American Rescue Plan
Kentucky Non-Entitlement Cities

Kentucky League of Cities

May 26, 2021

Allocations

All cities except the nine cities that qualify as direct entitlement communities through the Community Development Block Grant (CDBG) program – Ashland, Bowling Green, Covington Elizabethtown, Henderson, Hopkinsville, Lexington, Louisville, and Owensboro – will receive their American Rescue Plan Act (ARPA) State and Local Fiscal Recovery (SLFR) funds through the Kentucky Department for Local Government (DLG). The first tranche of funds (half of the city's total allocation) will be available in June 2021, and the second tranche of funds will be available roughly 12 months later.

View the preliminary allocations for non-entitlement communities here.
These allocations may change.

Recipients must have a DUNS number, an active SAM registration, and a bank account enabled for automated clearing house (ACH) direct deposit. Treasury is using ID.me to ensure identity verification. An authorized representative – the chief executive officer of the city – must sign the acceptance of award terms. Once submitted to Treasury, the verification process takes approximately four business days.

Non-entitlement communities must certify to DLG their FY 2020 overall budget as of January 27, 2020. The American Rescue Plan precludes cities from receiving funding that amounts to more than 75% of their annual budget as of January 27, 2020. For purposes of the budget certification, cities can use all general and special funds to get the total budget figure. The budget certification form requires cities to include their FY 2020 budget that was in effect prior to January 27, 2020. That includes the entire year and any amendments a city passed for that fiscal year prior to that date.

Eligible Uses

Local Fiscal Recovery funds can (1) support public health response; (2) address the negative economic impacts of the public health emergency; (3) target low-income communities; (4) replace lost public sector revenue; (5) provide premium pay for essential workers; and (6) invest in water, sewer, and broadband infrastructure.

(1) **Support Public Health Response**

Recipients may use this funding to address a broad range of public health needs across COVID-19 mitigation, medical expenses, behavioral health care, and public health resources.

Payroll

Payroll and covered benefits for public health, health care, human services, public safety, and similar employees are eligible, to the extent these personnel work on COVID-19 response. Recipients can cover the full payroll and covered benefits costs for employees, operating units, or divisions primarily dedicated to the COVID-19 response. This standard is stricter than the Coronavirus Relief Fund (CRF) included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Recipients may use funds to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency and its negative economic impacts. This includes, but is not limited to, costs related to disbursing payments from the Local Fiscal Recovery Fund and managing new grant programs established through LFRF.

Medical and Behavioral Health
Medical expenditures can include, but are not limited to, the following services, programs, or purchases:

- Vaccination programs, including those that provide reasonable incentives
- Contact tracing
- Isolation or quarantine
- Personal protective equipment (PPE) purchases
- Enforcement of public health orders
- Public communication efforts
- Capital investments in public facilities to meet pandemic operational needs
- Ventilation improvements

Funds can cover behavioral health care needs exacerbated by the pandemic such as mental health treatment, substance abuse treatment, and programs to promote access to health and social services.

(2) **Address the Negative Economic Impacts of the Public Health Emergency**
Cities can provide:

- Aid to unemployed workers and job training
- Assistance to households facing food, housing, or other financial insecurity
- Funding to small businesses through loans, grants, in-kind assistance, or counseling programs
- Aid to tourism, travel, hospitality, and similarly impacted sectors
- Rehire public sector staff to pre-pandemic levels or build internal capacity to implement economic relief programs.

Household assistance includes but is not limited to food assistance; rent, mortgage, or utility assistance; counseling and legal aid; cash assistance; emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; and job training. Direct cash transfers to households are allowed, but they must be proportional to the negative economic impact on the household.

Assistance to small businesses and nonprofits includes but is not limited to loans or grants to mitigate financial hardship; loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics; and technical assistance, counseling, or other services to assist with business planning needs. Cities generally cannot use funds for overall economic or workforce development unless the efforts address a negative economic impact from the public health emergency.

