Activities that support affordable housing and stronger neighborhoods in disproportionately-impacted communities are essential to address the disparities in the public health outcomes exacerbated by the COVID-19 pandemic. However, according to the Surgeon General, "the concept of healthy homes extends

[22] Microgrids. Center for Climate and Energy Solutions. (2017, October 25). https://www.c2es.org/content/microgrids/.

[23] Wingate, D. (2020, July 30). *Microgrids for Marginalized Communities - Insight for Community Leaders*. Microgrid Knowledge. https://microgridknowledge.com/microgrids-marginalized-communities-schneider/.

[24] CDC. *A Sustainability Planning Guide for Healthy Communities* . CDC. https://www.cdc.gov/nccdphp/dch/programs/healthycommunitiesprogram/pdf/sustainability_guide.pdf.

beyond the four walls of a dwelling to its surroundings--to the land immediately around the house, to adjacent structures and amenities (such as outbuildings, trees, and recreational equipment), and to the neighborhood setting. A house does not exist in isolation."[25]

The Surgeon General's reference to a "neighborhood setting" can be viewed as a reference to the negative effects on residents of neighborhood blight in the form of vacant homes, abandoned buildings, and vacant land, which leads to lower literacy slopes for pre-K children.[26] Vacant land and abandoned buildings are also associated with violence, higher rates of chronic illness, stunted brain and physical development in children, retreat into unhealthy eating and exercise habits, and the breakdown of social networks and capital.[27] Furthermore, boarded up housing that has yet to be demolished has been associated with sexually transmitted diseases, premature mortality, diabetes, homicide, and suicide.[28]

The Interim Final Rule identifies a broad range of services and programs in response to the public health emergency in low-income communities by providing services to populations disproportionately impacted by the pandemic. The CDC recognizes that the following factors of urban blight affect community well-being:[29]

- *Substandard Housing:* Substandard housing are residential spaces with structural or other physical deficiencies that do not meet health and safety requirements. Substandard housing is associated with asthma, lead poisoning, and psychological and behavioral dysfunction. Therefore, substandard housing endangers the safety and health of residents.
- *Abandoned Buildings:* Abandoned buildings are unoccupied homes and other properties that are in disrepair and pose a hazard to the health and well-being of the community. Vacant properties create a climate of social disorder that attracts criminal activity and violence and has a deleterious effect on residents' mental and physical health.
- *Vacant lots:* Vacant lots are empty parcels of land in a neighborhood that are used for dumping litter and other waste materials, thereby posing a health risk to residents. Vacant land influences community well-being by raising concerns of crime and safety.[30]

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[25] Office of the Surgeon General (US). The Surgeon General's Call to Action to Promote Healthy Homes. Rockville (MD): Office of the Surgeon General (US); 2009. 1, The Need for Healthy Homes. Available from: https://www.ncbi.nlm.nih.gov/books/NBK44196/

[26] Coulton, Claudia, Francisca Richter, Seok-Joo Kim, Robert Fischer, and Youngmin Cho. 2016. *Leveraging Integrated Data Systems to Examine the Effect of Housing and Neighborhood Conditions on Kindergarten Readiness*. Cleveland, OH: Case Western Reserve University, Center on Urban Poverty and Community Development.

[27] Branas, Charles C., David Rubin, and Wensheng Guo. 2012. "Vacant Properties and Violence in Neighborhoods." *International Scholarly Research Network, Public Health*: 1–23.

[28] Cohen, Deborah A., Karen Mason, Ariane Bedimo, Richard Scribner, Victoria Basok, and Thomas A. Farley. 2003."Neighborhood Physical Conditions and Health." *American Journal of Public Health* 93 (3): 467–71.

[29] "Social Determinants of Health," Office of Disease Prevention and Health Promotion, accessed July 26, 2016,https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health.

[30] Leon, E. de, & Schilling, J. (2017, July 12). *Urban Blight and Public Health*. Urban Institute. https://www.urban.org/research/publication/urban-blight-and-public-health.

Abandoned property and polluted land also occurs in the form of brownfield sites that often dot low-income neighborhoods where manufacturing facilities once operated and provided economic opportunity for residents of the neighborhood. Their existence discourages further investment in the community and serves as a sign of its deterioration. Brownfield redevelopment would return economic opportunity to these same neighborhoods that have suffered decades of disinvestment. Their location is often in or adjacent to residential neighborhoods.

As previously indicated, healthy housing and strong neighborhoods are interdependent and both are needed to provide healthy and strong communities essential to address health disparities, improve health outcomes and increase economic opportunity among those who have been disproportionately impacted by COVID.

Therefore, eligible uses under “Building Stronger Communities through Investment in Housing and Neighborhoods” should include addressing neighborhood blight through demolition, redevelopment of vacant or underutilized land, neighborhood revitalization and community development activities as listed in the Community Development Act of 1974, brownfield assessment and remediation activities as listed in the Brownfield Redevelopment Act of 1996.

The COVID-19 pandemic has also increased the racial wealth gap that currently exists in the United States. Wealth consists of a person’s or household’s individual assets, and home ownership is the most common way that people build assets.[31] Homes are sources of equity for small businesses owners, so the racial disparity in home ownership also impacts small business owners.[32] Therefore, racial differences in homeownership play a key role in closing the racial wealth gap.

