ARPA & Other Federal Funding

NEW MEXICO COUNTIES
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American Rescue Plan Act (ARPA)

The American Rescue Plan Act of 2021 was signed into law by President Biden in response to COVID-19.

Allowable Uses *(these are not all inclusive)*

1. Respond to the public health emergency with respect to the COVID19 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality
2. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work
3. For the provision of government services to the extent of the reduction in revenue (i.e. online, property or income tax) due to the public health emergency relative to revenues collected in the most recent full fiscal year of the county prior to the emergency (I.e. January 20, 2020), or
4. Make necessary investments in water, sewer or broadband infrastructure.

American Rescue Plan Act (ARPA)

Direct County Allocations

- $65.1 billion based on population
- Every county received a direct allocation from U.S. Treasury
- Counties received funds in two tranches
- Funds may be appropriated through 12/31/2024 and allocated through 12/2026
- Cities and other non-county municipalities funds are separate from county funding, unlike the CARES Act where they may have been subrecipients

Restrictions

- Funds may not be used for pensions and it will be important for counties to separate any pension contributions
- The funding for revenue sharing counties cannot be used for lobbying
- Counties should be careful around capital infrastructure improvements
- Counties are encouraged to use money on clearly eligible expenses; the ARP should free up some general fund and use that to do anything questionable
- If funds are not used appropriately, U.S. Treasury may require repayment

State & Local Fiscal Recovery Fund (SLFRF)

SLFRF allows four major categories of eligible uses to address the broad range of public health and negative economic challenges caused or exacerbated by the COVID-19 emergency.

1. Public sector revenue: Provide general government services up to the amount of *revenue loss,* either using the standard allowance (up to $10M) or Treasury's revenue loss formula

2. Public health and economic response: Address, mitigate and respond to COVID-19 public health impacts, along with its negative economic harms

3. Premium pay for essential workers: Offer additional compensation for workers, including the county government workforce, who bear the greatest health risks because of their service in critical sectors

4. Water, sewer and broadband infrastructure: Invest in critical water and sewer projects (including stormwater and culverts), along with high-speed broadband infrastructure

New Mexico Counties Will Receive $407,284,450

Local Assistance & Tribal Consistency Fund (LATCF)

- LATCF provides funding in two equal payments for FYs 2022 and 2023 to "eligible revenue sharing counties"
- Formula is based on the federal acreage, population levels and various economic conditions (historic poverty levels, unemployment, etc.)
- Funds are available "for any governmental purpose other than a lobbying activity"
- Recipients may treat these funds in a similar manner to how they treat funds generated from their own local revenue
- Counties have broad discretion in the use of funds to cover costs on any eligible use
- If using to meet a non-federal match or cost-share, Treasury recommends confirming with the appropriate agency that the use of LATCF funds is acceptable
- Counties can transfer and pool funds for specific projects

New Mexico Counties Will Receive $62,362,817.12

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US Treasury Final Rule Highlights

- The Fiscal Recovery Fund was established to help turn the tide on the pandemic, address its economic fallout and lay the foundation for a strong and equitable recovery.
- The U.S. Treasury final guidance includes reporting requirements, formulas, etc. and additional information will be forthcoming
- Funds may cover costs from March 3, 2021 through December 31, 2024.
- There is no deadline for counties to certify for the Recovery Funds.
- Broad flexibility to help those disproportionately impacted by the COVID-19 pandemic.
- Recovery Funds can be distributed into interest-bearing accounts.
- Use of recouped “lost revenue” is more flexible than other Recovery Fund eligibility.
- Recovery Funds may not be used as non-federal match, unless specifically authorized.
- Re-hiring local government staff to pre-pandemic levels.
- Counties may use Recovery Funds for routine pension costs of employees.
- Counties may use Recovery Funds to invest in certain critical infrastructure projects.

Reporting Principles

- <u>Accountable:</u> Requires program and performance reporting to build public awareness, increase accountability, and monitor compliance of eligible uses. Counties are required to account for every dollar spent and provide detailed information on how funds are used.

- <u>Transparent:</u> Those recipients receiving the largest amount of funds will be required to publicly post a detailed Recovery Plan Performance Report each year so the public is aware of how funds are being used and outcomes are being achieved. In addition, Treasury will provide comprehensive public transparency reports using the project and expenditure reports that recipients are required to provide.

- <u>User friendly:</u> Reporting has improvements requested by recipients of CARES Act funding, including deadlines 30 days after the close of the reporting period (versus 10 days in CARES), streamlined requirements for smaller funding recipients, and increased availability of bulk upload capabilities.

- <u>Focused on Recovery:</u> Reporting guidance addresses the Biden administration's priority areas for an equitable economic recovery, including provisions that prioritize equity, focus on economically distressed areas, support community empowerment, encourage strong labor practices, and spotlight evidence-based interventions.

Cornyn and Padilla Amendment

On December 23, the U.S. Congress enacted the bipartisan State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act as an amendment to the Fiscal Year (FY) 2023 omnibus appropriations bill.

The amendment, which was championed by Senators John Cornyn (R-Texas) and Alex Padilla (D-Calif.) provides additional flexibility for the $350 billion Coronavirus State and Local Fiscal Recovery Fund (Recovery Fund) authorized under the American Rescue Plant Act (ARPA), including infrastructure, community development, and disaster response. It will also provide the U.S. Treasury with much-needed resources to assist counties in deploying recovery funds.

