Federal Advocacy Update

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NLC's FEDERAL PRIORITIES

- COVID-19 Response and Recovery
- Advancing Workforce Readiness
- Increasing Fair and Affordable Housing
- Stabilizing Local Government Operations
- Digital Equity
- Building Sustainable Infrastructure
- Reimagining Public Health and Safety

During an unprecedented time, NLC delivered unprecedented results for our members.

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What is the American Rescue Plan Act (ARPA)?

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- COVID-19 recovery package signed into law on March 11, 2021, with $1.9 trillion of programming for emergency stabilization and economic recovery.
- Includes Coronavirus State and Local Fiscal Recovery Fund Grants (SLFRF) .
  - $350 billion for states, municipalities, counties, tribes, and territories
  - Of that, $65.1B for 19,000+ municipalities.
- ARPA Fiscal Recovery Grants are not competitive – every city is *entitled* to one. However, these grants to come with significant new requirements and responsibilities.
- Funds do not have to be obligated until December 31, 2024, and unexpended funds are not subject to recapture or return until December 31, 2026.
- Cities can address emergency needs ASAP, and then pause to formulate a long-term plan, with robust community input and stakeholder engagement, for remaining funds.

ARPA Fiscal Recovery Fund Benchmarks

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Implementation Benchmarks

1. Assess community needs
2. Asset map existing community resources
3. Review Treasury guidance and NLC resources
4. Host stakeholder meetings for community POV's
5. Communicate with overlapping and neighboring jurisdictions for regional POV's
6. Propose a recovery plan
7. Publicize plan for community feedback
8. Implement plan and track expenditures
9. Build in opportunities to reassess, amend, and pivot plans in case of unanticipated needs, unforeseen setbacks, or weak outcomes

The final rule provides direction and greater certainty for local governments

- Seeing that many local governments continue to operate at some level of reduced capacity, the final rule has significantly expanded to cover both activities that grantees *can* do and provides significant new direction and examples of *how* to do it.

  - Many expenditures that were implied in the IFR are allowed and spelled out in the Final Rule, including:
    - facilities and services for childcare and early learning, violence intervention and deterrence activities, job training and workforce supports, and financial services for unbanked residents.

The final rule does not penalize municipalities for rule changes on spent funds

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- The Final Rule, released on January 6 does not go into effect until April 1, 2022.
- Local governments can take advantage of the new flexibilities provided in the Final Rule now.
- Local governments will not be punished for expenditures made consistent with the IFR if they are done so before April 1, 2022.
- Bottom line, all local governments must be in compliance with the final rule beginning April 1, 2022.

The Final Rule makes it easier for small cities and towns (NEUs) to spend in familiar ways

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- Under the Final Rule, all local governments can elect a "standard allowance" of up to $10 million for lost revenue for the lifespan of the program.

- Governments' can spend this money in familiar ways, including ***any*** *service* traditionally provided by local governments.

- There are more than 26,000 NEUs nationally that have grants smaller than $10 million.

Permissible use of funds under revenue loss include

- Construction of schools and hospitals
- Modernization of cybersecurity, including hardware, software and other critical infrastructure
- Road building and maintenance, and other pay-go funded infrastructure
- Health services
- General government administration, staff, and administrative facilities
- Environmental remediation
- Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)

Restricted use of funds for Loss Revenue

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- Extraordinary contributions to pension fund
- Servicing of debt or replenishing financial reserves
- Satisfaction of settlements and legal judgements

The Final Rule expanding sources of revenue to reflect local budgets

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- The IFR used a definition of local revenue derived from the Census.
- The IFR excluded municipally-owned utility revenue from the from the lost revenue calculation.
- Municipally-owned utility revenue is a big deal for many cities and towns in many states.
- The Final Rule allows cities and towns to **choose** to add the lost utility revenue into their lost revenue calculations.

The Final Rule eases limits on hiring and retention activities

- The IFR allowed governments to hire up to pre-pandemic levels.

- The Final Rule allows local governments to rehire staff for pre-pandemic positions that were ***unfilled or eliminated*** due to the pandemic without undergoing further analysis.

- Alternatively, local governments increase its number of budgeted full-time equivalent employees up to 7.5% above its pre-pandemic employment baseline, help local governments make up for underinvestment in the public workforce since the great recession.

The final rule clarifies which employees eligibly for premium pay

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- Under the IFR, who qualified for premium pay was ambiguous.

- Groups that represent public sector employees argued that courthouse employees, for example, are eligible. The Final Rule clarifies “all public employees of local governments are already included in the definition of ‘eligible worker.’”

- Non-public employees are also eligible if they are deemed by the chief executive "as critical."

- Volunteers and elected officials are not eligible.