Wealth also allows individuals or families to deal with unexpected emergencies, leaving low-asset people vulnerable to the pandemic. Therefore, unemployment, housing evictions, foreclosures, and business closures caused by the pandemic have disproportionately displaced individuals in low-income communities and could lead to gentrification.[33]

Treasury must expand eligible uses to allow cities to provide homeowner assistance to address the racial wealth gap to aid individuals in accumulating assets and to prevent gentrification.

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[31] Ana Patricia Muñoz, *The Color of Wealth in Boston*, report, Federal Reserve Bank of Boston, March 25, 2015, 20, accessed July 5, 2017, https://www.bostonfed.org/publications/one-time- pubs/color-of-wealth.

[32] Interise. (2018, June). *Eye Street, NW Bridging the Wealth Gap Tel: Fax ... - Interise*. Interise. https://interise.org/wp-content/uploads/BridgingtheWealthGap.pdf.

[33] Biakolo, K. (2020, September 17). *The Cities Where Gentrification and Covid-19 Collide*. Medium. https://zora.medium.com/the-cities-where-gentrification-and-covid-19-collide-f672f44f0a9b.

New Recommended Language:

We recommend adding the eligible uses below, listed in the Housing and Community Development Act, to the non-exclusive list of eligible activities. Please note that we are recommending the inclusion only of the CDBG types of eligible uses, with no additional programmatic CDBG regulations. New eligible uses should include:

- *Acquisition of real property;*
- *Relocation and demolition;*
- *Rehabilitation of residential and non-residential structures;*
- *Construction of public facilities and improvements, such as water and sewer facilities, streets, neighborhood centers, and the conversion of school buildings for eligible purposes;*
- *Activities relating to energy conservation and renewable energy resources; and*
- *Provision of assistance to profit-motivated businesses to carry out economic development and job creation/retention activities.*

  Eligible activities also include those listed in the Brownfields Utilization, Investment and Local Development (BUILD) Act (Public Law No: 115-141), including the assessment of brownfield properties; the clean-up of brownfield properties; the placement of renewable energy projects on brownfield properties to provide a safer and healthy environment for residents.

  Eligible uses include the redevelopment of such brownfield properties, and assistance to businesses located on them, to provide further job opportunities for residents.

  Eligible uses include the construction or rehabilitation of public safety buildings that provide emergency health, safety or emergency response to QCTs or designated populations of need.

II. Eligible Uses

C. Revenue Loss

<u>Question 17:</u> **In the interim final rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.**

A. Short-Term Operational Debt

Issue Statement: Short-term operational debt instruments serve the function of covering unexpected revenue shortfalls that have occurred due to unforeseen events, such as COVID-19's negative economic impact on local governments, or fluctuations in revenue collections due to the uncertainty of forecasting revenues in the current environment.

Such short-term debt is used to maintain government services, as opposed to longer term debt used for capital projects. Therefore, payment of principal and interest on operational debt should qualify as an eligible expense.

Under "loss of revenue," 603(c)(1)(C), payments on principal or interest should be allowed because the debt proceeds were used to provide government services. Prospective debt, that was issued after March 3, 2021, could be separately accounted for to ensure that the proceeds in fact went to the provision of government services and not to prohibited activities.

Operational debt issued after January 27, 2020, but before March 3, 2021, to cover government services, should also be an eligible use of funds because the debt proceeds were used for government services after the public health emergency had begun.

Rationale: While the current IFR operates on the principle of "use of funds" being prospective, after March 3, 2021, it is unclear where in the ARPA this is required. The debt proceeds in question were used in response to COVID 19 in 2020. As to the time period, even the loss of revenue provision in the IFR is calculated on the year ending December 31, 2020, which we support. In addition, the expenditure of interest and principal repayment, in fact, would occur following the March 3, 2021, date, and therefore from a strictly expenditure perspective, is an expense that is prospective. Given all these factors, repayment of short-term operational debt issued prior to March 3, 2021 but after January 27, 2020, should be allowed.

Current IFR Language (Page 26801):

"However, expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt."

New Recommended Language:

Government recipients may use fiscal relief funds to pay expenses associated with short-term operational debt incurred after January 27th, 2020 - the onset of the COVID-19 Public Health Emergency, including payments of interest, principle and cost of issuance. Cities will be required to demonstrate that the operational debt was used for government services, and not for prohibited purposes.

II. Eligible Uses

D. Investments in Infrastructure

1. Water and Sewer Infrastructure

__Question 20:__ **What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.**

Answer: There is a clear need for both building resiliency into our water, sewer, and stormwater infrastructure as well as incorporating adaptation/mitigation efforts into those systems. Such greenhouse gas mitigation efforts could include, but are not limited to, the following examples:

- Implementing methane capture at wastewater facilities and converting it to energy;
- Encouraging renewable energy (solar, geothermal, water wheels, etc.) to be used at water and sewer facilities to reduce the use of fossil fuels; and
- Promoting the use of green infrastructure as a means to solve CSO, SSO, and stormwater overflows. This is a better, more climate-friendly solution, as opposed to the traditional reliance on building additional grey infrastructure such as tunnels to capture excess water and pump and treat at a later time.

The U.S. Conference of Mayors appreciates the U.S. Department of the Treasury's serious consideration of our comments. If you have any questions about these comments, please contact USCM Staff Dave Gatton at dgatton@usmayors.org and USCM Chief of Staff Ed Somers at esomers@usmayors.org.

Sincerely,

Nan Whaley

Nan Whaley
President
The United States Conference of Mayors
Mayor of Dayton

Tom Cochran

Tom Cochran
CEO and Executive Director
The United States Conference of Mayors