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Local ARPA Funds

Pam Thomas | February 17, 2022 | Kentucky Center for Economic Policy

What's Up With Local ARPA Funds?

How Can They be Used and How Can You be Involved?

Coronavirus State and Local Fiscal Recovery Funds

What are they and why do they matter?

- State and Local Fiscal Recovery funds (SLFRF) are part of the American Rescue Plan Act (ARPA)
- A total of \$350 billion for state and local governments delivered in two tranches – one received last May/June and the second coming in May (entitlement cities and counties)/July (non-entitlement cities) of 2022
- Kentucky Counties will receive \$868 million
- Kentucky cities will receive \$931 million



Guidance on How Funds Can Be Spent

- Following the passage of ARPA, an interim rule was filed in May of 2021 – over 1,500 comments were received in response to the issuance of the rule.
- Local governments have been following the interim rule since it's issuance.
- The final rule was issued on January 6, 2022 and it's provisions become effective on April 1 2022.
- Until then, local governments can use either the interim rule or the final rule – the final rule greatly expands what local governments can use the money for, and also requires less reporting

Expenditure Guidelines

- Must be used to cover costs incurred between March 3, 2021 and December 31, 2024.
- Obligated funds must be expended by December 31, 2026.
- Funds can be transferred to sub-recipients.
- Loans are permissible but there are special rules that must be followed.
- Eligible uses – 4 broad areas:
 - Replacing lost public sector revenue.
 - Public health and economic response.
 - Providing premium pay to eligible workers.
 - Making necessary investments in water, sewer, and broadband.

Replacing Lost Public Sector Revenue

- The most significant change made in the final rule is that up to \$10 million of the money received can be used by each city or county to replace lost public sector revenue – this category is VERY BROAD and includes ANY service traditionally provided by government. Alternatively local governments can calculate actual revenue loss using a formula established in the rule – but they must select one method.
- Because of this change, all but 18 Kentucky Counties and 6 Kentucky cities could use their entire allocation for this purpose because they have allocations of less than \$10 million



Permissible projects under replacing lost public sector revenue

- Road construction and maintenance and other infrastructure
- Construction of schools and hospitals
- Health services
- General government administration, staff and administrative facilities
- Environmental remediation
- Provision of police, fire and other public safety services including the purchase of fire trucks and police vehicles
- Meeting non-federal cost share or matching requirements of other federal programs (other than Medicaid and CHIP)

Government services is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements



Responding to Public Health and Economic Impacts of COVID

Types of assistance a local government may provide:

- Public health
- Assistance to households
- Assistance to small businesses
- Assistance to nonprofits
- Aid to impacted industries
- Public sector capacity

To identify eligible uses of funds in this category local governments should:

1. Identify a COVID-19 public health or economic impact on an individual or group; and
2. Design a program that responds to that impact

Responses should be reasonably proportional to the harm identified and reasonably designed to those impacted.



Responding to the Public Health Emergency

Eligible uses include:

- ✓ Vaccination programs, including vaccine incentives and vaccine sites
- ✓ Testing programs, equipment and sites
- ✓ Monitoring, contact tracing & public health surveillance
- ✓ Public communication efforts
- ✓ Public health data systems
- ✓ COVID-19 prevention and treatment equipment
- ✓ Medical and PPE/protective supplies
- ✓ Support for isolation and quarantine
- ✓ Ventilation system installation and improvement
- ✓ Technical assistance on mitigation of COVID-19 threats to public health and safety
- ✓ Transportation to reach vaccination or testing sites, or other prevention and mitigation services for vulnerable populations
- ✓ Support for prevention, mitigation, or other services in congregate living facilities, public facilities, schools, small businesses, nonprofits, and impacted industries
- ✓ Medical facilities generally dedicated to COVID-10 treatment and mitigation (ICYU, emergency rooms)
- ✓ Temporary medical facilities and other measures to increase COVID-19 treatment capacity
- ✓ Emergency operations centers & emergency response equipment
- ✓ Public telemedicine capabilities for COVID-19 treatment

Responding to the Public Health Emergency – Medical Expenses and Behavioral Health

Medical expenses - Funds may be used for expenses to households, medical providers, or others that incurred medical costs due to the pandemic, including:

- ✓ Unreimbursed expenses for medical care for COVID-19 testing or treatment, such as uncompensated care costs for medical providers or out-of-pocket costs for individuals
- ✓ Paid family and medical leave for public employees to enable compliance with COVID-19 public health precautions
- ✓ Emergency medical response expenses
- ✓ Treatment for long-term symptoms or effects of COVID-19