(3) **Target Low-Income Communities**
Recipients can fund the following within a Qualified Census Tract (a low-income area designated by the U.S. Department of Housing and Urban Development) or to other populations, households, or geographic areas disproportionately impacted by the pandemic:

- Community health workers, public benefits navigators, remediation of lead hazards, and community violence intervention programs

- Services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling or housing navigation assistance
- New or expanded early learning services; resources to high-poverty school districts; tutoring or afterschool programs; and services to address social, emotional, and mental health needs
- New or expanded childcare, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth

(4) **Replace Lost Public Sector Revenue**

Recipients may use Local Fiscal Recovery funds to replace lost revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year prior to the public health emergency (FY 2019) and projects forward at either: (a) the recipient’s average annual revenue growth over the three full fiscal years prior to the public health emergency (FYs 2017, 2018, and 2019) or (b) 4.1%, which represents the national average growth of state and local revenue from 2015-2018. Treasury’s Interim Final Rule allows recipients to presume that any decrease in actual revenue relative to the expected trend is due to the COVID-19 public health emergency.

Cities should calculate their total general revenue across the entire entity instead of just looking at certain tax streams. For the purposes of the LFRF, “general revenue” includes revenue from taxes, current charges, and miscellaneous general revenue. This would include gross revenue from facilities operated by a government (e.g., swimming pools, recreation centers, convention centers, golf courses, etc.); auxiliary facilities in public recreation areas (e.g., concession stands, gift shops, etc.); lease or use fees from stadiums, auditoriums, and convention centers; and rentals from concessions at such facilities. General revenue also includes intergovernmental revenue from the state or other local governmental entities; however, it excludes federal transfers, such as money received under the CARES Act. The rule also excludes revenues from utilities debt issuance, or the sale of investments.

Cities should use the following formula to calculate the reduction in revenue:

$$\{\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{(n_{t}/12)}\} - \text{Actual General Revenue}_t$$

Where:

Base Year Revenue is general revenue collected in the most recent full fiscal year prior to the COVID-19 public health emergency (FY 2019).

Growth Adjustment is equal to the greater of 4.1% (0.041) or the recipient’s average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual general revenue is the recipient’s actual general revenue collected during the 12-month period ending on each calculation date.

t denotes the calculation date.

Upon receiving Local Fiscal Recovery Fund money, a city can immediately calculate the reduction in revenue that occurred in FY 2020 and deploy funds to address any shortfall. Once a shortfall is identified, recipients will have broad latitude to use this funding to support government services, up to the amount of lost revenue. Government services can include, but are not limited to, maintenance of infrastructure spending including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.

(5) **Provide Premium Pay for Essential Workers**
Cities may use LFRF money to provide premium pay directly to essential workers who must be physically present at their jobs or through grants to private employers for their essential workers. These include:

- Public health and safety staff
- Janitors and sanitation workers
- Nursing home, hospital, and home-care staff
- Farm, food production facility, grocery store, and restaurant workers
- Truck drivers, transit staff, and warehouse workers
- Childcare workers, educators, and school personnel
- Social service and human services staff

The American Rescue Plan defines premium pay to mean an amount up to $13 per hour in addition to wages or remuneration the worker otherwise receives, not to exceed $25,000 per eligible worker. Treasury states that recipients should prioritize premium pay for lower income workers, and cities must justify the need if the employee's total pay would exceed 150% of the greater of the state or county average annual wage. Employers are permitted and encouraged to offer premium pay retrospectively. Staff working for third-party contractors in eligible sectors are also eligible for premium pay with additional reporting requirements. Employees who teleworked from a residence would not qualify for premium pay for the time they teleworked.

(6) **Invest in Water, Sewer, and Broadband Infrastructure**
Recipients may use LFRF money to invest in various infrastructure projects related to water, sewer, and broadband. Water projects generally align with those eligible for the Drinking Water State Revolving Fund (DWSRF). These projects include treatment, transmission, and distribution (including lead service line replacement); source rehabilitation and decontamination; storage; consolidation; and new systems development.

