NATIONAL ASSOCIATION of COUNTIES NACo®

INFRASTRUCTURE INVESTMENTS FOR NM'S NEXT GENERATION & BEYOND

NMC ANNUAL CONFERENCE

JUNE 16, 2022

TOP 10 HIGHLIGHTS OF RECOVERY FUND FINAL RULE

1. **Final Rule went into effect on April 1, 2022**
2. **Allows counties to use up to $10 million standard allowance, or an enhanced 5.2% growth factor under Treasury's formula, as *revenue loss* for the provision of general government services**
3. **Clarifies eligible use of funds for capital expenditures** and requires written justification for projects above $1M cost
4. **Presumes certain populations were "impacted" and "disproportionately impacted" by the pandemic** and therefore are eligible to receive a broad range of services and support – *designed to minimize administrative burden*
5. **Streamlines options for premium pay** by broadening the share of eligible workers who can receive premium pay
6. **Authorizes re-hiring of local government staff,** either at or above pre-pandemic levels
7. Allows Recovery Funds to be used for **modernization of cybersecurity,** including hardware and software, and expands broadband infrastructure invests
8. Broadens **water and sewer projects** to include storm water, culvert repair, dam and reservoir rehabilitation
9. Recovery Funds may be **deposited into interest-bearing accounts,** with earned interest allowed for general county use
10. Recovery Funds shall comply with **federal "Uniform Guidance" or 2 CRF Part 200**

PROCESS TO RECEIVE ARPA SECOND TRANCHE FUNDING

- Second tranche payment being made no earlier than 12 months after the first payment
- Counties will be able to access portal for 30-days prior to their second tranche payment
- Treasury will notify counties when they can enter the portal – Assigned POC, who registered with ID.me, will receive the email
  - Any changes need to be sent to COVIDReliefITSupport@treasury.gov with the subject line "Entity Name – Update to Designated Individuals"
- Counties must have an active SAM.gov entity registration to receive second tranche (renew every 12-months)
- On **April 2022,** the federal government changed service providers and stopped using the DUNS Number and began using the Unique Entity ID (UEI) in SAM.gov to identify entities
  - **In some instances, a county will be required to adopt a UEI prior to receiving its second tranche payment**

Counties must have active SAM.gov registration & new UEI, in some cases, to receive second tranche payments

UPDATED REPORTING & COMPLIANCE REQUIREMENTS

NEW AS OF JUNE 10, 2022 & REQUIRED FOR JULY 31, 2022 REPORTING

1. **Additional programmatic data for capital expenditures:** Counties need to report the type of expenditure based on a list of enumerated uses for capital expenditures (i.e. vaccination sites, job and workforce training centers, and public health data systems)
2. **Written justification for capital expenditures:** Counties are required to provide a written justification for capital projects of any category that cost at least $10 million and for projects in the "other" category that cost at least $1 million
3. **Description of labor requirements for capital expenditures:** For projects that cost at least $10 million, counties will need to report on the strength of the project's labor standards, including information on the presence of a project labor agreement, community benefits agreement, prevailing wage requirement, or local hiring
4. **Project information for broadband projects:** Counties need to report what kind of technology is involved in the project (i.e., fiber optic cables), the total miles of fiber deployed over the project, and the total number of funded locations served broken out by both speed of connection and type of location (i.e., residential, business, or community)
5. **Updated template for Recovery Plan:** The updated guidance also provides a template for the Recovery Plan due for large counties on July 31, 2022, reflecting the expenditure categories and other changes made by the Final Rule.

SINGLE AUDIT ALTERNATIVE

1. If you are eligible, you should discuss this with your Auditor
2. This is an addendum to the 2021 Single Audit (SA) Compliance Supplement and the revision is Addendum 3, which includes a simplified SA process called an “Attestation” for direct recipients that are considered exempt from SA if it was not for expenditures of SLFRF funds
3. This alternative is intended to reduce the burden of a full Single Audit or Program-Specific Audit on eligible recipients and practitioners
4. This alternative applies to fiscal year audits beginning after June 30, 2020
5. Attestation would result in an auditor’s opinion on compliance which includes an assessment of two activities, specifically “activities allowed” and “unallowed/allowable cost”
6. Eligibility is limited:
    - Attestation eligibility would only apply to direct recipients either from Treasury or from the States (NEUs) receiving under $10M in total
    - Attestation eligibility would apply to direct recipients only if other Federal award funds the recipient expended are less than $750,000 during the recipient’s fiscal year – not including their SLFRF award funds
7. Single Audit would still apply if the recipient spends over $750K in <u>ANY OTHER</u> federal funds
8. UG still applies to ALL expended funds, whether the recipient performs an Attestation or a SA
9. UG requires non-Federal entities that <u>expend $750,000 or more a year in Federal awards to have an audit</u> conducted in accordance with the UG

