

## **CivicPlus® Webinar: ARPA Guidance for Local Governments: A Discussion with Our Expert Guest from Witt O'Brien's**

### **Question and Answer Summary**

**Q. On the Interim Report item 6. Expenditure Category: Revenue Replacement it asks for "Cumulative Obligations to date" What does that mean? Does it mean what has been encumbered versus what has actually been expended?**

A. Our current understanding is that it is encumbered vs. actually expended, but Treasury is hosting a reporting webinar this afternoon where we are hoping to get some additional clarification.

**Q. What are NEUs?**

Non-entitlement units of local government. Smaller cities, towns, and townships that are receiving their allocation through the state instead of directly from the US Treasury.

**Q. Are there any specific Citizen Participation (Citizen Participation Plan, for instance?) requirements in the planning and implementation of projects and programs under ARPA?**

A. Unlike programs like CDBG, there are no specific community planning or engagement requirements, but it is certainly recommended by Treasury throughout their reporting and guidance materials.

**Q. When is the US Treasury's Final Rule expected?**

A. As I am sure you know, the comment period closed on July 16. Treasury indicated that they would start their review of these comments at that time, so it could take several weeks. We would anticipate that it would be released before the first reports are due at the end of the month.

**Q. We are an NEU, and our allocation is less than our revenue loss calculation. With that said, do we still need to track the expenses if it's considered a replacement of lost revenue?**

Yes, the funding identified through your revenue loss calculation still needs to be used for a programmatic purpose through the provision of government services, so reporting and all compliance requirements still apply. Tracking of expenses related to the use of those funds is a critical part of that process.

**Q. What are examples of municipal ARPA funding that could be used from multiple municipalities in a regional effort?"**

A. Certainly, infrastructure projects like regional stormwater management and broadband would be examples. We are also seeing regions address homelessness, food scarcity, affordable housing, and various social safety net issues through a regional effort.

**Q. The last guidelines I saw from the Treasury Department stated that you could not reimburse for any costs that occurred prior to approval of ARPA. Doesn't that limit reimbursement for most expenses under the COVID Regional Response category, or has there been any changes/clarification regarding that restriction?**

A. There has been an additional FAQ [FAQ 4.7] added by Treasury that addresses this. Certain items like the provision of premium pay may pre-date March 3, 2021, begin date for ARPA-LFRF, and may go all the way back to the beginning of the pandemic in January of 2020.

**Q. Have feds developed any forms for reporting, including the Project and Expenditure Reports, or do we NEUs use our good judgment?**

A. On Monday, Treasury issued a user guide for reporting. As part of that user guide, it indicated that once you log into Treasury's reporting portal that the applicable reporting templates would be available to you. Since NEUs do not report in this first cycle, I do not know if your specific reporting template is posted yet or not.

**Q. We simply wanted to be reimbursed for the costs of a position that we reassigned to manage all our public assistance programs. Is there anything in the latest FAQs that would allow us to go back to the beginning of the pandemic to reimburse those costs?**

A. The current guidance would only allow you to go back to March 3, 2021, to recoup these costs. The LFRF funds do allow for administrative expenses as well as indirect cost recoveries which could be other approaches to recapture some of the outstanding expenditures.

**Q. Because of the Treasury rules and regulations or red tape on ARPA, are metro cities and NEUs allowed to opt-out of ARPA?**

A. Yes, depending on the type of community, there are various options to either decline the funding outright or sign it over to the state. The compliance requirements are significant, but I would encourage you to reach out to a neighboring community, your auditor, or another outside firm to help assist with this effort at a high level so that your community can take advantage of this funding.

**Q. On revenue replacement... we've been hearing that the lost revenue must be entity-wide, i.e., you can't target individual sources such as hotel/motel tax, court fines, parks and rec fees, etc. Our county experienced lost revenue in many line items, but overall, our revenues were not down, due mainly to increased sales tax revenue. Would this make us ineligible for replacement revenue?**

A. Your understanding is correct that the revenue replacement calculation must be done on an aggregate basis, and you can not just calculate it for certain funds. Treasury does allow you to use either a 4.1% per year growth rate or the three-year average annual growth rate, so while you might not have had an actual loss of revenue, if you are below these growth rate numbers, you will still be able to claim revenue replacement.

**Q. Our Township will have a covid related revenue loss in 2021. Will revenue replacements be allowed for 2021?**

A. Yes, Treasury is allowing you to calculate revenue loss at four points in time to accommodate scenarios such as yours.