The Final Rule clarifies whether certain capital expenditures are allowable or not

- The Final Rule clarifies that under the public health and economic response use category certain capital expenditures are permissible include
  - childcare facilities
  - Schools
  - hospitals

- Ineligible CapEx include:
  - Jails
  - New congregate facilities to decrease the spread of COVID-19 within such facilities
  - Convention centers and stadiums

The Final Rule expands eligible water, sewer, and broadband projects

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- The Final Rules makes broadband more affordable and eliminates the unserved and underserved requirements.

- The Final Rule expanded eligibilities for stormwater infrastructure, private wells and septic systems, remediating lead in water, dams and reservoirs, expansion of drinking water service infrastructure, floodplain management and flood mitigation projects, and irrigation.

- Key: Treasury did not name specific federal statutes as eligible so that recipients would not have to cross-reference across multiple federal programs, which may exacerbate challenges to understanding eligibility under SLFRF.

Non-Federal Match Requirement

- Non-Federal Match Requirements have different rules depending on the method in which funds are deployed.

- Funds available under the revenue loss eligible use category may generally be used to meet the non-federal cost-share or matching requirements of other federal programs.
  - NOTE: SLFRF funds may not be used as the non-federal share for purposes of a state's Medicaid and CHIP programs because the Office of Management and Budget has approved a waiver as requested by the Centers for Medicare & Medicaid Services.

- Funds used outside of revenue loss generally may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute.

Uses of SLFRF Funds for Public Health or Economic Impact

- The Final Rule provides great latitude in responding to the category of Covid-19 public health or economic impacts, but it does require a two-step analysis
  - First, Identify the impacts:
    - A local government must identify an impact to a specific household or class (i.e., group)
  - Second, Design a response to address or respond to the impact:
    - Response can include programs, services, or capital expenditures
    - Response should be related and reasonably proportional to the harm
    - Response should also be reasonably designed to benefit impacted individual or class

Responding to the Negative Economic Impacts

- The Final Rule recognizes that many communities and households were impacted by the pandemic.

- For administrative simplicity, the Final Rule presumes that certain populations were “impacted” or “disproportionally impacted” by the pandemic, and presumed to be eligible for services that respond to the impact they experienced.

- So what is “impacted” and “disproportionally impacted”?

Impacted Households and Communities

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- Treasury presumes the following households and communities are impacted by the pandemic:
  - Low- and moderate income household or communities (defined on next slide)
  - Households that experienced unemployment
  - Households that experienced increased food or housing insecurity
  - Households that qualify for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, or Medicaid
  - When providing services to address lost instructional time in K-12 schools: any student that lost access to in-person instruction for a significant period of time

Low- and Moderate Income Households and Communities

- Low- or moderate-income households and communities are those with (i) income at or below 300 percent of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines or (ii) income at or below 65 percent of the area median income for the county and size of household based on the most recently published data.
- Local government can use a household of three for administrative ease. The Federal Poverty Guidelines for a family of three at 300 percent is $65,880 per year.

- Food assistance and food banks
- Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- Health insurance coverage expansion
- Financial services for the unbanked and underbanked
- Paid sick, medical, and family leave programs

Low- and Moderate Income Households and Communities Enumerated Uses (2 of 2)

- Childcare and early learning services, home visiting programs
- Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)

Disproportionately Impacted Households and Communities

- Treasury presumes the following households and communities are disproportionately impacted by the pandemic:
  - Low -income households and communities (defined on next slide)
  - Households residing in Qualified Census Tracts
  - Households that qualify for certain federal benefits (e.g. TANF, SNAP)
  - Households receiving services provided by Tribal governments
  - Households residing in the U.S. territories or receiving services from these governments

Low-Income Households and Communities Defined

- Title of the Slide: Low-Income Households and Communities Defined
  - Low-income households and communities are those with (i) income at or below 185 percent of the Federal Poverty Guidelines for the size of its household based on the most recently published poverty guidelines or (ii) income at or below 40 percent of area median income for its county and size of household based on the most recently published data.
  - The income limit for 185 percent of the Federal Poverty Guidelines for a household of three is $40,626 per year.

Low-Income Households and Communities Enumerated Projects

- Pay for community health workers to help households access health & social services
- Investments in neighborhoods to promote improved health outcomes
- Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs

Updated Compliance and Reporting

- On February 28, the Treasury Department released an updated Compliance and Reporting document.
  - KEY HIGHLIGHTS
    - In the final rule, local governments can make an irrevocable decision as to whether it will take the $10 million standard allowance or use the lost revenue calculation. Municipalities must decide in their April 30, 2022, report which option it is electing.
    - To facilitate reporting, each NEU will need a NEU Local government Number. This is a unique identification code for each NEU assigned by the State or territory to the NEU as part of its request for funding
    - Local governments should also note that subrecipients do not include individuals and organizations that received SLFRF funds as end users. Such individuals and organizations are beneficiaries and not subject to audit pursuant to the Single Audit Act.
    - If aid is provided to impacted industries other than tourism, and hospitality, a local government must provide detailed information to the Treasury.