FUNDAMENTALS OF REVENUE LOSS ALLOWANCE

Counties may use Recovery Funds to provide general government services, up to the amount of *revenue loss* experienced using one of two approaches. Under the Final Rule, **counties may now use one of the two options:**

KEY NEW FEATURES IN FINAL RULE

1. **NEW STANDARD ALLOWANCE OF UP TO $10 MILLION FOR REVENUE LOSS**

   A. Counties may allocate up to $10 million of their total Recovery Fund allocation to spend on general government services

   - Simplifies reporting requirements for counties using the standard $10M standard allowance
   - 2,137 counties (70%) are now eligible to invest the entirety of their Recovery Fund allocation for general gov't services

   OR

   B. Counties may still calculate actual revenue loss using the Treasury formula – *but must pick & stay with 1 of the 2 options*

2. **IMPROVEMENTS TO TREASURY'S REVENUE LOSS FORMULA**

   - Revenue loss **growth rate enhanced from 4.1% to 5.2% each year** as the new standard default allowance for the formula
   - General revenue now includes **utility revenue and liquor store** revenue, *at the discretion of the county*
   - Counties may choose to calculate revenue loss on a **fiscal year OR calendar year** basis – *must pick & stay with 1 option*

FUNDAMENTALS OF REVENUE LOSS ALLOWANCE

Counties may use *revenue loss* for **general government services up to the *revenue loss* amount**, whether using the standard allowance (up to $10 million) or the amount calculated using Treasury's formula for each eligible year:

- **Government services generally include any service traditionally provided by a government,** unless Treasury has stated otherwise

- **Common examples** include, but are not limited to:
  - Construction of schools and hospital
  - Road building and maintenance, and other infrastructure
  - Health services
  - General government administration, staff and administrative facilities
  - Environmental remediation
  - Police, first responders and other public safety services (including purchase of fire trucks, police vehicles and other equipment)
  - Other general government services

RECOVERY FUNDS USED TO REPLACE "REVENUE LOSS" ARE MORE FLEXIBLE AND MAY BE USED FOR A BROAD RANGE OF GOVERNMENT SERVICES, PROGRAMS AND PROJECTS OUTSIDE OF TYPICAL ELIGIBLE USES OF RECOVERY FUNDS UNDER THE FINAL RULE. HOWEVER, REVENUE RECOUPMENT SHALL NOT BE USED FOR RAINY DAY FUNDS, DEBT SERVICES, AND EXTRAORDINARY PENSION CONTRIBUTIONS

STATE, LOCAL, TRIBAL AND TERRITORIAL FISCAL RECOVERY, INFRASTRUCTURE, AND DISASTER RELIEF FLEXIBILITY ACT | (S.3011/H.R. 5735)

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KEY FEATURES OF THE BILL

1. **Allows increased flexibility for the use of Treasury ARP county dollars, including for eligibility under:**
   - Federal surface transportation infrastructure projects (including non-federal match requirements)
   - Provision of government services – included in Treasury's ARPA Final Rule HUD CDBG program
   - Emergency relief from natural disasters

