



An Update from the Finance Committee Regarding the American Rescue Plan Act of 2021

Finance Committee Membership:

David (D.J.) Beauregard, At-Large City Councilor, Committee Chair
James McCarty, Central District City Councilor
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Introduction

On April 20, 2021, the Methuen City Council voted to approve an amended version of TR-21-30, *A Resolution Tasking the Finance Committee to Establish Guidelines and Policies for the Disbursement of Funding from the American Rescue Plan Act of 2021*. The basis of this resolution was the fact that the City of Methuen received over \$4 million in two rounds of funding via the Coronavirus Aid Relief and Economic Security (CARES) Act, and the City expects to receive roughly \$40 million in additional stimulus funding via the American Rescue Plan (ARPA) “and other correlated state and federal sources”¹. Additionally, the resolution noted that “the anticipated funding from (ARPA) and any other state or federal COVID-related funding sources will total approximately 25 percent of the City’s annual budget and it is critical that these funds be handled in a proper and responsible manner”¹.

Given the City Council’s responsibility to provide financial oversight for the City of Methuen, the resolution tasked the Finance Committee with the responsibility of determining the administrative requirements associated with the anticipated influx of stimulus funds¹. The resolution also asked the Finance Committee to accomplish the following objectives¹:

- Determine federal and state administrative requirements defining how the funds may be used,
- Determine how the funding will impact the next municipal budget and whether funding may be utilized for projects identified in the upcoming Capital Improvement Plan (CIP), and
- Make recommendations to the City Council and the Mayor regarding the local requirements for spending the expected funding and, if necessary, propose local legislation to implement any such recommendations.

Furthermore, the resolution required the Finance Committee to report progress to the City Council at each regular meeting and provide a full detailed report with guidance and recommendations at the City Council's regular meeting on June 7, 2021. In accordance with TR-21-30, the Finance Committee offers this report to the full City Council and concerned residents of the City of Methuen.

A Summary of Guidance Provided by the U.S. Department of the Treasury

As of this writing, the U.S. Department of the Treasury has issued guidance through its interim final rule, responses to frequently asked questions, allocation data for metropolitan cities, and state guidance for non-entitlement units of local governments. In addition, Treasury has opened the portal for metropolitan cities to begin the process of applying for funding.

The interim final rule establishes a non-exclusive list of allowable expenditures, such as intervention for Qualified Census Tracts, public health, direct aid, community and economic development, and infrastructure-related projects. Encouraged expense categories include efforts to address racial disparities, inequities, and disproportionate economic harm. However, several expenditures are expressly prohibited by Treasury. Categories of prohibited expenditures include pension funds, legal settlements, and federal match requirements.

In terms of a framework to assess eligibility for projects and services, municipalities must identify the harmful effect of COVID-19 that the activity will address, assess the casual or compounding connection, evaluate the disproportionate impact on distressed sectors or populations, and determine how to prove that the expense produces the expected outcome.

The Process of Receiving Funds

For starters, it is important to note that the term "metropolitan cities" refers to cities with populations over 50,000, such as the City of Methuen. Regarding the ARPA funding timeline,

funds will be distributed to metropolitan cities in two tranches. 50 percent of the allocations will be provided beginning in May 2021, and the balance will be delivered approximately 12 months later. Metropolitan cities can apply for the funds through Treasury's online portal.

According to Treasury's guidance, jurisdictions must submit a request to receive funding even if they have previously applied for other programs through the Treasury Submission Portal. Applicants will need to submit their jurisdiction name, taxpayer ID number, Data Universal Numbering System (DUNS) number, SAM.gov account information, and address. In addition, contact information for an authorized representative, along with funds transfer information, including the recipient's financial institution, address, phone, and routing number and account number, will have to be provided.

Eligible Uses for ARPA Funding

According to the interim final rule, eligible uses for ARPA funding can include any effort to respond to the public health emergency with respect to COVID-19 or its negative economic impacts, such as the provision of assistance to households, small businesses, and nonprofit organizations, or aid to impacted industries (examples of such industries include tourism, travel, and hospitality). Other eligible uses that fall under this broader category include efforts to mitigate and prevent the spread of COVID-19, medical expenses, behavioral health care costs (including addiction treatment), expenses related to public health, the design and execution of health programs, efforts to address health disparities, and the provision of survivors' benefits.

Workforce/Personnel-Related Expenditures

In terms of eligible uses relative to personnel, ARPA funds can be used by municipalities to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers

performing essential work. According to the interim final rule, the term “essential work” is defined as work involving regular in-person interactions or regular physical handling of items that were also handled by others. Examples of essential workers include:

- Nursing home, hospital, and home care staffers;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitization workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;
- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

Infrastructure Expenditures

When it comes to infrastructure, ARPA allows for “necessary investments in water, sewer, or broadband infrastructure”³. Eligible projects under the Clean Water State Revolving Fund include the construction, improvement, and repair of wastewater treatment plans, efforts to control nonpoint sources of pollution, the creation of green infrastructure, stormwater management and treatment, as well as efforts to reuse water and protect waterbodies from pollution. Eligible projects under the Drinking Water State Revolving Fund include efforts to build or upgrade facilities to improve water quality, the establishment of transmission, distribution, and storage systems, and the consolidation of drinking water systems. Other allowable expenses include infrastructure improvements relative to cybersecurity, climate change and resilience, and lead service line replacement.