**Q. How many years in the future can we look at potential lost revenue?**

A. Revenue loss may be calculated as of December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023

**Q. You are advising that we have a report due in August. Can you direct me to the source for that statement and what report is due if there are no expenditures?**

A. It depends on the size of your jurisdiction. Slide six details the differences, but the information can also be found in <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>

**Q. Can ARPA funds be allocated to organizations that are not nonprofit or 501(c)**

A. They can, there is no specific prohibition.

**Q. Can we use ARPA funds to incentivize essential employees to get vaccinations?**

A. Yes, there is a FAQ [2.12] from Treasury that specifically addresses this as well as an announcement from the Administration last week calling for the use of the funding for \$100 cash incentives for both the general public and employees.

**Q. Where does ARPA fit within the Duplicate benefits standards under Common Rule?**

A. Performing a duplication of benefit analysis is a key compliance requirement of the use of ARPA-LFRF funding.

**Q. One of the members of our County Council wants to use 40% of our funds as a rebate for what would have been a "Homestead Tax." Almost all other county commissioners say this is illegal b/c you are not allowed to use the funds to reduce taxes. Our councilman states it doesn't reduce taxes but gives back money as would be tax relief. Many members of council believe this is not an appropriate use of the funds (\$298 for each homeowner for two years ). Is this an appropriate use of our funds?**

A. We are not comfortable answering this question due to the fact that the prohibition on offsetting taxes applies to state governments and not to units of local government, for which this webinar was focused.

**Q. I saw the last question. About years we can calculate revenue loss. Are we to calculate them on a calendar year? Or fiscal year?**

A. See section 3 of the Treasury FAQs, but in general, revenue loss is to be calculated on a calendar basis.

**Q. Thank you for the response on fiscal vs. calendar year. Just to verify, it is moneys received as of those dates. So, with the property tax payment deferrals, the taxes were later collected for a calendar year, but in the following calendar year. These will still qualify as revenue loss, correct?**

A. Correct.

**Q. Can a non-QCT county use funds as outlined in the IFR for QCT's? Or are those ONLY for use in QCT's?**

A. QCT's provide a presumption of allowability but do not preclude the use of funds for similar purposes in non-QCTs. The jurisdiction will just need to document their rationale for addressing those issues in non-QCTs (high percentage of rental/mortgage delinquencies, residents enrolled in safety net programs, students qualified for free and reduced lunch programs, blight conditions, closure of a major employer, etc. are all examples of potential rationales that could be used)

**Q. Could recreational trails be an applicable use re: public health response? The pandemic resulted in fewer opportunities for physical fitness, e.g., in gyms and outdoor recreational/physical health opportunities were maxed out and could be expanded to address this need. It would also address general community health needs. Thoughts?**

A. Generally speaking, not new construction but deferred maintenance and renovation to trails are an allowable use and discussed in a recent Treasury FAQ [FAQ 2.18].

**Q. With regard to lost revenue, a lot of cities have urged the Treasury Department to allow revenues to be deducted from the calculation from new tax measures that went into effect during this period since tax increases were not intended to make up lost revenue and were anticipated to be new revenues that were budgeted. Has the Treasury Department made any adjustments for this yet, or are new taxes still part of the calculated revenues?**

We are expecting to see this issue addressed when the Final Rule is issued.

**Q. I understand that but is it a fund or last resort etc.?**

A. This funding does not need to be used as a funding source of last resort, similar to how FEMA Public Assistance normally is.

**Q. Would an NEU be able to invest in Streets as infrastructure?**

A. Generally only through revenue replacement or as a provision of a larger water, sewer, stormwater, or broadband infrastructure project.

**Q. For the revenue loss calculation, do you know what the reasoning is for excluding utilities charges?**

A. Treasury FAQ 3.15 does the best job of explaining the Treasury rationale for excluding utility revenue.

**Q. Where can I find that the one-time bonus is not allowable under the ARP? Also, does usage include the purchase of fire trucks, besides under the revenue loss provision? I've been seeing other municipalities putting that into their plans.**

A. There was a letter sent to the State of Florida as it relates to teacher bonuses but has also been mentioned on various webinars with Treasury, and we are expecting it to be included in the final rule. Ambulances could potentially be addressed outside of revenue loss, but fire trucks would likely only be allowable through revenue replacement provisions.

**Q. I read early on that ARPA funds could be used for the enhancement of parks and rec areas as they are a component of public health. Is that true?**

A. It is. Treasury has added a specific FAQ that speaks to this issue and determines the allowability because of the impact on these facilities due to gym and other indoor recreational facilities being closed.

**Q. Do we send our reports to Treasury or one of our State departments, or will it be also addressed on the Treasury portal?**

A. Regardless of how you received your funding, your reporting will be submitted directly to Treasury and will be addressed in the Treasury portal.