Behavioral health care (mental health treatment, substance use treatment, and other behavioral health services). Enumerated eligible uses include:

- ✓ Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs, outreach to individuals not yet engaged in treatment, harm reduction & long-term recovery support
- ✓ Enhanced behavioral health services in schools
- ✓ Services for pregnant women or infants born with neonatal abstinence syndrome
- ✓ Support for equitable access to reduce disparities in access to high-quality treatment
- ✓ Peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services
- ✓ Expansion of access to evidence-based services for opioid use disorder prevention, treatment, harm reduction, and recovery
- ✓ Behavioral health facilities & equipment

Responding to the Public Health Emergency- Preventing and Responding to Violence

Recognizing that violence – and especially gun violence – has increased in some communities due to the pandemic, recipients may use funds to respond in these communities through:

- ✓ Referrals to trauma recovery services for victims of crime.
- ✓ Community violence intervention programs, including evidence-based practices like focused deterrence, with wraparound services such as behavioral therapy, trauma recovery, job training, education, housing and relocation services, and financial assistance.
- ✓ In communities experiencing increased gun violence due to the pandemic:
 - Law enforcement officers focused on advancing community policing.
 - Enforcement efforts to reduce gun violence, including prosecution.
 - Technology & equipment to support law enforcement response.

Responding to Negative Economic Impacts – Assistance to Households

Impacted Households

- Low- or-moderate income households or communities (defined as those with income below 300% of FPL or with income at or below 65% of the area median income of similarly sized households).
- Households that experienced unemployment.
- Households that experienced increased food or housing insecurity.
- Households that qualify for the Children’s Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, or Medicaid. **NEW**
- When providing affordable housing programs: households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program.
- When providing services to address lost instructional time in K-12 schools: any student that lost access to in-person instruction for a significant period. *of time*

Projects enumerated by Treasury to assist impacted households and communities

- ✓ Food assistance & food banks
- ✓ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- ✓ Health insurance coverage expansion NEW
- ✓ Benefits for surviving family members of individuals who have died from COVID-19
- ✓ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers
- ✓ Burials, home repair & home weatherization
- ✓ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access
- ✓ Cash assistance
- ✓ Paid sick, medical, and family leave programs NEW
- ✓ Assistance in accessing and applying for public benefits or services
- ✓ Childcare and early learning services, home visiting programs, services for child welfare involved families and foster youth & childcare facilities NEW
- ✓ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction) NEW
- ✓ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing NEW
- ✓ Certain contributions to an Unemployment Insurance Trust Fund
- ✓ Financial services for the unbanked and underbanked NEW

Responding to Negative Economic Impacts - Assistance to Households

Disproportionately Impacted Households

- Low -income households and communities (Defined as those with income at or below 185% of FPL or income at or below 40% of the area median income for the county and size of household) NEW
- Households residing in Qualified Census Tracts (a tract where at least 50% of households have an income of less than 50% of the area median gross income or which has a poverty rate of at least 25%)
- Households that qualify for certain federal benefits (TANF, SNAP, free and reduced lunch or school breakfast programs, Medicare Part D low income subsidies, SSI, Head Start or Early Start, WIC, Section 8, LIHEAP and Pell Grants) NEW

Projects enumerated by Treasury to assist disproportionately impacted households and communities

- ✓ Pay for community health workers to help households access health & social services
- ✓ Remediation of lead paint or other lead hazards
- ✓ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities
- ✓ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- ✓ Investments in neighborhoods to promote improved health outcomes
- ✓ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant lot cleanup & conversion to affordable housing NEW
- ✓ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs
- ✓ Schools and other educational equipment & facilities

Responding to Negative Economic Impacts – Impacted Small Businesses and Nonprofits

Allows responses to address the impact of COVID on small businesses and nonprofits, and also address pre-existing disparities like lack of capital that were compounded by COVID.

- “Small Business” is defined as having fewer than 500 employees, or if applicable, the number of employees established by the SBA for the industry in which the business operates. Also must be a “small business concern” as defined by the Small Business Act.
- Nonprofits include 501(c)(3) and 501(c)(19) tax exempt organizations
- Local governments can identify impacted small businesses and nonprofits that qualify for help in a variety of ways:
 - Decreased revenues or gross receipts;
 - Financial insecurity
 - Increased costs (for nonprofits, this includes uncompensated increases in service need) NEW
 - Capacity to weather financial hardships;
 - Challenges covering payroll, mortgage, rent, or other operating costs
- Relief includes loans or grants to mitigate financial hardships, technical assistance, counseling and other services to support business planning.

