

# THE AMERICAN RESCUE PLAN ACT (ARPA)

## Background

- Signed into law on March 11, 2021
- Expanded support originally provided in 2020 through the Coronavirus Relief Fund (CRF)
- American Rescue Plan Act (ARPA) provided approximately \$19.53 billion to States and Local Governments
  - *Divided among States, Metropolitan Cities receiving funding directly from the US Treasury & Non-Entitlement Units (NEU) where funds are distributed through the state government*
  - *NEU's have populations under 50,000*

## Program Guidelines

- Funds will be distributed in 2 tranches
  - 50% in 2021, 50% in 2022
- Entities have until December 31, 2024 to obligate funds for allowed infrastructure projects. Projects must be completed by December 31, 2026
- Non-infrastructure allowable funds must be spent by December 31, 2024
- Reporting to the US Treasury is required annually by October 31 covering expenditures made through September 30 of the reporting year
- Funds must be utilized for projects outlined within ARPA
- Guidelines for use of funds, prohibited uses, and reporting requirements are within the Interim Final Rule issued by the US Treasury

## Eligible & Ineligible Uses for Funds

- The **eligible** uses for ARPA funds must fall within the following categories:
  1. *Responding to the public health emergency or its negative economic impacts*
  2. *Premium pay for eligible workers performing essential work throughout the COVID-19 emergency*
  3. *Supplement revenue lost by local governments throughout the COVID-19 emergency to date and residual economic impacts to come relative to revenues previously collected in the last full fiscal year prior*
  4. *Make investments in water, sewer, and broadband infrastructure*
- Congress has specifically identified that funds **may not be used for**:
  1. *Deposits into pension funds to reduce accrued liability*
  2. *Deposits into rainy day funds*
  3. *To directly or indirectly cause a reduction in net tax revenue*
  4. *Debt service payments or issuance of debt*

## Responding to Public Health Emergency & Negative Economic Impacts

- Must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the public health emergency
- Responding to the **Public Health Emergency** examples include:
  - **Mitigation & prevention of COVID-19**- testing, contact tracing, vaccination programs, ventilation improvements to congregate living and medical facilities, improvements to public health data systems
  - **Medical expenses**- care for near & long-term side effects of COVID-19
  - **Behavioral health**- behavioral health services, crisis intervention, overdose prevention, outreach programs
  - **Public health & safety personnel**- salaries & benefits for personnel time related to responding to COVID-19 emergency
  - **Improvement to public health services**- targeted consumer outreach, improvement to data & technology infrastructure

## Responding to Public Health Emergency & Negative Economic Impacts

- When addressing negative economic impact, assessment should be made whether there has been, or to the extent, economic harm resulting from the public health emergency and to the to the extent the use would respond or address the harm
  - Any response must be reasonable and proportional to the harm experienced
- Responding to the **Negative Economic Impact** examples include:
  - **Assistance to small businesses & non-profits**- provide loans, grants, in-kind assistance, or physical upgrades to facilities, technical assistance
  - **Aid to travel, tourism, and hospitality industries**- provide loans, grants, assistance to implement physical mitigation strategies, technical assistance to assist with planning needs
  - **Rehiring of State & Local Employees**- payroll & benefits to re-hire staff up to pre-pandemic levels

## Negative Economic Impacts

- Respond to negative economic impacts of the public health emergency
- When considering aid to private industry other than tourism, travel, or hospitality, entities should consider the extent of the economic impact compared to these industries
  - *Response must be related and reasonably proportional to the harm incurred*
  - *Should assess whether the harm was actually caused by COVID-19 or longer term economic trends*
  - *Should consider local economic conditions and business data when establishing criteria for any assistance program*
  - *To avoid duplication of benefits and save on administrative expenses, municipalities are strongly encouraged to use existing State infrastructure whenever possible in delivering assistance to individuals and businesses*
- Entities should create criteria to judge economic hardship if distributing funds to private entities and how the aid directly and proportionally responds to these impacts to promote transparency
  - *Maintain records to support their assessment and how the aid responded to those impacts*

## Premium Pay for Essential Workers

- The act stresses the mis-alignment between risk & compensation as a priority for premium pay to essential workers
  - *Have borne a disproportionate share of the health & economic impacts*
  - *Fields include:*
    - Healthcare
    - Public Health & Safety
    - Childcare & Education
    - Sanitation
    - Transportation
    - Food production & services
- Allows for premium pay of up to \$13 per hour, not to exceed \$25,000 per individual dating back to the initial start of the public health emergency
  - *May be applied retroactively to any point since the beginning of the public health emergency*