To qualify as an eligible broadband expense, projects must “be designed to provide service ... to unserved and underserved households and businesses”³. Communities can define specific

service areas and locations, and any ARPA funds must be used to provide broadband service that “reliably meets or exceeds symmetrical speeds of 100 megabits per second (Mbps)” or, if this is not possible, at least 100/20 Mbps with the ability to scale to a 100 Mbps symmetrical connection³. Municipalities that need to upgrade their broadband infrastructure are encouraged to consider affordability, avoid investing in locations with “existing agreements to build reliable wireline service with minimum speeds of 100/20 Mbps by December 21, 2024,” “deliver a physical broadband connection by prioritizing projects that achieve last-mile connections,” and prioritize municipal, nonprofit, and cooperative-owned networks³. Efforts to improve digital inclusion, such as aiding households by providing internet access and digital literacy assistance, are also considered eligible broadband infrastructure uses under ARPA.

Backfilling Lost Revenue

Treasury’s ARPA guidance notes that metropolitan cities can use the funds to backfill lost revenue in certain cases. According to the guidance, “general revenue” is based on the U.S. Census Bureau’s definition of the term: “(General revenue is) all government revenue except Liquor stores revenue, Insurance trust revenue, and Utility revenue. The basis for distinction is not the fund or administrative unit receiving particular amounts, but rather the nature of the revenue sources concerned”⁵. However, it is important to note that utilities are excluded from this definition in the context of ARPA.

As Treasury’s guidance notes, recipients of ARPA funds should sum across all revenue streams covered as general revenue. Cities, towns, and villages will use a predetermined growth rate of 4.1 percent or the average annual growth rate over the three full fiscal years prior to the pandemic to help determine lost revenue. ARPA fund recipients should calculate the extent of the

revenue reduction as of four points in time: December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023.

Ineligible Uses for ARPA Funding

Several uses of ARPA money are expressly prohibited by Treasury's guidance. These ineligible uses include meeting federal matching requirements, providing premium pay for telework, backfilling or bolstering pension funds, making infrastructure expenditures not directly addressed in ARPA, establishing rainy-day funds and financial reserves, and paying off outstanding debt. While transportation funding is not on the list of acceptable expenditures, the silver lining here is that, in certain cases, lawmakers and local governments can use some of their ARPA funds for transportation if they route it through the backfill-revenue-loss category. At the end of the day, it is important for legislators and residents alike to understand that ARPA funds cannot be used to cut taxes or keep revenue flat, unfortunately.

Reporting Requirements for Recipients of ARPA Funding

Overall, Treasury plans to assist municipalities with the administrative burden of reporting through the provision of technical assistance, and additional guidance about reporting requirements is forthcoming. For metropolitan cities such as Methuen, an interim report detailing expenditures by category at the summary level from a city's award date to July 31, 2021, is due by August 31, 2021. Quarterly project and expenditure reports outlining contracts and subawards over \$50,000, as well as the types of projects funded and other information pertaining to the utilization of awards, are due by October 31, 2021. Any additional reports along these lines are due 30 days after the end of each calendar quarter.

The Status of Further ARPA-Related Guidance / Next Steps

On May 17, 2021, Treasury requested comments regarding the interim final rule, which are due by July 16, 2021. Numerous clarifications relative to Treasury’s ARPA guidance are expected. It is important to note that some elements of the current guidance are relatively vague. For example, Treasury notes that metropolitan cities can deploy ARPA funds to “replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic”². In addition, ARPA funds can be used to “invest in water, sewer, and broadband infrastructure,” which would allow municipalities to make “necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and expand access to broadband internet”². However, despite the specificity of eligible uses outlined by Treasury, a notable caveat stands out: “Within these overall categories, recipients have broad flexibility to decide how best to use this funding to meet the needs of their communities”². For this reason, it is likely prudent to base any concrete decisions regarding capital improvement expenditures on the clarified guidance that is expected from Treasury in the coming weeks, unless specific projects fall under categories already defined by Treasury’s current guidance. The Finance Committee will keep close tabs on these developments as they continue to unfold and update the full City Council accordingly. In addition, as further guidance is issued by Treasury, the Finance Committee will strive to collaborate with the administration to make specific recommendations relative to the utilization of these funds and consider the prospect of proposing legislation to implement any such recommendations that arise.

Additional Information

¹ <https://www.cityofmethuen.net/sites/g/files/vyhlf886/f/uploads/tr2130amended.pdf>

² <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

³ <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

⁴ https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf

⁵ <https://www.census.gov/programs-surveys/gov-finances/about/glossary.html>