Treasury's Guidance and Supplementary Information:

- Interim Final Rule (IFR)
- Allocations and Methodology for Non-Entitlement Units
- Allocations and Methodology for Metropolitan Cities
- Guidance on State Distribution of Funds to NEUs
- Frequently Asked Questions (*Periodically Updated*)
- Compliance and Reporting Requirements
- Treasury Reporting User Guide (Interim Report and Recovery Plan only)
- Final Rule

Visit Treasury.gov/SLFRP for these resources

- For questions, email SLFRP@treasury.gov

NLC Resources

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NLC's COVID-19 Hub

- Blogs
- Local Action Tracker
- Frequently Asked Questions
- Webinar recordings
- NLC.org/Recovery

NLC's Question Form

- Support our content
- Inform our talks with Treasury
- https://bit.ly/3eVyvWt

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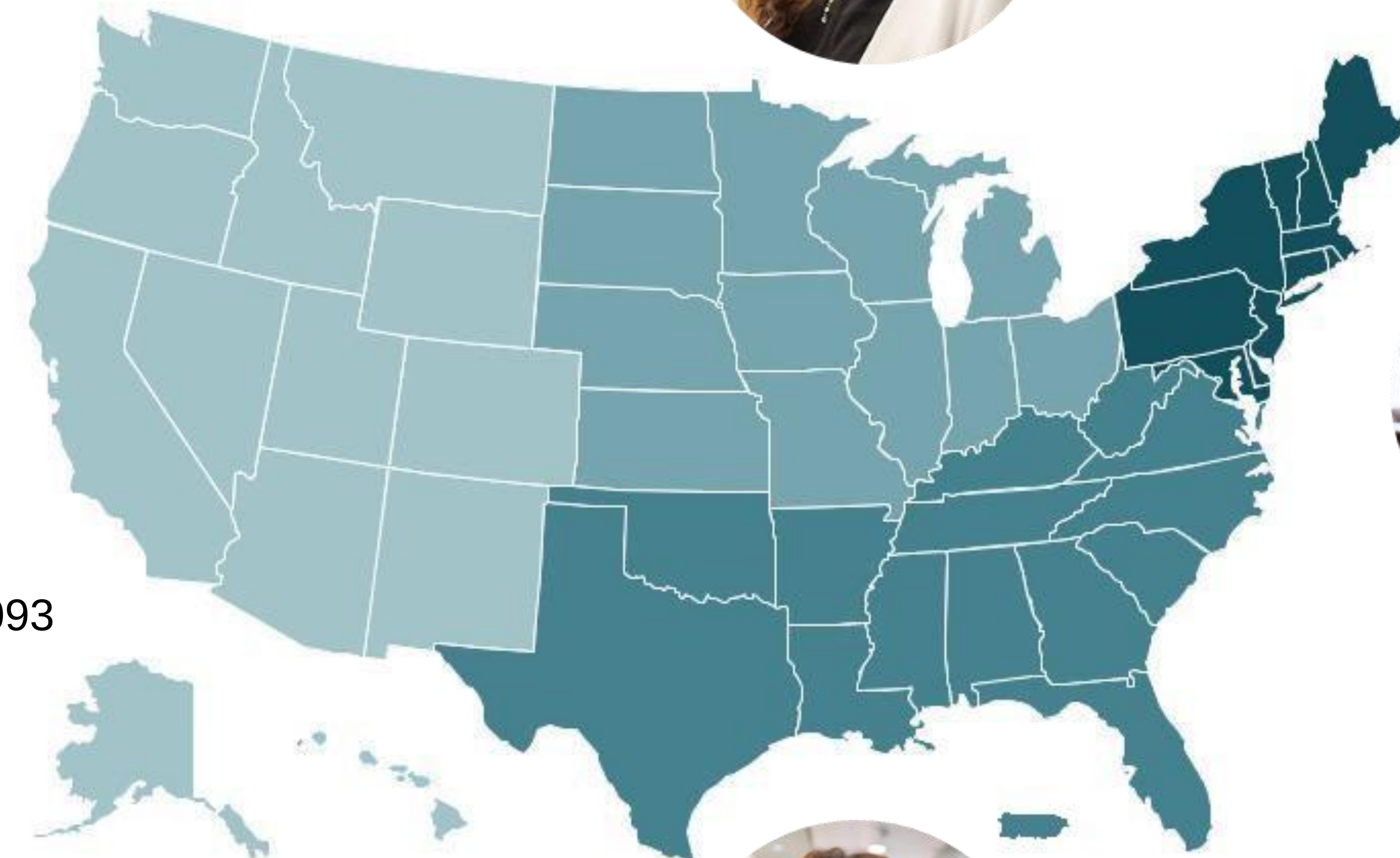

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