## Premium Pay for Essential Workers

- ARP recognizes that the pay of most essential workers does not directly align with the risk they faced while working during COVID-19 and prioritizes low to moderate income workers
  - *Work is defined as regular in-person interactions or regular physical handling of items that were also handled by others*
- If premium pay would increase the worker's total pay above 150% of their state or county's annual average wage across all occupations according to the Bureau of Labor Statistics (BLS), additional justification is required outlining how the premium pay is responsive to the needs of these workers
  - *BLS Statistics as of May 2020*
    - New Jersey Average: \$ 63,690 (150%= \$95,535)
    - NY-Newark-Jersey City Metro: \$ 71,050 (150%= \$106,575)
  - *Treasury estimates that the threshold of 150% of the average wage would be greater than the annual average wage of the vast majority of essential workers*

## Supplement Lost Public Sector Revenue

- ARP acknowledges that many states & local governments experienced reduced revenue due to the COVID-19 health emergency and utilized the definition of general revenue as defined by the US Census Bureau's Annual Survey of State and Local Governments
  - *Excludes refunds & correcting transactions, proceeds from debt issuance & sale of investments, agency/private trust transactions, & intergovernmental transfers from the federal government*
  - *Defines general revenues as "revenues collected by a recipient and generated from its underlying economy."*
  - *Captures a broad stream of revenues creates consistency across varying levels and types of government across the country that use varying financial reporting methods and often classify revenue by purpose rather than source*
- Allows for revenue loss at either the projection of the 3 full fiscal years prior to the health emergency or 4.1%, whichever is higher

## Supplement Lost Public Sector Revenue

- Loss of revenue can be recalculated and utilized in 2021 through 2023 to capture lagging impact of the health emergency on public sector revenues
- The extent of loss of revenues is calculated at
  - *Identify revenues collected in the full fiscal year prior to the health emergency (last full year before January 27, 2020). This is base year revenue*
  - *Estimate counterfactual revenue which is equal to the base year revenue \*  $[(1+\text{growth adjustment})^{(n/12)}]$ , where n is the number of months elapsed since the end of the base year to calculation date and;*
  - *Growth adjustment is the greater of 4.1% and the recipient's average annual growth rate in the 3 full fiscal years prior*
  - *Identify actual revenue which equals revenues collected over the past 12 months as of the calculation date*
  - *The extent of the reduction in revenue is equal to the counterfactual revenue less actual revenue. If actual revenue exceeds counterfactual revenue, the extent of the reduction is zero*
- The Division of Local Government Services (DLGS) has provided a workbook that calculates loss revenue for the purposes of ARPA
  - *Workbook is submitted annually for ARP Revenue Loss funds utilized in the budget*

## Water, Sewer, & Broadband Infrastructure

- Funds can be used to address an array of projects relating to improving access to clean drinking water, improve sewer & storm water systems, and provide access to high quality broadband
  - *ARPA stresses that communities identify infrastructure for improvement that is highest priority for their community*
- Water & Sewer project eligibility is based on projects that are currently eligible under the EPA's Clean Water State Revolving Fund (CWSRF) & the Drinking Water State Revolving Fund (DWSRF)
  - *These projects are less likely to be addressed with private sources of funding*
- Broadband infrastructure investment must be made in areas that lack a wireline connection that can reliably deliver 25 Mbps download and 3 Mbps upload
  - *Must comply with P.L.2007, c.191 (NJSA 40:9D-1 through 40:9D-8) and whether the project requires Local Finance Board Approval*

## Water Infrastructure

- **Water** projects align with a wide range of projects that would normally be eligible to receive financial assistance through the EPA's Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving funds (DWSRF)
  - *Goal is to **address failing and inadequate infrastructure to meet health and safety needs** related to clean drinking water and address water pollution*
- Types of projects include:
  - *Under the CWSRF, projects include*
    - Construct, improve, and repair wastewater treatment plants
    - Control non-point sources of pollution & protect water bodies from pollution
    - Improve resilience of infrastructure to severe weather events
    - Create green infrastructure
  - *Under the SDWA, projects include*
    - Improvements necessary to protect public health and comply with drinking water regulations
  - *Building or upgrading facilities and transmission*
  - *Distribution*
  - *Storage systems*
  - *Replacement of lead service lines*

## Sewer & Stormwater Infrastructure

- **Wastewater/ sewer projects** include:
  - *Treatment plants*
  - *Managing and treating storm water or subsurface drainage water*
  - *Facilitate water re-use*
  - *Secure publicly-owned treatment works*
- *Cybersecurity needs to address the safety of water & sewer infrastructure are included*

## Pequannock Township & ARP

- The Township is classified as a Non-Entitlement Unit (NEU) and receives funds through the State of New Jersey
  - *The Division of Local Government Services (DLGS) has been tasked with issuing the funds to NEU's*
  - *Division has also issued guidance on the use of funds in Local Finance Notice 2021-11 & 2021-13*
- The Township has received a total award of **\$ 1,566,394.92**
- The first 50% of the award was received in June
  - *Total received to date is \$ 783,182.46*
- No funds have been expended as of this date

