

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 2/10/2022

Weekly Agenda Date: 2/15/2022

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Supervisor Matthew Ung

WORDING FOR AGENDA ITEM:

Approval to allocate \$1,291,264 from ARPA State & Local Fiscal Recovery Funds to Siouxland District Health Department, under the eligible use category of Public Health & Economic Impacts and the Public Health staff response to COVID-19, and to reduce the county allocation by the same amount

ACTION REQUIRED:

Approve Ordinance

Approve Resolution

Approve Motion

Public Hearing

Other: Informational

Attachments

EXECUTIVE SUMMARY:

An extensive process has been completed to answer the question: "What percentage of our health department employees' time is estimated to be spent on COVID-19 response?" The answer is important because the ARPA Final Rule allows this percentage of each public health employee's total compensation package (including benefits) to be paid with State & Local Fiscal Recovery Funds (SLFRF) dedicated to responding to COVID-19. The proposal is to approve this resulting allocation for known FY23 compensation.

Appreciation goes to Siouxland District Health Department (SDHD) Director Kevin Grieme, along with Tyler Brock and Deb Lemmon, Michelle Skaff from the Auditor's Office, and Joshua Widman from the Attorney's Office, for their expedited help in arriving at this proposal.

Absent no other action, SLFRF funds being allocated to SDHD would increase their reserves which is not an allowable use, therefore a secondary action should be taken to offset this by reducing the county's allocation.

The text attachment contains an excerpt of 2 pages from the U.S. Treasury's ARPA Final Rule Overview, followed by the 7 relevant pages of the Final Rule's full text.

BACKGROUND:

This item specifically identifies SDHD employees as "public health staff directly engaged in public health matters and related supervisory personnel," and the Final Rule Overview highlights this criteria:

"Recipients can use a variety of methods to assess the share of an employees' time spent responding to COVID-19, including using reasonable estimates—such as estimating the share of time based on discussions with staff and applying that share to all employees in that position. For administrative convenience, recipients can consider public health and safety employees entirely devoted to responding to COVID-19 (and their payroll and benefits fully covered by SLFRF) if the employee, or his or her operating unit or division, is "primarily dedicated" to responding to COVID-19. Primarily dedicated means that more than half of the employee, unit, or division's time is dedicated to responding to COVID-19. Recipients must periodically reassess their determination and maintain records to support their assessment, although recipients do not need to track staff hours."

- 1) The report attachment identifies every employee, but replaces their name with their position title. The columns of quarterly percentages (of work time dedicated to responding to COVID-19) are averaged.
- 2) Because SLFRF cannot be used to cover expenses already covered by other federal sources such as grants, the next column shows the grant percentage. Regardless of the percentage of work time dedicated to responding to COVID-19, the maximum payable by SLFRF is anything not covered by an existing grant. Therefore, if 75% of an employee's wage is grant-funded, then only 25% may be paid with SLFRF, even if 90% of their work time is dedicated to responding to COVID-19.
- 3) The exact grant funding levels will not be known until June 2022, therefore it is the recommendation of Supervisor Ung and Director Grieme that the maximum percentage be proactively limited to 80%.
- 4) Because SLFRF is intended to be used on prospective expenses, any former SDHD employees were excluded from the calculation, even if they spent considerable time responding to COVID-19.
- 5) For purposes of the report and to be conservative, any SDHD employees with less than 5% of their average time spent responding to COVID-19 are also excluded from the calculation.
- 6) The resulting total is below.

FINANCIAL IMPACT:

\$1,291,264 should be allocated from SLFRF. This will result in a \$1,291,264 local taxpayer savings for FY2023.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes No

RECOMMENDATION:

It is important for the general public to note that NOT all ARPA/State & Local Fiscal Recovery Funds deal directly with the health impact of COVID-19. Only one category of the four eligible uses--this category--directly responds to the health effects of COVID-19.

However, this is one example where we can all confidently say that "Covid funds are being spent on Covid."

ACTION REQUIRED / PROPOSED MOTION:

Motion by Ung, second by _____, to allocate \$1,291,264 from ARPA State & Local Fiscal Recovery Funds to Siouxland District Health Department, under the eligible use category of Public Health & Economic Impacts and the Public Health staff response to COVID-19.

