

Date: June 11, 2021

To: Honorable Janet Yellin, Secretary, U.S. Department of the Treasury
Office of the Undersecretary of Domestic Finance
1500 Pennsylvania Avenue, NW
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<http://www.regulations.gov>

From: Karen Horn, Director, Public Policy & Advocacy
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Re: Coronavirus State and Local Funds Interim Final Rule Comments

I am writing on behalf of the 246 member cities and towns of the Vermont League of Cities and Towns to comment on the Coronavirus State and Local Funds Interim Final Rule, to ask for additional guidance, and to strongly urge a reversal of Treasury's determination that Vermont has general units of county government. Before issuing the final rule, VLCT requests that the Treasury Department make the following nine changes:

- 1. Allocate Vermont's County Funding to State for City and Town Government Distribution.** When Treasury issued the Interim Final Rule, it also issued state and county allocations of State and Local Fiscal Recovery Funds. The county allocation chart issued by Treasury incorrectly indicates that Vermont's counties are units of general local government and eligible for a direct county allocation. In Vermont, as in most of New England, counties are *not* units of general local government; they provide only very limited law enforcement and judicial services. County budgets in state Fiscal Year 2022 are only a fraction of the amount of ARPA county dollars they would receive if those dollars are distributed to the assistant judges in each county. Therefore, we strongly urge you to re-distribute county funds to units of general local government in this state.
- 2. Explicitly Allow Municipalities to Make Technology Upgrades to Facilitate Modern Government Operations and Mitigate Future Disaster Disruptions.** The interim draft rule at section A, on "Responding to Negative Economic Impacts," directs recipients to assess the connection between a "negative economic harm and the COVID-19 public health emergency, the nature and extent of that harm, and how the use of this funding would address such harm." We have received several questions asking if upgrading municipal software and web presence to make municipally-held data (such as deeds, parcel data, land use permits, and the like) available to the public during the pandemic shutdown would be an eligible cost. Please clarify if upgrading to a more robust online presence is considered addressing an economic harm.
- 3. Encourage the Reuse of Pandemic Aid Through Loan Programs by Removing ARPA Restrictions on Revolved Loan Funds After December 2026.** The interim draft rule at section A, on "Responding

to Negative Economic Impacts,” permits units of government to make loans to small businesses and non-profits affected by the pandemic. The rule is silent on how a community should treat any repaid interest and principal. To encourage communities to consider using loan mechanisms, which exponentially increases the impact of each federal dollar, VLCT encourages Treasury to allow communities to repurpose revolved principal and interest with no restrictions after December 2026.

4. **Include Municipal Utility Revenue in Definition of General Revenue when Calculating Lost Revenue.** The interim draft rule at Section C, “Revenue Loss,” excludes utility revenue from the calculation of “general revenue” and “general revenue from own sources.” We implore you to include revenue from utilities as part of the calculation. Without municipal utility rates to fund operation and maintenance of water, wastewater, and electricity, many of those absolutely vital municipal services have been and will be severely compromised. Vermont passed legislation that prohibited disconnection from utilities during the pandemic, and CARES Act funding that was allocated to help customers pay their bills was inadequate to meet the entire need.
5. **Clarify Revenue Replacement Use Eliminates Need to Report on Expenditures.** We urge you to establish in the rule that once a unit of general local government has used ARPA local direct aid to replace lost revenues, it will not thereafter need to document that those specific ARPA dollars are spent on future ARPA-eligible projects. Over time, it becomes more difficult to track dollars according to their original source. In addition, if a municipality uses ARPA dollars to replace lost revenue, those dollars should lose all federal character, allowing them to be used for non-federal match in projects.
6. **Expand Eligible Stormwater and Green Infrastructure Uses.** The interim draft rule at section D, “Investments in Infrastructure,” establishes eligible kinds of projects for water supplies, wastewater and green infrastructure including stormwater management, and broadband. While the rule clearly states that communities may undertake any activity eligible in the Environmental Protection Agency’s Clean Water State Revolving Fund and Drinking Water State Revolving Loan Fund programs, we encourage Treasury to expand and define what types of green infrastructure and stormwater management projects may be undertaken beyond the EPA programs.
7. **Allow Counting of Eligible Costs Back to October 2020 if Municipalities Received No Coronavirus Relief Funds Covering Those Costs.** The interim draft rule at section D states that funds may be used to cover costs incurred beginning on March 3, 2021. As this is the first time that units of general local government have had direct aid available, it would be helpful to establish the date on which incurred costs count to October 1, 2020 – the start of the federal fiscal year for local governments. In some states, some modicum of CARES Act assistance was provided to local governments for specific line items, and we believe that the interim rule makes clear that any costs covered by CARES Act funding would not be eligible for ARPA reimbursement.
8. **Encourage Municipal Cooperation to Undertake Regionally Significant Projects.** Section VI Transfer states that “transfers under sections 602(c) (3) and 603(c)(3) must qualify as an eligible use of Fiscal Recovery Funds by the transferor.” In a state like ours with very small units of general local government, it will be difficult to implement contemplated water, wastewater, or broadband projects in just one community and use the local direct aid for one small jurisdiction. It is particularly true that broadband deployment transcends the boundaries of any one small community in rural Vermont. We

urge you to provide a mechanism whereby units of general local government may commit their funds to an infrastructure project of regional significance in order to realize its implementation.

- 9. Clarify Environmental, Labor and Procurement Rules.** Communities need more specific information on whether most federal environmental, labor, and procurement rules apply to spending this funding. As an example, the interim rule FAQ clearly states that communities do not need to follow NEPA guidelines when using these funds. Are there other federal procurement and labor rules that do not apply?

Thank you for the opportunity to comment on the Coronavirus State and Local Funds Interim Rule.