Responding to Negative Economic Impacts – Disproportionately Impacted Small Businesses and Nonprofits

Treasury assumes that small businesses and nonprofits operating in a qualified census tract (QCT) are negatively impacted by COVID.

Assistance to these types of small businesses includes NEW:

- Rehabilitation of commercial properties, storefront and façade improvements;
- Technical assistance, business incubators and grants for start up or expansion costs;
- Support for microbusinesses (defined as having 5 or fewer employees) including childcare, financial and transportation costs.

For nonprofits, the response can be anything related and reasonably proportional to addressing the disproportionate impacts.



Responding to Negative Economic Impacts – Aid to Impacted Industries

Two main ways an industry can be designated as “impacted”:

- 1. If the industry is in the travel, tourism, or hospitality sectors, the industry is impacted; or**
- 2. If the industry is not identified in #1 and:**
 - a. Experienced at least an 8% employment loss from pre-pandemic levels NEW; or
 - b. Is experiencing comparable or worse economic impacts as the national travel, tourism, and hospitality sectors as of April 1, 2022 and if the impacts were due to COVID.

Parameters for relief:

- Aid may be provided only to businesses that existed prior to the pandemic and affected by required closures or other mitigation measures.
- Aid should be generally and broadly available to all businesses within the industry.
- Treasury recommends using first for operational expenses before using on other costs.



Relief that may be provided includes aid to mitigate financial hardship, including payroll, lost pay and benefits for returning employees, technical assistance and other services to support business planning, and COVID mitigation and protection measures.

Responding to Negative Economic Impacts- Public Sector Capacity

Three main categories include public health, public safety, and human resources staff; government employment and rehiring public sector staff; and effective service delivery

Public Safety, Public Health, and Human Services Staff

- ✓ May be used for payroll and covered benefits for the portion of time spent responding to COVID – Includes:
 - Public Safety - Police officers, sheriffs, firefighters, EMT, correctional officers, dispatchers and supervisors.
 - Public Health – Employees providing medical and mental health services, including those assigned to schools, prisons, etc; lab technicians, medical examiners, morgue staff; employees of public health departments directly engaged in public health and supervisors
 - Human Services Staff – Employees providing or administering social services, public benefits, child welfare services, or child, elder, or family care employees.

In determining how much time is spent on COVID response an employee can be deemed as entirely devoted to COVID response if the employee or his/her primary operating division spends more than ½ of the time devoted to COVID response.

Rehiring Public Sector Staff

- ✓ Hiring up to 7.5% above pre-pandemic baseline levels adjusted for historic underinvestment in the public sector. NEW
- ✓ Provide additional funds for employees who received pay cuts or were furloughed (up to pre-pandemic levels taking into account UI received) NEW
- ✓ Worker retention incentives – may be added on to regular compensation and narrowly tailored to need but should not exceed incentives traditionally offered or compensation others may offer to compete for the employees. NEW
- ✓ Maintaining current compensation levels to prevent layoffs. NEW
- ✓ Ancillary administrative costs related to hiring, support and retention.

Responding to Negative Economic Impacts- Public Sector Capacity – Effective Service Delivery

Funds can be used for:

- ✓ Program evaluation and evidence resources;**
- ✓ Data gathering and analysis;**
- ✓ Technology infrastructure to improve access and delivery**
- ✓ Community outreach and engagement**
- ✓ Capacity building to support using data and evidence including hiring staff, consultants or technical assistance**
- ✓ Administrative costs for programs responding to the public health emergency and it's economic impacts**
- ✓ Addressing administrative needs caused or exacerbated by the pandemic including addressing backlogs, increased repair/maintenance needs, and technology infrastructure needs (video conferencing, etc.)**

Responding to Negative Economic Impacts- Public Sector Capacity – Capital Expenditures

Must meet other requirements including being related and reasonably proportional to the pandemic impact identified and reasonably designed to benefit the impacted population or class. Preapproval is not required.