Motion by Ung, second by _____, to reduce by \$1,291,264 the FY2023 county allocation to SDHD.

Position Title	Apr-June 2020	July-Sept 2020	Oct - Dec 2020	Jan - Mar 2021	Apr-June 2021	July-Sept 2021	Oct-Dec 2021	Jan-22	Average %	Amt covered by grants	FY23 percent for calculation	FY23 Wages & Benefits	Share Funded by SLFRF
District Health Promotion Specialist	0	0	0	20	20	0	0	0	5%	65%	5%	77,659.38	3,882.97
District Health Direct Care Worker	0	0	0	0	0	0	0	0	0%	100%	na		
District Health Dietician	0	0	0	0	0	0	0	0	0%	99%	na		
District Health Clinic Intake Manager	0	0	25	25	0	0	0	0	6%	80%	6%	76,801.62	4,608.10
District Health Nurses Travel	50	25	50	75	75	50	50	40	52%	35%	65%	100,985.17	65,640.36
District Health Environmental Specialist	100	25	25	10	10	0	0	0	21%	0%	21%	100,962.18	21,202.06
District Health Deputy Director	95	80	95	95	95	50	75	75	83%	30%	70%	135,784.97	95,049.48
District Health Operations Supervisor	0	0	0	40	40	10	10	10	14%	0%	14%	86,345.36	12,088.35
District Health Director of Environmental Services	95	80	95	75	75	25	10	10	58%	0%	80%	117,372.15	93,897.72
District Health Administrative Clerk Steno I	50	25	50	25	25	10	30	10	28%	0%	28%	69,064.61	19,338.09
District Health Administrative Clerk Steno I	0	0	0	0	0	0	0	0	0%	100%	na		
District Health Program Aide	75	0	50	0	0	0	0	0	16%	100%	na		
District Health Promotion Specialist	100	50	80	80	80	25	0	0	52%	1%	80%	100,829.48	80,663.58
District Health Director of Nursing	0	0	25	25	25	10	0	0	11%	0%	11%	117,166.57	12,888.32
District Health WIC Support Staff	0	0	0	0	0	0	0	0	0%	100%	na		
District Health Program Aide	75	0	50	0	0	0	0	0	16%	100%	na		
District Health Director	95	80	95	95	75	50	50	25	71%	0%	80%	175,937.50	140,750.00
District Health Family Referral Specialist	50	50	25	20	20	0	0	0	21%	100%	na		
District Health Program Aide	100	75	50	35	35	10	10	10	41%	0%	41%	66,395.00	27,221.95
District Health Nurses Travel	100	80	80	75	75	40	30	25	63%	1%	80%	100,859.89	80,687.91
District Health Microbiologist	90	75	75	50	50	50	75	50	64%	0%	80%	83,488.09	66,790.47
District Health Administrative Secretary	75	75	25	10	10	10	30	40	34%	15%	34%	74,909.96	25,469.39
District Health Administrative Assistant	10	10	10	10	10	0	0	0	6%	0%	6%	93,057.04	5,583.42
District Health Dietician	0	0	0	0	0	0	0	0	0%	99%	na		
District Health Hopes Supervisor	10	0	10	0	0	0	0	0	3%	100%	na		
District Health ER Preparedness Grant Coord	90	75	75	50	50	50	75	50	64%	100%	na		
District Health WIC Support Staff	0	0	0	0	0	0	0	0	0%	100%	na		
District Health Business Manager	50	50	50	50	50	25	10	10	37%	0%	37%	95,125.94	35,196.60
District Health Promo & Plan Coord	95	80	95	95	95	25	20	10	64%	0%	80%	105,292.95	84,234.36
District Health Program Aide	75	75	25	10	10	10	10	10	28%	86%	14%	71,260.35	9,976.45
District Health Family Support Workers	50	50	25	0	0	0	0	0	16%	100%	na		
District Health Cust/Courier	0	0	0	25	25	5	5	5	8%	0%	8%	59,824.24	4,785.94
District Health Breastfeeding Peer Counselor	0	0	0	25	25	0	0	0	6%	100%	na		
District Health WIC Support Staff	0	0	10	0	0	0	0	0	1%	100%	na		
District Health Lab Coordinator	90	75	75	50	50	50	75	50	64%	0%	80%	105,444.67	84,355.74
District Health Family Support Workers	50	50	25	20	20	0	0	0	21%	100%	na		
District Health Environmental Specialist	100	25	25	10	10	0	0	0	21%	0%	21%	100,886.86	21,186.24
District Health Dental Hygienist	100	75	50	25	25	0	0	0	34%	100%	na		
District Health Administrative Secretary	50	10	10	0	0	0	0	0	9%	23%	9%	66,823.67	6,014.13
District Health Environmental Specialist	50	10	0	0	0	0	0	0	8%	0%	8%	99,377.69	7,950.22
District Health Family Support Workers	50	50	25	0	0	0	0	0	16%	100%	na		
District Health Environmental Specialist	100	25	25	10	10	0	0	0	21%	0%	21%	93,955.21	19,730.59
District Health Nurses Travel	100	80	80	75	75	40	30	40	65%	0%	80%	100,958.77	80,767.02
District Health Quality Assurance Coord	100	80	95	95	75	50	50	25	71%	0%	80%	100,152.62	80,122.10

