

## INSIGHTS + NEWS

### Client Alert: ARPA Aid – What Cities and Towns Can Expect

BY PETER J. MARTIN • MAY 3, 2021

On March 11, 2021, President Joe Biden signed the American Rescue Plan and Recovery Act (“ARPA”) into law. Over the next two years, ARPA will channel \$300 billion in fiscal support to municipal governments, many of which were struggling to fund operations and capital investment even before the pandemic. Cities and towns should think carefully about how they spend this money to ensure long-term economic growth.

#### ALLOCATION AND DELIVERY OF FUNDS

ARPA appropriates \$130.2 billion of funds from the Treasury to metropolitan cities, nonentitlement units of local government, and counties to “mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (COVID-19).”

Cities of over 50,000 residents will receive funds directly from the Treasury. The Secretary shall allocate these funds among qualifying cities consistent with the formula that the Department of Housing and Urban Development uses to award Community Development Block Grants. This formula considers criteria such as population, extent of poverty, extent of housing overcrowding, growth lag, and age of housing for a particular city as a ratio of those aggregate criteria for all cities. The Secretary shall pay the “First Tranche Amount” of these funds (representing 50% of the funds so allocated) no later than May 10, 2021. The “Second Tranche Amount” shall be paid no earlier than 12 months later.

Cities and towns with fewer than 50,000 will receive their share of funds from the Commonwealth of Massachusetts.

In addition, the Treasury will allocate \$65.1 billion of the appropriated funds to counties within the States, with each county receiving a share proportionate to its population over the total population of all counties in the United States. If the county is not a unit of general local government, then the States will distribute the funds directly to the cities and towns within the county. By way of example, Middlesex County, Massachusetts contains approximately .04% of the entire U.S. population, meaning that its allocation will be approximately \$319 million. Because it has no executive branch, however, the Commonwealth will distribute the funds to cities and towns within Middlesex County in proportion to their population over the total population of the County.

#### USE OF FUNDS

Regardless of whether a municipal government receives funds directly from the Treasury or indirectly through Massachusetts, ARPA limits the use of the funds to following:

- Relieving the economic impacts of COVID-19 through direct assistance to households, small businesses, and nonprofits, or aid to industries such as tourism, travel, and hospitality.

- Providing premium pay to workers performing essential work.
- Funding government services to the extent that the government collected less revenue during the pandemic.
- Investing in water, sewer, or broadband infrastructure.

Municipalities have until December 31, 2024 to “use” their allocation of funds. It is unclear, however, whether “use” means money spent, invested, allocated, or appropriated.

## GO BIG AND BOLD

While ARPA aid appears to come with many strings attached, municipalities should think creatively about how to deploy this unprecedented fiscal relief. Municipalities should strive for a balanced spending plan that includes covering shortfalls in operating expenses, debt reduction, and capital investment.

Whereas ARPA expressly prohibits States from “using” the funds to offset tax cuts, municipalities are not similarly constrained. This suggests that cities and towns may be able to reduce taxes and other fees and charges to ease residents’ financial burdens. Neither States nor metropolitan cities are permitted to deposit ARPA money into pension funds, however.

Well-designed capital investment has the greatest potential to improve a city’s economy and, by extension, its long-term fiscal health. ARPA allows municipalities to transfer funds to private nonprofit organizations, public benefit corporations involved in the transportation of passengers or cargo, or special-purpose units. Cities and towns should consider how using these vehicles might extend the impact of ARPA aid into the future. The private nonprofit organizations eligible to receive such transfers are defined under the terms of a homeless assistance act as organizations that do not necessarily have to have tax-exempt status but which must avoid private inurement, have a voluntary board, and practice nondiscrimination in the provision of assistance.

It is anticipated that the Secretary of the Treasury will promulgate regulations as are necessary and appropriate to carry out these programs in the coming weeks.