

Local Governments Need to Plan for Covid Relief Funds Under the American Rescue Plan Act

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The American Rescue Plan Act, P.L. 117-2, (ARPA or Act) includes \$130 billion dollars to be distributed to counties, cities, villages, and towns for economic relief from the COVID-19 pandemic. These funds are available under Subtitle M, the State and Local Fiscal Recovery Funds. Other parts of the Act may make additional funds available for mass transit or other purposes. This article focuses on the Local Fiscal Recovery Funds.

Local governments should begin planning now for use of these funds. Counties and larger “metropolitan” cities will receive direct funding from the federal government and should receive their first payments by May 10, 2021 and a second payment by one year after the first. All other local governments will receive funding through the state and can expect to receive their first payments by either June 9 or July 9, depending on whether their state has been granted an extension. Funds must be used by December 31, 2024.

ARPA spells out how local governments may use the funds, and in each area, planning is essential. Local governments must submit periodic reports to the Secretary of the Treasury detailing how they have used the funds and may be forced to repay any improperly used funds.

USES AND LIMITATIONS ON THE FUNDING

- A. Responding to the pandemic or its economic effects on households, small businesses, non-profit entities, or industries impacted by the pandemic, such as tourism, travel or hospitality.

Comment: Local governments should begin to catalogue which families, businesses and non-profits were most impacted by the pandemic and determine what portion of your funding will go to them. Is it your restaurant and tavern industry? Tourist attractions? Or individual families? You should be thinking about which parts of your local community have suffered the most and whether they have access to other funding under the Act in deciding what portion of your ARPA funding will be allocated to them.

In developing allocation policies, you may need to survey local business groups and social service agencies to gather necessary information to support your decisions. Local governments also should review any plans through an equity lens to be certain they are not inadvertently discriminating against protected classes in allocating funding. Evidence suggests that certain groups have suffered greater harm from the pandemic, and local governments should take such matters into account in allocating their ARPA funds.

- B. Premium pay for essential workers, or grants to employers who have essential workers.

Comment: To be eligible for premium pay, the worker must be essential to maintaining continuity of operations of critical infrastructure or perform other essential duties as determined by the local executive. Premium pay is limited to \$13 per hour, above the wages already paid, with a cap of \$25,000 for any individual. Local governments should identify who qualifies under these definitions and determine how much of any ARPA funds will be used for premium pay. How will you differentiate among various essential workers? Will this be an administrative task or will elected officials make the determination?

See the note on “Process” in the Additional Considerations section, below.

C. Reimbursement of lost local government revenue.

Comment: Determining what revenue the local government has lost due to the pandemic may be difficult to determine. You may need to engage your local government’s finance experts to assist in identifying reductions in revenue due to the pandemic.

Many local governments have not had a significant loss of property tax revenue. However, if you have a room tax and if the lack of travelers has meant a loss of room tax revenue collected by your local government, showing the relationship to the pandemic will be much easier. The same may be true of any local sales tax collections. Importantly, the Act speaks of a “reduction in revenue,” not limited to tax revenues. Some local governments may have lost significant revenues due to lack of citations for traffic offenses or building code violations. In some instances, revenues from building permits may have been impacted.

See the note on “Budget Amendments” in the Additional Considerations section.

D. To make necessary investments in water, sewer, or broadband infrastructure.

Comment: Planning for these capital investments is critical. Now is the time for your local government to identify any projects in these areas. What are your local government’s critical needs with respect to your water and sewer services? The pandemic has made us much more aware of the crucial role that high-speed internet access plays in our lives. Is it time for your local government to undertake a broadband project to increase access in your community? If so, you may need to understand the steps that a local government must take before undertaking certain broadband projects. Your local government may also wish to explore whether ARPA funds can be combined with broadband grants administered by the Public Service Commission of Wisconsin in order to undertake a more robust broadband project.

If a project was planned for the future, how realistic is it to advance that project and build it now? Is engineering assistance available to prepare plans and specifications for a project? What regulatory approvals are necessary and how long will it take to obtain those approvals? The Department of Natural Resources and Public Service Commission may take longer to issue regulatory approvals if the number of applications submitted increases.

Are your public bidding forms and rules up to date? How will the increased number of projects affect contractors, material suppliers, and bid prices? Prompt action will increase the chances that you can obtain the necessary expertise and resources to complete your project at a reasonable cost.

E. Additional rules and limitations.

Comment: ARPA explicitly states that funds may not be paid into pension plans for government employees. The interaction between this provision and the provision allowing for premium pay is not clear.

The Rescue Act allows local governments to carry out these provisions through contracting with third parties, including non-profits, and through joint action with other governmental bodies, or even by transferring funds to another local government or the state to carry out a joint project.

ARPA contains other rules and limitations that local governments will need to consider. The Act provides that the Treasury Department will issue regulations to clarify the broad terms of the Act. It is unknown when such regulations may be issued.

ADDITIONAL CONSIDERATIONS

Process Issues: How will you go about establishing the policies for determining how to allocate the funds? Will this initially be an administrative function? A special committee?

Nondiscrimination Policies: As noted above, evidence suggests that certain individuals have been much more impacted by the pandemic due to their race, ethnicity, or age. How will your local government account for this in allocating funds?

Budget Amendments: The ARPA funds will not be reflected in your current budget. Eventually, your governing body will have to approve the necessary budget amendments to effectuate how your local government spends these funds. Be sure to review the procedures for amendment of a budget, including the general rule that a two-thirds vote is needed for such amendments, Wis. Stat. § 65.90.

Standards for Payments: Once your local government has determined where funds will be spent, what standards will be used for determining the amounts allocated to each qualifying person, household, non-profit, or business? Will the allocation be based on amount lost? Size of the entity? Some measure of impact on the local government and its residents?

Evaluation: Since a local government must report to the Treasury Department on how the ARPA funds are spent, you should develop an evaluation process to be sure the recipients used the funds as required.

Data: The local government should determine what data is already available to assist in making the allocation decisions required by the Act. If certain data is not already available, what process will you use to collect it?

Assistance: Does your local government need outside expert help in deciding how the ARPA funds should be allocated? If so, what type of assistance?

CONCLUSION

Local governments who wish to take advantage of ARPA funds should waste no time in adopting policies that will guide their allocation decisions, gathering the information necessary to support those decisions, and developing the procedures needed to undertake and implement those decisions.

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