**Q. Can funds be used for roads? My understanding was that it can't, but my County Board and County Engineer think it can.**

A. Only through revenue replacement and the provision of government services or as part of a larger water, sewer, stormwater, or infrastructure project (repairing a road after a fiber trench was installed)

**Q. Does the stormwater infrastructure apply to NEUs?**

A. It is an allowable use for all recipients, including NEUs.

**Q. Can you give an example of water, sewer infrastructure? For instance, can a town use ARPA funds to install digital water meters and the purchase of new water hydrants?**

A. The project you identified would be generally allowable. The best source for specific allowability guidance is the EPA clean water and drinking water revolving loan fund websites which are cited in the Treasury FAQs.

**Q. So once you calculate Lost Revenue for 12/31/2020, you still have to use those funds for the Allowable uses listed in ARPA?**

A. For the provision of government services, which is a much broader allowable use than those specifically outlined in ARPA.

**Q. On assistance to individuals, if our State Constitution doesn't allow for public monies to be expended for private use, except for economic development, does that take precedence over the federal guidelines?**

A. Generally, you will always need to follow the most restrictive guidance, so in this instance, the state guidance would take precedence over the federal guidance.

**Q. Please answer this question since 40% of 112 million is substantial. A one-shot of cash for homeowners doesn't seem like it should be an allowable use of funds. Our entire County Council and solicitor are waiting for an expert's response.**

A. We are not comfortable answering this question due to the fact that the prohibition on offsetting taxes applies to state governments and not to units of local government, for which this webinar was focused.

**Q. Does rehiring public staff also include if you had to cut hours and now want to add back (pt. time back to ft.)?**

A. Returning individuals to full-time status or restoring hours lost due to COVID would be an allowable use.

**Q. Does Aid to Tourism need to be tourism specifically impacted by Covid, or can it be used toward developing tourism generally, with the understanding that tourism was generally impacted in the area—helping a newly developing tourist attraction, for example?**

A. The presumption is that all tourism was directly or indirectly impacted by the pandemic and thus would be an allowable use of funds, including the development of a new facility.

**Q. Where can we find the Treasury FAQ link?**

A. <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>

**Q. Could you provide more details on the Revenue Loss calculation usage? We are a NEU, and based on the calculation, we are able to allocate almost all of the funding we received to revenue loss. We luckily had a good general fund balance last year so we were able to do ok. Is there more detail on what is expected as far as the usage and reporting required?**

A. The funding that you are able to use through revenue loss is just broader than the regular ARPA-LFRF uses but still needs to be used for programmatic purposes, and the various compliance and reporting requirements still apply.

**Q. Can funds be used for industrial site development or expansion of an industrial park?**

A. General economic development is not an allowable use, but if you could show a nexus to the negative economic impacts of COVID, QCTs, or revenue replacement, there could be a path forward.

**Q. Does stormwater infrastructure include culverts in rural areas that do not have sewer or water infrastructure?**

A. Generally speaking, it would.

**Q. We would like to award grants to restaurants to construct permanent outdoor dining areas to replace temporary outdoor dining that they have established due to the pandemic. Any issues with funding that from ARPA? Also, when are the final rules going to be issued by the Treasury Department? We thought they were supposed to be out on July 22nd. Lastly, anything included in the infrastructure bill that allows ARPA to be used for more infrastructure categories, which had been discussed by Congress at one time.**

A. Additional support for restaurants, including permanent outdoor dining facilities, would generally be an allowable use of funds. The comment period for the Interim Final Rule closed on July 16, but the rule has not been finalized yet. We are hoping that it will be posted by the end of the month when the first reports are due. Have not seen a final version of the infrastructure bill yet, but there have been no indications that it will expand the infrastructure allowability for ARPA - LFRF.

**Q. Do sub-recipients need to register in SAMS if they are an individual or household receiving relief funds?**

A. General beneficiaries are exempt from SAM.gov, but all vendors and sub-recipients do need to register.

**Q. Are fire districts eligible for funding as an NEU?**

A. Fire districts are not eligible for funding directly as an NEU but an NEU could allocate a portion of their funding to a fire district for support.

**Q. I'm seeking approval for a specific use of funds: On 6/29/21, the Treasury has informed me that they are not approving proposed expenditures. Has there been any change to this position?**

A. There has not so developing a memo to file which outlines your rationale or justification as to why you think it is an allowable use is the best approach at this point.

**Q. Will we be notified of the needed reporting forms or do we go searching for them the as the time approaches?**

A. You will want to make sure you are registered with the reporting portal and all of your forms and deadlines will be posted in that portal.