Cornyn and Padilla Amendment Highlights

- Permits counties to invest the greater of $10 million or 30 percent of their total ARPA Fiscal Recovery Fund allocation on new infrastructure-related and natural disaster response activities and Community Development Block Grant projects
- Codifies the standard allowance included in the US Department of Treasury's Final Rule that allows counties to invest up to $10 million for the provision of government services without having to go through a complicated "revenue loss" calculation
- Expands eligibility to receive payments from the Local Assistance and Tribal Consistency Fund (LATCF) to include consolidated city-county governments
- Unlocks administrative funds for the US Department of the Treasury to continue

Cornyn and Padilla Amendment Highlights

- The bill does not increase spending and does not place mandates on how counties can spend their Recovery Funds

- Requires the US Department of Treasury and US Department of Transportation secretaries to report to Congress on the use of relief funds to ensure accountability

- Clarifies existing allocations set aside at the US Department of Treasury for tribal governments and ensures they receive funding delayed by legal barriers over the last year

- Allows a county that received less than $10 million in ARPA Recovery Funds to consider the entire allocation as flexible for use toward a broad range of infrastructure projects outlined in the legislation

- ARPA Recovery Funds will still need to be obligated by December 31, 2024, and expended by September 24, 2026

Uniform Administrative Requirement

Subject to Uniform Administrative Requirements, Cost Principles and Audit Requirements (2 CFR Part 200 Uniform Guidance)

Counties should implement internal controls and effective monitoring to ensure compliance with Treasury reporting requirements

Administrative costs:

- Recipients may use funds for administering Recovery Funds that support effective
- management and oversight of funds
- Ensure compliance with Cost Principles

Cash management:

- Recovery Funds can be placed into interest-bearing accounts
- Interest DOES NOT need to be returned to Treasury
- Interest DOES NOT need to be used on Recovery Fund eligible expenses

Award Terms and Conditions

Recording keeping requirements:

- Counties must maintain records and financial documents for 5 years after funds have been expended
- Single audit requirements:
- Counties that spend more than $750,000 in federal award during a fiscal year are subject to Single Audit Act
- Civil Rights Act compliance:
- Ensure no discrimination on basis of race, color, national origin, disability, age or sex
- Signed assurance when requesting funds
- Provide annual information on compliance
- Subrecipient reporting and compliance:
- Manage and monitor subrecipients (I.e. nonprofit, small business, etc.) for compliance
- Identify subrecipient (I.e. subaward, compliance, reporting)
- Develop risk of noncompliance
- Develop written process/procedures for monitoring and risk assessment

Other Federal Funds

$25 Billion for Emergency Rental Assistance

- Communities with populations of 200,000 plus can get a direct distribution from Treasury
- Under 200,000 population can get funding through their respective states

Economic Development - $3 billion (10 x annual budget) for economic development projects including 25% for travel and tourism recovery

Federal Communications Commission - $7 billion for library and school broadband

Health & Human Services - funding for public health and human services with a significant focus on child care

Department of Transportation transit funds and Federal Aviation Administration airport funds

Infrastructure Investment & Jobs Act AKA Bipartisan Infrastructure Law (BIL)

On November 15, 2021 President Biden signed the Infrastructure Investment and Jobs Act (IIJA), enacting the legislation into law following a vote in the U.S. House of Representatives, where the bipartisan infrastructure package passed 228-206 earlier this month. These final steps follow the August 10 U.S. Senate passage of the bill in a strongly bipartisan 69-30 vote.

The IIJA provides $973 billion over five years from Fiscal Year (FY) 2022 through FY 2026, including $550 billion in new investments for all modes of transportation, water, power and energy, environmental remediation, public lands, broadband and resilience.

Infrastructure Investment & Jobs Act AKA Bipartisan Infrastructure Law (BIL)

The $550 billion in new investments includes:

- Transportation: $284 billion (U.S. Department of Transportation)
- Water: $55 billion (U.S. Environmental Protection Agency)
- Broadband: $65 billion (U.S. Department of Commerce)
- Energy & Power: $73 billion (U.S. Department of Energy)
- Environmental remediation: $21 billion (U.S. Environmental Protection Agency)
- Western water infrastructure: $8.3 billion (U.S. Department of the Interior; U.S. Department of Agriculture)
- Resiliency: $46 billion (U.S. Department of Homeland Security)

Payment in Lieu of Taxes

Under federal law, local governments (usually counties) are compensated through various programs for reductions to their property tax bases due to the presence of most federally owned land.

Federal lands cannot be taxed but may create a demand for services such as fire protection, police cooperation, or longer roads to skirt the federal property.

New Mexico Counties Received $42,139,967.00 for FY21

Secure Rural Schools (Forest Reserve)

SRS provides assistance to rural counties and school districts affected by the decline in revenue from timber harvests on federal lands. Historically, rural communities and schools have relied upon a share of receipts from timber harvests to supplement local funding for education services and roads.

New Mexico Counties Received $9,800,134.44 for FY21

Thank You

Progress Happens When We Work Together

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