- **Expenditures of less than \$1 million – No written justification required.**
- **Expenditures of over \$1 million - written justification required and information must be submitted as part of regular reporting.**
- **Written justification includes:**
 - **Description of the harm or need to be addressed**
 - **Explanation of why the capital expenditure is appropriate**
 - **Comparison of the proposed capital project against at least two other alternative capital expenditures and explanation of why the proposed project is superior.**
 - **Guidance notes that recipients should consider improving existing capital assets when possible rather than building new.**

Responding to Negative Economic Impacts- Public Sector Capacity – Capital Expenditures

Projects presumed eligible:

- Testing labs and equipment
- Emergency operations center & equipment
- Affordable housing
- Childcare facilities
- Schools (for Disproportionately Impacted communities)
- Primary care health clinics and hospitals (for Disproportionately Impacted communities)

Projects presumed to be ineligible –

- Construction of new correctional facilities as a response to an increase in rate of crime.
- Construction of new congregate facilities to decrease spread of COVID-19 in the facility.
- Construction of convention centers, stadiums, or other large capital projects intended for general economic development or to aid impacted industries.

In undertaking capital expenditures, Treasury encourages recipients to adhere to strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws

Framework for Eligible Uses Beyond Those Enumerated

In all categories, there is an opportunity for local governments to identify uses of ARPA funds beyond those enumerated in the final rule.

1. Identify COVID-19 public health or economic impact
 - Can identify impact to a specific household, business or nonprofit or to a class of households, businesses or nonprofits (i.e., group)
 - Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class
2. Design a response that addresses or responds to the impact
 - Types of responses can include a program, service, or capital expenditure
 - Response should be related and reasonably proportional to the harm
 - Response should also be reasonably designed to benefit impacted individual or class

Premium Pay

The Coronavirus State and Local Fiscal Recovery Funds may be used to provide premium pay to eligible workers performing essential work during the pandemic. Premium pay may be awarded to eligible workers up to \$13 per hour. Premium pay must be in addition to wages or remuneration (i.e., compensation) the eligible worker otherwise receives. Premium pay may not exceed \$25,000 for any single worker during the program. Eligible workers include workers “needed to maintain continuity of operations of essential critical infrastructure sectors.” These sectors and occupations are eligible:

- ✓ Health care
- ✓ Emergency response
- ✓ Sanitation, Disinfection & Cleaning
- ✓ Maintenance
- ✓ Grocery stores, restaurants, food production, food delivery
- ✓ Pharmacy
- ✓ Biomedical Research
- ✓ Behavioral health
- ✓ Medical testing & diagnostics
- ✓ Home and community health
- ✓ Family or child care
- ✓ Social Services
- ✓ Public health
- ✓ Mortuary
- ✓ Critical research, development and testing for COVID response
- ✓ State or local workforce
- ✓ Educational, school nutrition and other work required to operate a school
- ✓ Laundry
- ✓ Elections
- ✓ Solid waste or hazardous materials
- ✓ Work requiring physical interaction with patients
- ✓ Dental care
- ✓ Transportation & warehousing
- ✓ Hotel and commercial lodging facilities used for COVID mitigation and containment
- ✓ Other sectors identified by the chief executive of a local government necessary to protect the health and well being of residents

Water and Sewer Infrastructure

Three categories of eligible water and infrastructure projects – Those under the EPA clean water state revolving fund (CWSRF), the EPA drinking water state revolving fund (DWSRF), and additional projects detailed below if they are found to be “necessary” under the rules. Projects under CWSRF and DWSRF are deemed to be necessary.

- ✓ Culvert repair, resizing, and removal, replacement of storm sewers, and additional types of storm water infrastructure NEW
- ✓ Infrastructure to improve access to safe drinking water for individual served by residential wells, including testing initiatives, and treatment/remediation strategies that address contamination. NEW
- ✓ Dam and reservoir rehabilitation if primary purpose of dam or reservoir is for drinking water supply and project is necessary for provision of drinking water. NEW

- ✓ Broad set of lead remediation projects eligible under EPA grant programs authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act, such as lead testing, installation of corrosion control treatment, lead service line replacement, as well as water quality testing, compliance monitoring, and remediation activities, including replacement of internal plumbing and faucets and fixtures in schools and childcare facilities. NEW

A “necessary” investment in infrastructure must be:

- (1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise,
- (2) a cost-effective means for meeting that need, taking into account available alternatives, and
- (3) for investments in infrastructure that supply drinking water in order to meet projected population growth, projected to be sustainable over its estimated useful life.