**Q. What does your firm do to assist small government entities with this entire process. We are looking at a consulting firm to complete/work with our City Treasurer to ensure we capture all uses and comply with all rules. Is that what Witt Obrien's does as well?**

A. Witt O'Brien's is a consulting firm that specializes in emergency management preparedness, response, and recovery services, as well as grant administration and program management. We support clients nationwide from the city/county governments to states, to federal agencies, as well as the US territories and tribal governments. Clients contract with Witt O'Brien's to administer their federal grant management programs and provide programmatic guidance to ensure that the jurisdiction is not only receiving all eligible funding but appropriate tracking/recording these funding allocations and using it strategically within the community in ways that meet all federal and state regulations and requirements. Please feel free to reach out to us directly, as we would be happy to discuss your jurisdiction's needs and project requirements with you in greater detail to determine how best we can support you!

**Q. How about NEPA prior to release and/or use of funds?**

Treasury has indicated that neither NEPA nor items like Davis Bacon apply to these funds.

**Q. Would the fire district need a SAM acct to receive money from us as an NEU?**

A. They would.

**Q. If our revenues were not affected, is the best choice to use these funds in water infrastructure?**

A. Water infrastructure would certainly be a viable choice, but I would stop short of recommending it as the best choice due to not having a complete understanding of your community's needs along with the potential for additional infrastructure funding about to be released by the federal government.

**Q. Use of funds to enhance our website and purchase and install an electronic message board?**

A. An argument that these items are required to inform your residents about pandemic-related issues can certainly be made and thus would likely be an allowable use. The website could also be funded through administrative or indirect cost funds.

**Q. Would Fire Service massive increases for a Township be included in the public health space?**

A. Through the revenue replacement provisions certainly. Outside of that, you would need to determine how much of the increase had to do with either direct COVID response or the negative economic impacts due to the pandemic.

**Q. What Safe Harbor do you recommend for Citizen Participation?**

A. Making materials available on the communities website along with discussion during public meetings are best practices.

**Q. E.g. of regional collaborative funding = houselessness initiatives**

A. Thank you for that example. Very helpful.



**Q. Could we use this to repair/replace windows in our courthouse that would open and circulate air, as well as automatic entrance doors that would allow the public to enter without touching the door handles to prevent the potential spread of COVID?**

A. Generally, yes. Improving building circulation, air filtration projects, and HVAC activities have all been allowable uses of both the CARES Act-CRF funding and now the ARPA-LFRF funding. You would just want to document that the rationale for the project is related to air quality related to the COVID pandemic. Automatic door entrances would be allowable in a similar manner as they would lead to preventing the transmission/spread of COVID.

**Q. Is there an admin cost by formula or eligible direct expense?**

A. Treasury FAQ 10.2 discussed the use of funds for administrative purposes. In addition, your grant agreement with Treasury lists both administrative funds and indirect costs as allowable uses or activities.

**Q. Are receipt of restricted impact fees (fire, library, parks) received for new single-family homes built included in calculating revenue replacement?**

A. The best source of guidance related to this is the appendix of the Treasury FAQ document, which can be found on page 42 of <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

**Q. Would a good first step for Counties/Cities be to procure a Legal Firm to support us in following these guidelines?**

A. I would recommend first taking advantage of the publically available information through organizations like the National Association of Counties, National League of Cities, Government Finance Officers Association, and Bloomberg Cities Network. I would also look to your state recovery office along with state county association and municipal league for available resources. If the jurisdiction still is needing assistance then certainly partnering with a disaster response consulting firm, audit, or accounting organization would be a reasonable next step.

**Q. Salary freeze due to loss of funds can this be used?**

A. Yes, restoration of salaries due to the negative economic impacts of COVID would likely be an allowable use of funds.

**Q. It sounds as if these funds can be used for planning documents so that we are prepared for an infrastructure construction project. is this correct?**

A. Generally, yes. Treasury FAQ 6.12 provides the most up-to-date guidance related to this question.

**Q. Can funds be used for digitizing records and IT equipment that enable a hybrid type (zoom/in-person) Council meeting.**

A. Generally, yes. In addition to those items specifically determined to be allowable with ARPA-LFRF, Treasury FAQ 2.2 also indicates how most activities previously allowable with the CARES Act Coronavirus Relief Funds (CRF) are also still allowable. Enabling residents to participate virtually in Council meetings was a fairly common use of CRF funding.

**Q. Will you be distributing the presentation for printing and sharing?**

A. Yes, all participants will receive a copy of the presentation materials.