



**Department of Administration  
Budget and Management Division**

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April 11, 2022

## MEMORANDUM

To: Common Council Members

From: Dennis Yaccarino, Budget & Management Director

Subject: Background on ARPA related to Council Files 211832 and 211919

The Finance and Personnel Committee agenda for Wednesday, April 13 includes Common Council File Number 211832, a Communication from various City departments relating to their progress in deploying American Rescue Plan Act funds.

This memo provides background on the American Rescue Plan Act, as this information will provide preparation for the communication on April 13.

The City received a total ARPA funding award of \$394.2 million. The funding is provided in two payments, the first tranche of \$197.1 million was received on May 19, 2021. It is expected that the second tranche will be received in late May or early June, 2022.

The technical term for this ARPA funding award is the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program. This distinguishes it from other funding programs in the ARPA Act. Funding and oversight of the SLFRF program is through the U.S. Treasury Department.

The covered period is the period in which SLFRF funds can be spent. Funds can be spent on expenses from March 3, 2021 through December 31, 2024. However, if costs are obligated by December 31, 2024, they can be expended through December 31, 2026. Obligated means an order placed for property and services, or entry into contracts, subawards and similar transactions that require payment. It is expected that most SLFRF funds will be expended by December 31, 2024.

There are several primary restrictions on the use of SLFRF funds. These funds cannot be used for the following purposes:

- Make a direct deposit to a pension fund
- Pay for principal or interest for debt service
- Make a deposit to reserves or to rainy day funds
- Pay for a settlement or judgment
- As the non-federal match or cost-share requirements of other federal programs, with the exception of funds used under the “revenue loss” provision

Treasury has established rules for eligible uses of SLFRF funds. If funds are used for ineligible purposes or otherwise in violation of SLFRF rules, the funds are subject to recoupment. If Treasury identifies funds used in

violation, recipients are provided an initial written notice of recoupment. Recipients may submit a request for reconsideration. Recouped amounts need to be repaid.

Given the potential for recoupment, it is critical to ensure that all ARPA projects fully comply with all ARPA rules and requirements. There is an extensive set of detailed rules and requirements established by the Treasury for compliance purposes. There are two primary sources of ARPA rules and requirements: the Final Rule and Uniform Guidance.

Specific compliance responsibilities for SLFRF, information on eligible and restricted uses, limitations and criteria on uses, and reporting and other requirements established in the Interim Final Rule and the Final Rule. The Treasury issued the Interim Final Rule on May 17, 2021. The document is 134 pages of detailed rules and requirement. However, the Interim Final Rule is only temporary guidance. The Interim Final Rule solicited feedback from recipients with numerous questions about the scope of eligible services and other requirements, with guidelines to be finalized at a later date. Responses to the Treasury were required by July 16, 2021 and Treasury reviewed these responses to develop a Final Rule. No timeline was provided for issuing the Final Rule. No final determinations on eligibility, restrictions and other requirements could be made until the Final Rule was issued.

The Final Rule was issued January 27, 2022 and the document is 437 pages long. The Final Rule contains significant changes in ARPA structure and content, such as changes in requirements, eligibility, definitions, expanded uses, new sections, and recategorization of expenditures. The Final Rule is the basis of ensuring compliance. To supplement the Final Rule, Treasury issued a revised Compliance and Reporting Guidance document issued February 28, 2022. It is important to note that the City did not have all the information necessary to ensure compliance until February 28, 2022.

In addition to the rules and requirements in the Final Rule, the SLFRF is also subject to what is termed Uniform Guidance. Uniform Guidance is a set of rules and requirements for Federal grant awards. The Guidance includes administrative requirements, cost principles and audit requirements, as well as requirements established for a wide range of items, including internal controls, program income, revision of budget plans, real property, equipment, procurement standards, methods of procurement, financial reporting, subrecipient monitoring and management, record retention and access, among others. Ensuring compliance with all these requirements is a significant administrative challenge.

Compliance with SLFRF includes extensive reporting requirements. There are two primary reports required:

- Project and Expenditure Reports, quarterly reports through March 2027, for a total of 21 reports
- Recovery Plan Performance Report, annual report required for each year through April 2027, for a total of 6 reports

The Project & Expenditure Report will report primarily on projects funded, expenditures, and contracts and subawards. Some of the information required for projects includes project descriptions, obligations, expenditures, information on whether the project targets economically disadvantaged communities, information on subrecipient awards and related obligations and expenditures, and programmatic indicators for specific Expenditure Categories

The term “Expenditure Category” refers to specific reporting requirements established by the Treasury. Projects must be assigned to a specific Expenditure Category as defined by Treasury. All financial and programmatic reporting must be done within the defined expenditure categories. Each project must be assigned to one Expenditure Category. Under the Final Rule, there are 7 major expenditure categories with 83 detail expenditure categories. Some expenditure categories have mandatory programmatic information and/or performance measures. All financial and programmatic reporting is done at the detail expenditure category level.

The Recovery Plan Performance Report is the annual report and must include project information and how the City plans to ensure program outcomes are achieved in an effective, efficient, and equitable manner. The Report must include a description of how funds support a strong and equitable recovery from the COVID-19 pandemic and economic downturn; how the projects promote equitable outcomes; description of community engagement; information on labor practices for infrastructure projects; a table of projects and expenses by Expenditure Category; data on performance indicators for projects including required performance indicators and programmatic data.

There are additional compliance issues involving subrecipient relationships and procurement, but these will be covered in the presentation to the Finance and Personnel Committee on April 13. Given the extensive rules and requirements for ARPA projects, and the critical need to ensure compliance, there will be a request to allocate ARPA funding to provide for more administrative staff.

At the April 13 Finance and Personnel Committee meeting, there will also be a communication file related to the allocation of the second tranche of American Rescue Plan Act funding (CCFN 211919). Now that the Final Rule and the related compliance and reporting guidance has been established by Treasury, it is critical to establish a process for allocating funds from the second tranche in a manner that verifies compliance with all compliance and reporting requirements.

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