

ARPA/CSLFRF Final Rule Summary and Analysis

On January 6, 2022, the U.S. Department of the Treasury issued its [Final Rule](#), a 437-page document that implements the Coronavirus State and Local Fiscal Recovery Fund (ARPA). It replaces the Interim Final Rule which had been in effect since May 10, 2021. Treasury published a 44-page [Overview of the Final Rule](#) to summarize the changes.

VLCT here presents a concise digest for our busy members. The information shown in regular text under each heading is our summary of the most relevant sections of the Final Rule, and the bold text below each summary is our analysis.

Please Note: This analysis should not be considered legal advice, nor should it be considered authoritative expertise on how ARPA (American Rescue Plan Act) funds may be used. The Vermont League of Cities and Towns (VLCT) is providing its members with this analysis based on our understanding of the law, the Final Rule, and input from our state and federal partners.



The Final Rule

The Final Rule takes effect April 1, 2022. Until then, the interim final rule remains in effect. However, recipients can choose to follow the Final Rule instead with no penalty.

Towns, cities, and villages may choose to follow the Final Rule from this point forward, since it is allowed by Treasury with no penalty and provides far greater flexibility in uses of funds.

Final Rule Changes

Treasury is now permitting recipients to determine the amount of revenue lost due to the pandemic **either** according to a formula **or by electing to take a standard allowance of up to \$10 million** (for the entire performance period). Treasury **presumes** that up to \$10 million in revenue has been lost due to the public health emergency. Therefore, recipients are

permitted to use that amount (not to exceed the award amount) to fund “government services.”

Government services can include, but are not limited to, maintenance of infrastructure or pay-go spending for building new infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; environmental remediation; and the provision of police, fire, and other public safety services.

VLCT’s analysis suggests that any municipality that received less than \$10 million in ARPA funding may choose to use their entire award to replace lost revenue (Expenditure Category 6.1 Provision of Government Services). A municipality does not need to demonstrate the loss (it is "presumed" by Treasury). This approach provides the most flexibility in spending and streamlined reporting requirements.

Reporting to Treasury

The first Project and Expenditure Report for Non-Entitlement Units of government (NEUs) and South Burlington will be due to Treasury by **April 30, 2022**, covering the period from March 3, 2021 to March 31, 2022. Based on the information in the Project and Expenditure Report User Guide, recipients will have the option to make a **one-time irrevocable decision** to elect the “Standard Allowance” of up to \$10 million, not to exceed the award allocation, to spend on government services throughout the period of performance.

VLCT’s analysis suggests that towns, cities, and villages might benefit from not spending any of their ARPA funds until after March 31, 2022 (the end of the first reporting period), if possible. This will provide the time to see if additional clarification (through an updated Treasury FAQ) and/or guidance will be released by Treasury.

For municipalities wishing to spend prior to March 31, 2022, or who have already spent funds, electing the standard allowance will provide the most amount of flexibility now and going forward. Electing the standard allowance will create the least amount of administrative burden on the reporting side.

VLCT has hired a new Government Finance Specialist, who is an expert in Vermont municipal finance, to join its team. VLCT will be working internally and with its external government finance partners to draft additional guidance and best practices

for accounting for your ARPA award in your general ledgers, given the new standard allowance for revenue loss.

Community Engagement

Although there is no change in the requirement to carry out community engagement for your ARPA award, like the Interim Final Rule, it is implicit throughout the Final Rule.

VLCT's analysis suggests that the intent of this funding is tied directly to the impacts of the pandemic. Communities may wish to therefore conduct engagement activities that identify the best way to respond to the pandemic and plan for long-term recovery. Communities with well documented and planned capital needs assessments and/or capital plans in place may have a clear roadmap of how to spend additional funds. However, a community may wish to ask whether the pandemic and the pandemic response were considered before such capital needs assessments or capital plans were created and reevaluate them using this new perspective.

Since there is now such broad discretion on how ARPA funds can be spent, given the standard allowance for revenue loss, educating your residents and inviting them to join local ARPA conversations becomes more important than ever. VLCT has seen communities hold dedicated selectboard meetings aimed at seeking community input, issue community surveys, and form ARPA advisory committees of interested citizens.

Should your community choose to form an ARPA advisory committee to help with gathering feedback to advance the prioritization planning/process for your community, VLCT is creating an ARPA Advisory Committee formation toolkit to help you. It will be available on our ARPA webpage in February 2022.

If municipalities demonstrate best practices in deciding how to spend this funding, responsibly spend this funding, and properly account for the spending, it may increase the likelihood of future federal-local funding partnerships.

Continue To Be Patient

Aside from the new flexibility and simplicity provided for smaller communities in the Final Rule, not much else has changed. Prioritize good governance. Leverage your ARPA aid. Invest in best uses for long-term recovery.

VLCT recommends you continue to take time to be thoughtful and strategic in planning how you will put this unprecedented funding to work in your community. Your decisions should prepare your community for the next disaster, position future generations for success, and, whenever possible, help grow your Grand List.

As you make plans to spend your ARPA award, you might consider:

- **Opportunities to leverage your ARPA award – save some of your ARPA award to serve as match that will be necessary for other grant programs (both forthcoming new ones and existing ones) to achieve community goals**
- **Goals identified in your Town Plan to help prioritize your spending**
- **If carrying out infrastructure projects with your ARPA funds, what future planning can be incorporated into the project concept and design to achieve multiple priorities – like laying conduit for fiber, sidewalks, considerations for a future public water or sewer system, etc.**

Based on the hundreds of municipal inquiries VLCT has received to date regarding local ARPA funding, below is a non-exhaustive list of items that many communities throughout Vermont are considering in their spending plans:

- **Investments to improve municipal business operations:**
 - **Implement cybersecurity measures**
 - **Purchase hybrid meeting equipment**
 - **Connect public buildings to broadband, as appropriate**
 - **Digitize land records**
 - **Make capital improvements to municipal buildings: ventilation, weatherization, fire safety (as appropriate - sprinklers, centrally monitored**

alarm systems), code upgrades including ADA compliance and measures to ensure continuity of operations during future disasters

- **Implement software changes to streamline operations and enable remote work**
- **Create or enhance official town websites to strengthen communications with residents**
- **Create a formal Capital Plan**
- **Seed a town administrator position to source grant opportunities to help fund projects in your community and coordinate efforts between local officials for deep efficiency and impact**
- **Investments that revitalize a community, making it a better and safer place to live for existing residents and to help in attracting new ones:**
 - **Outdoor recreation (trails, parks, green spaces, recreational facilities, etc.)**
 - **Diversity, equity, inclusion (DEI) measures to make a community more welcoming so everyone feels like they belong**
 - **High-quality affordable childcare to support working residents**
 - **Landbanking and other measures to support housing development to grow the tax base**
 - **Acquisition and rehabilitation of abandoned properties or greening them**
 - **Improvements to bike and pedestrian safety**
 - **Improvements to community gathering spaces**
 - **Support for local non-profits doing excellent work that benefits residents**

As always, please do not hesitate to email ARPA@vlct.org to ask questions or seek additional guidance. For the most current information on ARPA, please visit vlct.org/arpa.

Remember that this analysis should not be considered legal advice, nor should it be considered authoritative expertise on how ARPA (American Rescue Plan Act) funds may be used. The Vermont League of Cities and Towns (VLCT) is providing its members with this analysis based on our understanding of the law, the final rule, and input from our state and federal partners.

Publication Date

02/09/2022