Broadband Infrastructure

Recipients are encouraged to prioritize projects that are designed to serve locations without access to reliable wireline 100/20 Mbps broadband service, but are broadly able to invest in projects designed to provide service to locations with an identified need for additional broadband investment. Recipients have broad flexibility to define need in their community.

- Design project to meet high-speed technical standards. Recipients are required to design projects to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, eligible projects may be designed to reliably meet or exceed 100/20 Mbps and be scalable to a minimum of symmetrical 100 Mbps download and upload speeds.
 - Treasury encourages recipients to prioritize investments in fiber-optic infrastructure wherever feasible and to focus on projects that will achieve last-mile connections. Further, Treasury encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, nonprofits, and cooperatives.
 - Funds may be used for modernization of existing and new cybersecurity infrastructure regardless of speed and delivery standards.
- Recipients must require the service provider for a broadband project that provides service to households to either:
1. Participate in the FCC's Affordable Connectivity Program (ACP)
 2. Provide access to a broad-based affordability program to low-income consumers that provides benefits commensurate to ACP
- Treasury encourages broadband services to also include at least one low-cost option offered without data usage caps at speeds sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Recipients are also encouraged to consult with the community on affordability needs.

Restrictions on the use of funds

Funds cannot be used to:

- Offset a reduction in net tax revenue resulting from a change in law.
- Pay down pension obligations to reduce unfunded liabilities (but can be used for routine contributions for employees whose wages are an eligible use).
- Pay for debt service or financing costs.
- Add to rainy day funds.
- Settle obligations under a settlement agreement, judgement, consent decree or debt restructuring.
- Violate existing laws or regulations (federal, state, local, and ARPA).

Reporting requirements

Reporting requirements differ depending on the size of the local government and amount received:

- Cities and counties with populations over 250,000 had to submit Recovery Performance Reports by August 31, 2021 and plans must be posted to a publicly available website (Only Lexington and Louisville were required to submit a recovery plan).
- A one-time interim report summarizing the use of funds was required from all metro cities and counties that had received funds by July 15, 2021 – the report covers use of funds through July 31, 2021.
- All counties that receive more than \$10 million in ARPA funds and the cities of Louisville, Lexington, Ashland, Bowling Green Covington and Owensboro –
 - Must file a project and expenditure report by 1/31/22 and 30 days following the close of each quarter; and
 - Must file an annual report by 7/31 of each year
- All counties that receive less than \$10 million and other cities must file a project and expenditure report by 4/30/22 and must file annually thereafter. A recovery plan performance report is not required.

Community Engagement – What Can You Do?

In its initial guidance, Treasury urged local governments “to engage their constituents and communities in developing plans to use these payments, given the scale of funding and its potential to catalyze broader recovery and rebuilding.”

... But there are no requirements that local governments do so.

Because of the lack of guidance and the length of time to spend the money, many local governments have delayed making decisions about what to use the money for – the final rule provides a significant expansion of permitted uses and expenditures, making more options available.

The governing bodies in cities and counties will be responsible for budgeting the ARPA funds they receive. Questions to ask:

1. How much has been received and how has it been spent or allocated?
2. Is there an opportunity for public input/engagement regarding how remaining funds will be spent?
3. What processes are the city/county using to hear about what people need – particularly people who are difficult to reach?

<https://kypolicy.org/local-recovery-monies-should-go-to-communities-greatest-needs-kentuckians-can-help-make-that-happen/>



Other ARPA Funding Sources to be Aware of

In addition to State and Local Federal Relief Funds, the American Rescue Plan includes other sources of funding for state and local governments, including the following:

- [Coronavirus Capital Projects Fund](#) to fund critical capital investments including broadband infrastructure
- [Homeowner Assistance Fund](#) to provide relief for our country's most vulnerable homeowners
- [Emergency Rental Assistance Program](#) to assist households that are unable to pay rent or utilities;
- [State Small Business Credit Initiative](#) to fund small business credit expansion initiatives.

More information is available on the Treasury website. <https://home.treasury.gov/policy-issues/coronavirus>

The image shows a large, ornate legislative chamber, likely the U.S. House of Representatives. The room is filled with rows of wooden desks and chairs, arranged in a semi-circular pattern. The architecture features high ceilings, large columns, and a prominent chandelier hanging from the center. The entire scene is overlaid with a semi-transparent yellow filter. In the center of the image, there is a URL in white text.

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

Questions?



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