District Health Environmental Specialist	100	25	25	0	0	0	0	0	19%	0%	19%	100,993.91	19,188.84
District Health Claims Secretary	75	50	50	50	50	20	10	10	39%	10%	39%	84,385.00	32,910.15
District Health Nurses Travel	0	0	0	25	25	10	10	10	10%	80%	10%	87,418.84	8,741.88
District Health Environmental Specialist	100	25	25	10	10	0	0	0	21%	0%	21%	100,545.75	21,114.61
District Health ER Preparedness Grant Coord	50	50	25	20	20	0	0	0	21%	100%	na		
District Health Dietician	0	0	0	0	0	0	0	0	0%	99%	na		
District Health Family Support Workers	0	0	0	0	0	0	0	0	0%	100%	na		
District Health Administrative Secretary	25	25	50	10	10	10	30	40	25%	15%	25%	76,908.12	19,227.03
District Health Program Aide	50	50	25	0	0	0	0	0	16%	100%	na		
District Health MCAH Program Coord	25	25	10	25	25	0	0	0	14%	100%	na		
District Health Homemaker Manager II	100	50	75	25	25	10	10	10	38%	100%	na		



PUBLIC SECTOR CAPACITY

Recipients may use SLFRF funding to restore and bolster public sector capacity, which supports government’s ability to deliver critical COVID-19 services. There are three main categories of eligible uses to bolster public sector capacity and workforce: Public Safety, Public Health, and Human Services Staff; Government Employment and Rehiring Public Sector Staff; and Effective Service Delivery.

Public Safety, Public Health, and Human Services Staff

SLFRF funding may be used for payroll and covered benefits for public safety, public health, health care, human services and similar employees of a recipient government, for the portion of the employee’s time spent responding to COVID-19. Recipients should follow the steps below.

1. **Identify eligible public safety, public health, and human services staff.** Public safety staff include:

- ✓ Police officers (including state police officers)
- ✓ Sheriffs and deputy sheriffs
- ✓ Firefighters
- ✓ Emergency medical responders
- ✓ Correctional and detention officers
- ✓ Dispatchers and supervisor personnel that directly support public safety staff

Public health staff include:

- ✓ Employees involved in providing medical and other physical or mental health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions
- ✓ Laboratory technicians, medical examiners, morgue staff, and other support services essential for patient care
- ✓ Employees of public health departments directly engaged in public health matters and related supervisory personnel

Human services staff include:

- ✓ Employees providing or administering social services and public benefits
- ✓ Child welfare services employees
- ✓ Child, elder, or family care employees

2. **Assess portion of time spent on COVID-19 response for eligible staff.**

Recipients can use a variety of methods to assess the share of an employees’ time spent responding to COVID-19, including using reasonable estimates—such as estimating the share of time based on discussions with staff and applying that share to all employees in that position.