Wastewater projects generally align with the Clean Water State Revolving Fund (CWSRF). These projects include construction of publicly owned treatment works; nonpoint source pollution management; national estuary program projects; decentralized wastewater treatment systems; stormwater systems; water conservation, efficiency, and reuse measures; watershed pilot projects; energy efficiency measures for publicly owned treatment works; water reuse projects; security measures at publicly owned treatment works; and technical assistance to ensure compliance with the Clean Water Act.

Cities can also invest in broadband infrastructure in unserved or underserved areas. These areas must lack a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. Treasury also encourages recipients to prioritize projects that achieve last-mile connections to households and businesses. These projects should deliver reliable 100 Mbps download and 100 Mbps upload speeds, unless impractical due to topography, geography, or financial cost. Recipients should pursue fiber optic investments if possible.
Cities can also aid households to support internet access or digital literacy in response to the public health and negative economic impacts of the pandemic. In addition, recipients may use funds to

modernize cybersecurity, including hardware, software, and protection of critical infrastructure, as part of provision of government services up to the amount of revenue lost due to the public health emergency.

The National Environmental Policy Act (NEPA) does not apply to Treasury's administration of the funds. However, projects supported by other federal funds may still require NEPA review.

Ineligible Uses

Recipients may not use Local Fiscal Recovery Fund money to make an extraordinary contribution to a pension system to reduce accrued unfunded liability; however, recipients may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds. Cities may not fund outstanding debt service, legal settlements or judgments, financing expenses, or deposits into rainy day or other reserve funds. Cities also generally cannot use LFRF money to meet non-federal match requirements for most federal grant programs.

Accessing Funds

In addition to the budget certification document outlined above, non-entitlement cities will need to have the following information ready to submit to DLG to access funds: (1) signed reward terms and conditions agreement form, (2) signed assurances of compliance with Title VI of the Civil Rights Act of 1964 form, and (3) local budget documents. The certification form includes the city's DUNS number, SAM registration number, federal taxpayer identification number (EIN), and contact information. DLG may distribute city allocations without needing additional financial account information. DLG must make funds available within 30 days of receiving the state's allocation. Non-entitlement cities may submit a signed notice informing DLG that they decline the funding; otherwise, each city will remain legally obligated to account for and report the uses of funds. All allocations refused by cities would revert to the state's allocation. Similarly, the allocations for unresponsive cities that have not completed their budget certification form will revert to the state's allocation.

Reporting

Financial records and supporting documents related to the award must be retained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. This includes all documentation that demonstrates the award funds were used for eligible purposes. Non-entitlement communities must submit a project and expenditure report to Treasury once a year, with a deadline of October 31 each year. The first report will cover activity from the date of the award to September 30, 2021. It is due October 31, 2021.

Treasury will require the following information in the report due October 31, 2021:

- Non-entitlement unit of local government (NEU) recipient number, which will be assigned by DLG;
- Copy of signed award terms and conditions agreement;
- Copy of signed assurances of compliance with Title VI of the Civil Rights Act of 1964; and
- Copy of actual budget documents validating the top-line budget total provided to the state through the budget certification document.

Most of the provisions of the Uniform Guidance (2 CFR Part 200) apply to this program, including the single audit requirements. Recipients that expend $750,000 or more of federal funds in a year must conduct a single audit or program audit.

Miscellaneous

Special-purpose districts – including school districts, water districts, or fire districts – will not receive funding allocations; however, cities may transfer LFRF money to these districts to further goals of the act. Similarly, cities may transfer funds to county governments and vice versa.

Although costs must be incurred by December 31, 2024, Treasury is allowing a period of performance to run until December 31, 2026. This extension provides a reasonable amount of time to complete projects.