Use It or Lose It: ARPA Funds Spending Update

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The American Rescue Plan Act of 2021 (ARPA), signed into law on March 11, 2021, provided $350 billion in funding for state and local governments through the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program. These funds, issued in response to the COVID-19 public health emergency and its negative economic impacts, can be used for many purposes. See our prior articles regarding ARPA funds and eligible uses here and novel uses and misconceptions of ARPA funds here.

One major caveat to the provision of ARPA funds is that communities only have until December 31, 2024, to budget their money and until December 31, 2026, to spend it before they lose it. How have state and local governments started to budget or spend their funds since ARPA was passed?

ARPA Project and Expenditure Stats

In June 2022, the Treasury Department released data offering a first glimpse at how state, local, tribal, and territorial governments spent their allocated funds between March and December 2021. It should be noted that the data covers a limited range of jurisdictions (1,756 out of over 40,000). Spending appears to have been slow thus far, which may be attributed to a host of reasons, including administrative burdens associated with establishing novel programs or the fact that the Treasury Department's Final Rule was not released until January 6, 2022. The Treasury also faced challenges when producing nationwide guidance, as factors such as the variable sophistication of budget directors often created more questions than answers for some communities. It is likely that spending will ramp up toward the end of 2022.

In an attempt to ease the compliance and reporting burden for smaller governmental entities that may lack resources or experience with federal grants, the Treasury allowed all recipients to claim up to $10 million or their maximum allotment, whichever is

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less, of lost revenue for the provision of government services. Many administrative requirements, such as capital expenditures requirements, normally apply to the use of funds but do not apply to the provision of government services. Any recipient could claim the standard allowance, but local governments that received small amounts were most likely to benefit from the allowance. The April 2022 SLFRF Reporting Guide and FAQ stated that recipients had a one-time chance to take advantage of the standard allotment in their April 2022 Project and Expenditure (P&E) reports, but the Treasury has since modified their guidelines to allow recipients to update their revenue loss election, as appropriate, in future reporting cycles through the April 2023 reporting period. This update will supersede any prior revenue loss election.

Top Expenditure Categories for States

As of December 31, 2021, the 1,756 local governments, states, and territorial governments in the Treasury's data set that provided P&E reports received a total of $207,654,643,174.[1] Of that, they obligated $58,191,012,756 (or 28.02%) of the aid that they had available to spend. The top expenditure category groups for states, ranked in order of total dollars of state obligations made, were as follows:

- Negative economic impacts, which include contributions to unemployment insurance trust funds and direct support to households and small businesses ($20.20 billion)
- Revenue replacement, which may fund transportation infrastructure projects as a government service up to the amount of revenue loss ($16.30 billion)
- Infrastructure, which includes water, sewers, and broadband, but excludes transportation projects ($1.90 billion)
- Public health ($1.40 billion)
- Disproportionately impacted communities ($1 billion)
- Premium pay ($0.30 billion)
- Administrative and other ($0.30 billion)

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Total amounts of state and local funding[2] and key utilization as of December 31, 2021[3] for some of Frost Brown Todd's footprint states include:

Indiana ($5.7 billion in total state and local funding)

- $1.1 billion to the Indiana Department of Transportation Next Level Connections Fund in order to fund roads and bridges and support broadband infrastructure
- $500 million to restore the Unemployment Insurance Trust Fund
- $500 million to the Indiana Economic Development Corporation Regional Economic Acceleration and Development Initiative (READI), an initiative that funded 17 regions for projects that attract talent to and promote economic growth in Indiana
- $250 million to the Rural Broadband Fund for the administration of broadband grant programs

Kentucky ($3.8 billion in total state and local funding)

- $505.7 million to repay interest and principal for advances of the unemployment fund
- $300 million to the broadband deployment fund, $50,000,000 of which gives priority to underserved or unserved areas
- $250 million to the Drinking Water and Wastewater Grant Program
- $69.3 million for COVID-19 testing and treatment, and $37,000,000 for COVID-19 testing and treatment specifically in congregate and vulnerable population settings

Ohio ($10.7 billion in total state and local funding)

- $1.5 billion to repay unemployment insurance trust fund loans
- $250 million to make grants under the Water and Sewer Quality program

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- $84 million to support infrastructure improvements at pediatric behavioral health facilities
- $5 million to increase staffing for the Expositions Commissions to plan events, including the return of the Ohio State Fair in Summer 2022

While most ARPA fund allocations have been to the categories mentioned thus far, a few state and local governments have used their funds more creatively. Some notable examples include the allocation of $15 million to improve New Jersey's bid to host the 2026 World Cup at MetLife Stadium; $6.6 million to replace irrigation systems at two golf courses in Colorado Springs, Colorado; $2 million to help Pottawattamie County, Iowa, purchase a privately owned ski area; $1 million to pay off overdue child support in St. Louis, Missouri; and $75,000 to build pickleball courts in Sidney, Ohio.

Where ARPA Stands Now

As governments begin to use their ARPA funds, challenges have naturally arisen as to how those funds can and should be used. Difficulties associated with distributing the funds include the administrative burden of designing new programs, especially when many local governments are short-staffed; the difficulty of applying federal funds directly to communities; and political pressure to fund one project over the next. Some believe that ARPA funds have given governments an unprecedented opportunity to make meaningful changes in their communities, while others point to examples of wasteful spending and challenge whether ARPA should have been passed in the first place. It is likely that debate will continue into the coming months and even years as spending continues and more data becomes available.

For more information, please contact Emmett Kelly, Frances Kern Mennone, Carrie Cecil, Amy Condaras, Beau Zoeller, Jason Halligan, or any attorney with Frost Brown Todd's Public Finance practice group

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[1] What the First Batch of Treasury Department Reports Tells Us About How Governments are Using Their ARPA Money – University

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of Illinois Chicago

[2] ARPA Federal Allocations Per State – National Council of Nonprofits

[3] ARPA Utilization Data by State – CSG Fiscal Policy

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