For administrative convenience, recipients can consider public health and safety employees entirely devoted to responding to COVID-19 (and their payroll and benefits fully covered by SLFRF) if the



employee, or his or her operating unit or division, is “primarily dedicated” to responding to COVID-19. Primarily dedicated means that more than half of the employee, unit, or division’s time is dedicated to responding to COVID-19.

Recipients must periodically reassess their determination and maintain records to support their assessment, although recipients do not need to track staff hours.

3. **Use SLFRF funding for payroll and covered benefits for the portion of eligible staff time spent on COVID-19 response.** SLFRF funding may be used for payroll and covered benefits for the portion of the employees’ time spent on COVID-19 response, as calculated above, through the period of performance.

Government Employment and Rehiring Public Sector Staff

Under the increased flexibility of the final rule, SLFRF funding may be used to support a broader set of uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring, support, and retention.

- **Restoring pre-pandemic employment.** Recipients have two options to restore pre-pandemic employment, depending on the recipient’s needs.
 - *If the recipient simply wants to hire back employees for pre-pandemic positions:* Recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021. Recipients may use SLFRF funds to cover payroll and covered benefits for such positions through the period of performance.
 - *If the recipient wants to hire above the pre-pandemic baseline and/or would like to have flexibility in positions:* Recipients may use SLFRF funds to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted FTEs up to 7.5 percent above its pre-pandemic baseline. Specifically, recipients should undergo the following steps:
 - a. Identify the recipient’s budgeted FTE level on January 27, 2020. This includes all budgeted positions, filled and unfilled. This is called the *pre-pandemic baseline*.
 - b. Multiply the pre-pandemic baseline by 1.075. This is called the *adjusted pre-pandemic baseline*.
 - c. Identify the recipient’s budgeted FTE level on March 3, 2021, which is the beginning of the period of performance for SLFRF funds. Recipients may, but are not required to, exclude the number of FTEs dedicated to responding to the COVID-19 public health emergency. This is called the *actual number of FTEs*.
 - d. Subtract the *actual number of FTEs* from the *adjusted pre-pandemic baseline* to calculate the number of FTEs that can be covered by SLFRF funds. Recipients do not have to hire for the same roles that existed pre-pandemic.

Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule

a. PUBLIC SECTOR CAPACITY AND WORKFORCE

Public Safety, Public Health, and Human Services Staff

Summary of Interim Final Rule: Under the interim final rule, funds may be used for payroll and covered benefits²⁴¹ for *public safety, public health, health care, human services, and similar employees*²⁴² of a recipient government, for the portion of the employee’s time that is spent responding to COVID-19. For administrative convenience, the recipient may consider *public health and safety* employees to be entirely devoted to responding to COVID-19, and therefore their full payroll and covered benefits eligible to be covered, if the employee, or his or her operating unit or division, is “primarily dedicated” to responding to COVID-19, meaning that more than half of the employee, unit, or division’s time is dedicated to responding to COVID-19. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is responding to COVID-19. Recipients must periodically reassess their determination and maintain records to support their assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence; recipients need not track staff hours. The interim final rule also posed a question on how long recipients should be able to use funds for staff responding to COVID-19 and what other measures or presumptions

²⁴¹ In general, if an employee’s wages and salaries are an eligible use of SLFRF funds, recipients may treat the employee’s covered benefits as an eligible use of SLFRF funds. For purposes of SLFRF funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes). As described further in the section Deposits into Pension Funds in Restrictions on Use, that limitation on use does not apply to pension contributions that are part of regular payroll contributions for employees whose wages and salaries are an eligible use of SLFRF funds.

²⁴² Note that the interim final rule adapted prior guidance issued for CRF that described these four categories of employees; however, when listing the specific occupations or types of employees in each of these categories, the guidance collapses health care and public health into one category titled “public health.” Therefore, the presumption described around public health employees also covers health care employees.

might Treasury consider to assess the extent to which public sector staff are engaged in COVID-19 response in an easily administrable manner.