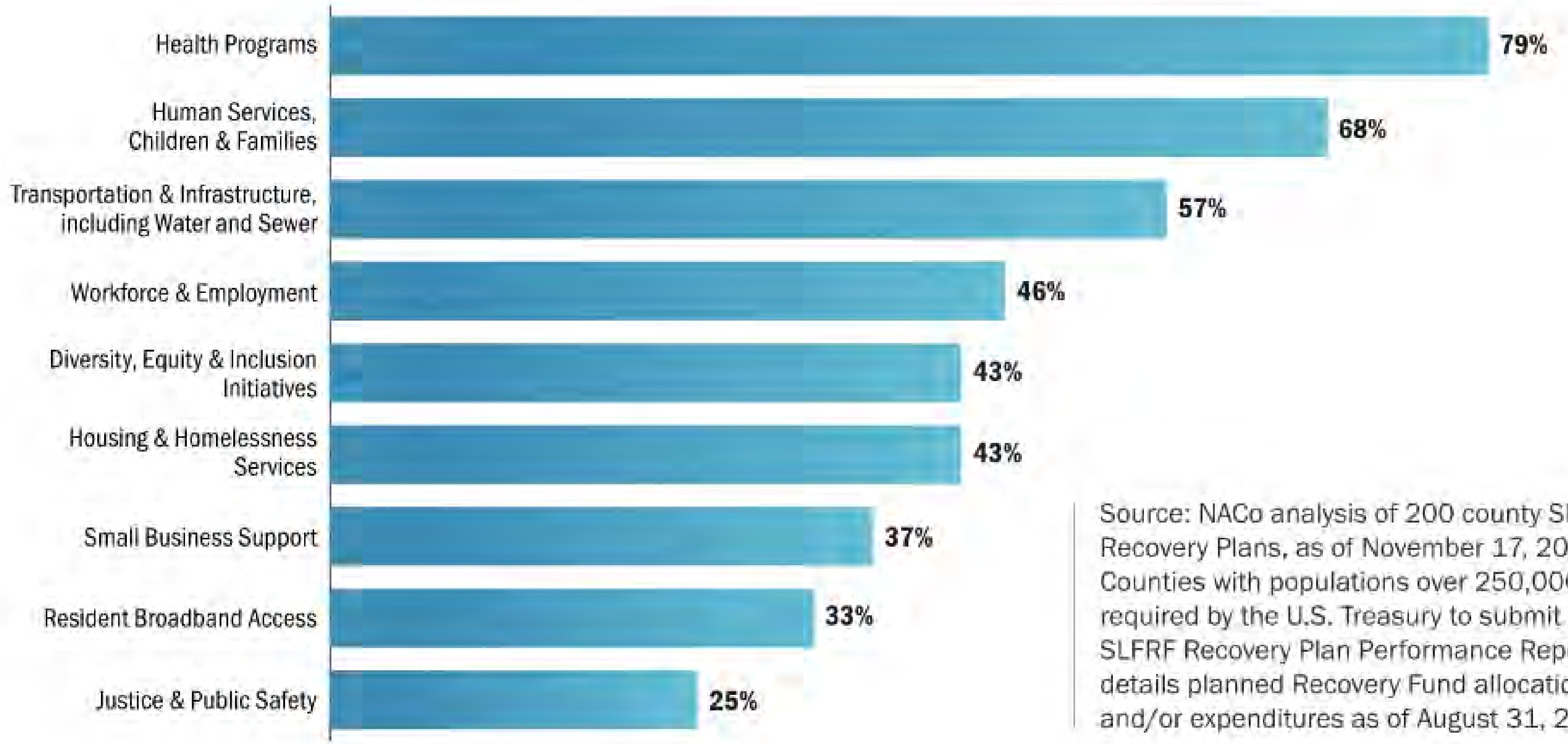
2. **Modifies eligibility for public lands counties under ARP's Local Assistance and Tribal Consistency Fund**
   - Clarifies an "eligible revenue share county" is the same as PILT counties
   - Redirects $15M (or 1%) from the original $1.5B to U.S. territories

3. **Directs unclaimed Treasury ARP dollars for federal deficit reduction**

BACKGROUND

- Sens. Padilla (D-Cali.) and Cornyn (R-Texas), along with six primary co-sponsors, spearheaded the passage of S. 3011, ***with unanimous bipartisan support,*** in the U.S. Senate on Oct. 19, 2021
- Reps. Bordeaux (D-Ga.) and Johnson (R-S.D.), along with over 125 cosponsors introduced H.R. 5735 in the House on Oct. 26

COUNTIES ARE UTILIZING RECOVERY FUNDS FOR KEY INVESTMNETS



Source: NACo analysis of 200 county SLFRF Recovery Plans, as of November 17, 2021. Counties with populations over 250,000 were required by the U.S. Treasury to submit an SLFRF Recovery Plan Performance Report that details planned Recovery Fund allocations and/or expenditures as of August 31, 2021.

COUNTY INVESTMENTS OF AMERICAN RESCUE PLAN RECOVERY FUNDS

SUMMIT COUNTY, COLO.

2020 POPULATION: 31,055

DESCRIPTION:

The Summit County Board of Commissioners are allocating nearly $3 million to implement solutions for the workforce housing shortage in the region. The affordable housing shortage has been exacerbated by the pandemic and requires a multi-pronged approach, including the construction and acquisition of new units, modifying regulations and creating new incentive programs.

DAVIS COUNTY, UTAH

2020 POPULATION: 362,679

DESCRIPTION:

Davis County has allocated $1 million for vaccination clinics, $403,000 for a drive-through mass vaccination site, $291,000 for increased legal counsel and support services to mitigate justice system backlogs, $158,000 for additional legal defenders and support services, $74,000 for enhanced pretrial support services and $7.8 million for the Davis County jail medical unit expansion.

ANCHORAGE BOROUGH, ALASKA

2020 POPULATION: 291,247

DESCRIPTION:

Anchorage Borough's allocations include $2.5 million for a voucher gift card program to support local businesses, $8.7 million for small business relief, $4 million for housing and homelessness supports, $1.6 million for housing wraparound services and $3 million to expand short-term, job-oriented career certificates at the University of Alaska Anchorage.