## Thoughts & Considerations- Revenue

- ARPA acknowledges the public health emergency's impact on local revenues and the impact that local government spending has on the overall economy, the impact budget shortfalls and shrinkage has on the provision of essential services, and the ability to respond to crises in the future
  - *Local governments did not recover revenues from the 2007-2009 recession until 2013 and did not recover to its prior employment peak until August 2019*
- Loss of revenue funds can be used for a broad range of government services to the extent of the calculated revenue loss
  - *Loss of revenue **cannot be used for:** debt, deposits into rainy day funds, issuance of debt, satisfaction of judgments, or deposits into pension funds*
- Would allow for the maintenance of essential government services and a wide array of projects including:
  - *Pay-as-you-go infrastructure*
  - *Modernization of cybersecurity*
  - *Health services*
  - *Police, fire, & public safety services*

## Thoughts & Considerations- Revenue

- On December 22, 2020, Ordinances 2020-14 & 2020-15 were adopted allowing for 5 year special emergencies for the loss of revenue in the Current Fund & Recreation Utility
  - *A loss of revenue emergency defined by the State under P.L. 2020, c.74 allowed for a loss of revenue in 2020 to be paid across 5 years with the first payment not being due until Budget Year 2022*
    - Current Fund: \$ 185,000
    - Recreation Utility: \$ 208,565
  - *The use of ARPA funds for revenue loss may cause these Special Emergencies to no longer be necessary and to be considered for cancellation in 2021 or 2022*
- Revenue loss calculations for 2020 have been prepared using the workbook provided by DLGS for all funds and preliminary calculations are as follows:
  - *Current Fund: \$ 129,545.45*
  - *Water Utility: Ineligible for Revenue Loss under APRA*
  - *Sewer Utility: \$ 356,309.49*
  - *Solid Waste Utility: No Revenue Loss for 2020*
  - *Recreation Utility: \$ 197,859.79*

## Thoughts & Considerations- Revenue

- Consideration should be given to providing relief to the Current Fund, Sewer Utility, & Recreation Utility
- **Current fund** revenues in 2021 are not as strong as in previous years
  - *Tax collection rate remains strong but miscellaneous revenues and fees are taking time to recover (e.g- Municipal Court Fees, Hotel Tax, & Fire Code Fees)*
  - *Attention should be given whether to address 2020 revenue losses or save for potential losses in 2021 and beyond*
  - *The long term impact related to COVID tax appeals in the future remains unknown*
  - *Large part of fund balance regeneration is excess in revenues which may be a very small margin in 2021*
    - *Puts long term fund balance position at risk and the utilization of fund balance as an annual revenue in jeopardy*
  - *A reduction in the collection of revenues in 2021 puts their use in the 2022 budget behind as the maximum amount to be anticipated is the amount collected in the previous year*

## Thoughts & Considerations- Revenue

- The **Sewer Utility** continues to struggle with revenues
  - *Anticipated revenue losses in 2021 and beyond are anticipated with a reduction in water use and use of sewage meters among commercial & bulk users*
  - *Debt is a large burden on the Sewer Utility and any relief from debt service does not come until budget year 2024 with a refunding debt schedule that ends in 2023*
- The **Recreation Utility** has suffered the most severe revenue losses across 2020 and remains vulnerable in the future with the unknown course of the virus
  - *Executive orders have severely limited the ability to host programs*
  - *Public reception to participation will take time to recover as cases rise*
  - *Recreation established a trust in 2021 that operates outside of the formal budget process*
    - *Priority should be given to utilizing the loss of revenue funding to close the Recreation Utility's operations and operate all Recreation activities and facilities through the trust*
    - *The 2022 Budget process would potentially be used to facilitate the closing of the utility and the satisfaction of the outstanding debt to General Capital and Notes Issued due in 2022*

## Thoughts & Considerations- Infrastructure

- *ARPA stresses the critical need for the improvement and maintenance of water, sewer, and broadband infrastructure at the local level*
- *The Township is facing requirements to remove PFOS levels within the water*
- *To address PFOS in the water, the building of a treatment facility is required*
  - *The creation of the facility falls within the allowable infrastructure spending under ARPA*
- *Project costs are estimated to exceed \$1,000,000*
- *Project would need to be obligated by 2024 with completion by 2026*
  - *Project is currently under review by the responsible parties*

## Thoughts & Considerations-Infrastructure

- Would increase the Township's reliance on its own wells for water supply rather than bulk water suppliers
  - *Reliance of well water rather than the purchase of bulk water could have positive financial impacts in the future*
- Water Utility underwent a rate increase in 2019 through the adoption of Ordinance 2019-02
  - *Rate Increase through 2024*
- The use of ARPA funds to assist in funding a necessary infrastructure improvement could potentially hedge some rate increases in the future related to debt issuance

## Proposed ARPA Fund Breakdown