Treasury also provided further guidance on the types of employees covered by this category of eligible use, specifically: “Public safety employees would include police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees²⁴³ would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (e.g., laboratory technicians, medical examiner, or morgue staff) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel. Human services staff include employees providing or administering social services; public benefits; child welfare services; and child, elder, or family care, as well as others.”

Public Comment: Measuring Time Spent on COVID-19 Response: Treasury received public comments on several components of this eligible use category. Many commenters argued that it poses an administrative burden to identify the extent to which staff are responding to COVID-19 and to maintain records to support that assessment. Largely citing administrative burden in assessing eligibility, several commenters recommended revisions to the administrative convenience that the full payroll and covered benefits for public health and safety staff “primarily dedicated” to responding to COVID-19 may be paid with SLFRF funds. Some commenters recommended presuming that all public health and safety staff are primarily

²⁴³ Note that this category encompasses both public health and health care employees; both are treated as public health employees for the purposes of this eligible use category.

dedicated to COVID-19 response, while others proposed that public health and safety workers who primarily serve QCTs or low- and moderate-income areas be presumed to be primarily dedicated to COVID-19 response, given the disproportionate impacts of the pandemic in those communities. Similarly, Tribal communities recommended that their public health staff be presumed eligible due to the disproportionate impact of the pandemic on their communities. Some commenters proposed that they be able to use the administrative convenience for staff outside of public health and safety that are responding to COVID-19 (i.e., to be able to pay the full payroll and covered benefits for any staff “primarily dedicated” to COVID-19 response).

Treasury Response: In the final rule, Treasury is maintaining the approach in the interim final rule, including elaborations issued in further guidance, but providing additional clarification on its application, including methods to apply the approach to minimize administrative burden. Treasury notes that recipients may assess the extent to which staff are dedicated to responding to COVID-19 through a variety of means, including establishing presumptions or assessing public health and safety staff at the division or operating unit level. For example, a recipient could consider the amount of time spent by employees in its public health department’s epidemiology division in responding to COVID-19 and, if a majority of its employees are dedicated to responding to COVID-19, determine that the entire division is primarily dedicated to responding to COVID-19. Treasury also clarifies that recipients may use reasonable estimates to establish administrable presumptions; for example, a recipient could estimate, based on discussions with staff, the general share of time that employees in a specific role or type of position spend on COVID-19 related tasks and apply that share of time to all employees in that position.

Recipients are generally required to be able to support uses of SLFRF funds as eligible, including, in this instance, maintenance of records to support an assessment that public health

and safety staff are primarily dedicated to responding to COVID-19. As noted above, recipients may use reasonable estimates to implement this provision. Recipients should maintain records on how they developed these estimates and need not track staff hours. Treasury notes that records retained can include payroll records (e.g., the number and type of staff in various positions), attestations from supervisors or staff (e.g., self-attestation of share of time spent on COVID-19), or regular work product or correspondence (e.g., calendars, e-mail correspondence, documents, and other electronic records). Treasury anticipates that these types of records are generally retained in many government settings; recipients should also consult the Award Terms and Conditions for SLFRF funds for requirements on length of record retention. For example, a recipient could establish a reasonable presumption about the share of time that an employee, division, or operating unit is responding to COVID-19 and simply retain those employees' electronic records as a record to support their assessment.

Public Comment: Public Health and Safety Staff Primarily Dedicated to COVID-19

Response: Some commenters recommended expanding the administrative convenience for public health and safety staff primarily dedicated to COVID-19 response to further types of staff, to all public health and safety staff, or to public health and safety staff serving underserved areas.

Treasury Response: The interim final rule recognized that COVID-19 response continues to require substantial staff resources and provides an administrative convenience to make it relatively simpler to identify the eligibility of the types of workers – public health and safety workers – generally most involved in COVID-19 response. At the same time, many public health and safety workers perform roles unrelated to COVID-19; coverage of all roles would be overbroad compared to the workers responding to COVID-19 in actuality. For this reason, the final rule maintains the interim final rule's approach to permitting SLFRF funds to be used for

public health and safety staff primarily dedicated to responding to COVID-19. Finally, to the extent that a greater proportion of public health and safety staff time is needed to respond to COVID-19 in disproportionately impacted communities, the “primarily dedicated” approach recognizes this increased need.