LEWIS AND CLARK COUNTY, MONT.

2020 POPULATION: 70,973

DESCRIPTION:

Lewis and ClarkCounty Commissioners approved $20,000 for the Craig Water and Sewer District to conduct an engineering and systems health check, $250,000 for the Eastgate Village Water and Sewer Association, Inc. to renovate a major water system and install another deep well for emergencies and $88,500 for LaCasa Grande Estates Water and Sewer District to initiate a well replacement project.

NEW NACo ARPA RESOURCES

The widespread impacts of global pandemic require a federal-state-local response with counties as key leaders in our nation's intergovernmental system.

- [HIGHLIGHT YOUR COUNTY'S ROLE IN MITIGATING PANDEMIC IMPACTS]
- Nationwide, counties support 1,900 public health departments, nearly 1,000 hospitals and clinics, 800 long-term care facilities, 750 behavioral health centers, and coroners/medical examiners.
- Each year, counties invest over $600 billion in our nation's infrastructure, justice system, public health services, schools and local economies, alongside other investments that provide key human services to our most vulnerable residents.
- The partnership between counties and the federal government, states and cities drives our government system and enables the most effective responses.

Congress authorized the Recovery Fund to respond to COVID-19, and its detrimental public health and negative economic impacts.

- The flexible aid provided to counties through ARPA and the Coronavirus State and Local Fiscal Recovery Fund ensures counties can continue providing important services to residents.
- Congress and the U.S. Treasury understand that county leaders are close to the people and know the unique needs and opportunities within our communities.
- Through its legislative text, Congress made clear that they understood the pandemic was both a public health and economic crisis, allowing state and local governments to invest in key areas to support our nation's recovery.
- By investing in counties, the American Rescue Plan Act invests in our nation.

The additional flexibility (up to $10 million) provided by the U.S. Treasury Final Rule and a unanimous, bipartisan vote of the United States Senate recognized the diversity of needs for America's counties and our residents.

- Counties are using the ARPA Recovery Fund for strategic, short-term and long-term investments to meet the needs of residents.
- Not only are counties responding to immediate needs caused by the COVID-19 pandemic, but county leaders are also using this opportunity to look ahead and build a stronger foundation for long-term social and economic prosperity.
- 2,137 counties received $10 million or less from the SLFRF, totaling approximately $7.8 billion.
- Counties with populations >1 million have a combined total allocation of approximately $23.7 billion.

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SAMPLE LETTER TO MEMBER OF CONGRESS

[DATE]

The Honorable *[FIRST NAME] [LAST NAME]*
United States *[SENATE/HOUSE OF REPRESENTATIVES]*
[ADDRESS LINE 1] [ADDRESS LINE 2]

Dear *[SENATOR/CONGRESSMAN LAST NAME]*,

On behalf of the *[NUMBER]* residents of *[NAME]* County, I am writing to you today to adamantly oppose any efforts to rescind any Coronavirus State and Local Fiscal Recovery Funds that Congress authorized through the American Rescue Plan Act (ARPA).

Last year, Congress authorized the ARPA Coronavirus State and Local Fiscal Recovery Fund to respond to COVID-19 and its detrimental public health and negative economic impacts.

Every county in America has felt the effects of this pandemic, which has claimed hundreds of thousands of lives and stunted our local economies. Through it all, and as we rebuild for the future, counties are on the front lines by caring for the sick, testing those who were infected and vaccinating hundreds of millions of Americans.

[NAME] County is just one of our nation's 3,069 counties that have received Recovery Funds. With the historic investments from ARPA, the nation's counties are leading efforts to save lives and restore livelihoods. Recovery Funds are being used to ***[DESCRIBE EXPENDITURES FOR COUNTY SERVICES AND PROJECTS USING RECOVERY FUNDS SUCH AS REHIRING PUBLIC SECTOR WORKFORCE, ASSISTING STRUGGLING SMALL BUSINESSES, ADDRESSING THE BEHAVIORAL HEALTH CRISIS, INVESTING IN CRITICAL WATER, SEWER AND BROADBAND INFRASTRUCTURE AND SUPPORTING THE NATIONAL ECONOMIC RECOVERY]***.

The flexible aid provided to counties through the ARPA's Recovery Fund ensures counties can continue providing these important services to our residents. Congress and the U.S. Department of Treasury understand that county government leaders are close to the people and know the unique needs and opportunities within our communities.

The flexibility of the ARPA Recovery Fund provided under Treasury's Final Rule, namely the new $10 million revenue loss standard allowance, was a result from a bipartisan effort in the U.S. Senate that passed with unanimous consent. This new flexibility is vital to the success of the program since the diversity of America's communities necessitates a diversity of investments across counties.

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