Public Comment: Eligible Types of COVID-19 Response: Some public commenters also sought further clarification on how to identify eligible types of “COVID-19 response.” For example, commenters requested clarification on delineating COVID-19 response from general public health response and defining COVID-19 response for public safety employees.

Treasury Response: Treasury is clarifying that “responding to” COVID-19 entails work needed to respond to the public health or negative economic impacts of the pandemic, apart from the typical pre-pandemic job duties or workload of an employee in a comparable role, if one existed. For example, responding to COVID-19 for a public safety worker may entail working in an emergency operations center to coordinate pandemic-related supply distribution, responding to an increased volume of 911 calls, or implementing COVID-19 prevention and mitigation protocols in a carceral setting.

Public Comment: Eligible Employees: Some commenters requested clarification on the types of eligible employees or expansion of eligible employees to include additional types of staff, including in behavioral health; administrative, management, or financial management positions; social services; morgue staff; and nonprofit staff supporting projects to undertake eligible uses of funds under SLFRF.

Treasury Response: Treasury provided further guidance on eligible types of employees following the interim final rule, which expressly included social services and morgue staff, and incorporates that guidance into the final rule. In addition, Treasury is clarifying that public health

“employees involved in providing medical and other health services to patients and supervisory personnel” includes behavioral health services as well as physical health services.

Treasury also is clarifying that this provision only addresses employees of the recipient government responding to COVID-19. For discussion of eligible expenses to administer SLFRF, including eligible costs for subrecipients performing eligible activities on behalf of a recipient government, see section Administrative Expenses in Program Administration Provisions.

Finally, Treasury is clarifying that indirect costs for administrative, management, and financial management personnel to support public health and safety staff responding to COVID-19 are not permissible under this provision, given the relatively greater challenge of differentiating the marginal increase in staff time and workload due to pandemic response for indirect versus direct costs.

Public Comment: Time Period: Finally, some commenters made recommendations on the time period during which this eligible use should be available. Some commenters recommended eligibility begin before March 3, 2021, the period when Treasury’s interim final rule permitted recipients to begin to incur costs using SLFRF funds; for discussion of this topic, see section Timeline for Use of SLFRF Funds in Program Administration Provisions. As noted above, Treasury also posed a question in the interim final rule asking for how long Treasury should maintain the administrative convenience that SLFRF funds may be used for the full payroll and covered benefits of public health and safety staff primarily dedicated to COVID-19 response. Several commenters recommended that Treasury maintain this approach throughout the program or through December 31, 2024. Other commenters requested clarification on whether eligibility for this use of funds was tied to the length of the state of emergency or whether a jurisdiction has an active state of emergency.

Treasury Response: In the final rule, Treasury is clarifying that recipients will be permitted to fund the full payroll and covered benefits of public health and safety staff primarily dedicated to COVID-19 response throughout the period of performance for the SLFRF program, though recipients should periodically reassess their determination of primarily dedicated staff, including as the public health emergency and response evolves.

Government Employment and Rehiring Public Sector Staff

The interim final rule permitted use of funds for costs associated with rehiring state, local, and Tribal government staff in order to bolster the government's ability to effectively administer services. Specifically, recipients may pay for payroll, covered benefits, and other costs associated with the recipient increasing the number of its employees up to the pre-pandemic baseline, or the number of employees that the recipient government employed on January 27, 2020.

Public Comment: Many commenters requested greater flexibility and additional clarification on the provision's requirements, including the pre-pandemic baseline and re-hiring process. Some commenters requested that the final rule allow for hiring above the pre-pandemic baseline given historic underinvestment in the public sector workforce. Commenters suggested a number of adjustments to the pre-pandemic baseline, including adjusting based on population or revenue growth, while some recommended allowing recipients to set their own hiring levels. Others requested clarification on the definition of the baseline and the re-hiring process, including whether the pre-pandemic baseline referred to budgeted or filled positions and whether new hires had to fill the same roles as the previous hires. Commenters also asked whether recipients need to show if the reduction in number of employees was due to the pandemic in