



Legislation Text

File #: 21-1080, **Version:** 2

Chief Administrative Office recommending the Board:

- 1) Receive a presentation on the American Rescue Plan Act (ARPA) funding, specifically eligible and ineligible uses of funds;
- 2) Provide direction on Board priorities for allocating ARPA funding; and
- 3) Direct the Chief Administrative Office to return by the end of October with recommendations regarding the use of ARPA funds.

FUNDING: American Rescue Plan Act.

DISCUSSION / BACKGROUND

On March 11, 2021, President Biden signed into law the American Rescue Plan Act (ARPA), which allocated \$1.9 trillion to assist in the recovery from the impacts of the COVID-19 pandemic. Included in this amount is a direct allocation to cities and counties. A summary of funding amounts and purposes is available at

<https://www.naco.org/resources/featured/american-rescue-plan-act-funding-breakdown>.

El Dorado County has been provided a direct allocation of \$37.46 million. Approximately \$18.7 million payment was received in June 2021 and the second payment totaling an additional \$18.7 million is scheduled to be delivered in June or July 2022. For reference purposes the City of South Lake Tahoe is receiving approximately \$5.3 million and the City of Placerville is receiving approximately \$2.6 million.

In general, the ARPA funds can only be used for expenses incurred between March 3, 2021 and December 31, 2024. All funds are to be obligated by December 31, 2024 and fully expended by December 31, 2026.

The U.S. Department of the Treasury has provided agencies with an Interim Final Rule <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>, which provides additional guidance relative to the use of ARPA funds.

There are four categories of eligible use for ARPA funding:

1. Public Health and Economic Impacts
2. Premium Pay
3. Revenue Lost
4. Investments in Infrastructure

The American Rescue Plan Act also specifically prohibits the following two uses:

1. Deposits into Pension Funds
2. Offset Reduction in New Tax Revenue

Public Health and Economic Impacts

Funding in this category must be used to respond to the public health emergency with respect to

COVID-19 or its negative economic impacts. If the Board wishes to direct funding to be used in this category, the County will be required to identify the need or negative economic impact and identify how any allocated funds address the need or impact. Funding must be used to respond to the virus itself or the harmful economic impact from or exacerbated by COVID-19.

The Health and Human Services - Public Health Division has been mobilized and providing a response to the COVID-19 pandemic since the emergency declarations by the Federal and State governments, as well as the County's own emergency declarations. The Board should keep in mind that while emergency conditions do not currently exist in El Dorado County, Public Health staff continue to dedicate a majority of their time responding to the COVID pandemic.

Premium Pay

Funds may be used to provide premium pay to eligible workers performing essential work during the COVID-19 emergency. Essential work is defined as work involving the regular in-person interactions or regular physical handling of items that were also handled by others. **Telework performed from a residence is not eligible for premium pay.** Pay can be up to \$13 per hour in addition to wages, not to exceed \$25,000 per eligible worker. Premium pay must also be entirely additive to a worker's regular pay, and cannot be used to reduce normal earnings. However, the ARPA does allow premium pay to be authorized retroactively to the beginning of the COVID pandemic.

At the beginning of the COVID pandemic the County determined that all government services were essential. The Board and our community should be proud of the dedication and commitment of all county staff to ensuring county services continued more so than in almost any other jurisdiction in California. El Dorado County departments were leaders throughout the State in identifying ways to remain open or re-open as quickly as possible, which involved almost all employees taking some level of risk. An example of this is the County's library system, which has been open to the public for more than a year, while some jurisdictions still have not re-opened their libraries as of the end of June 2021.

Also, recognizing some jobs such as front-line law enforcement, first responders, social workers, and staff working in our adult and youth institutions put staff at greater risk than others, it will be challenging to determine which staff warrant premium pay and which do not, considering that all staff are expected to work and interact with the public during the pandemic.

Considering that all county services were determined to be essential and, with the exception of some employees who were placed on furlough, all employees were expected to continue working, the CAO is not recommending authorizing premium pay.

Lost Revenue

ARPA funds may also be used for the provision of government services that have been impacted by a reduction in revenue due to COVID-19. Lost revenue is calculated relative to the most recent full fiscal year prior to the COVID-19 emergency. Revenues eligible for consideration are "general revenues" and are those collected by the County and generated from its underlying economy. It includes intergovernmental transfers from the State but *excludes* intergovernmental transfers from the Federal government. The Department of the Treasury provides formulas to calculate approximate revenue lost. Important to note is that these funds must be used to continue the provision of government services that would otherwise be negatively impacted by a loss in revenue due to COVID -19.

Investments in Infrastructure

ARPA funding may also be used to invest in local infrastructure. Approved areas of investment are improving access to clean drinking water, improving wastewater and storm water infrastructure, and providing high-quality broadband service. Each area of improvement has guidelines that are expected to be met at the completion of the project. For example, broadband projects are expected to deliver symmetrical upload and download speeds of 100 Mbps upon completion. Eligible projects are also expected to focus on locations that are unserved or underserved.

In addition, recent guidance identified that ARPA funds may be used for parks and recreation uses in disadvantaged communities that were impacted by COVID.

Ineligible Uses of Funding

Ineligible uses of ARPA funding include the following:

- 1) Making deposits into pension funds.
- 2) Offsetting a reduction in net tax revenue resulting from changes in law or regulation. A regular payroll contribution is not considered a “deposit into a pension fund” for the purposes of ARPA funding, however saving funds for future CalPERS increases would be.
- 3) As a non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements.
- 4) Various other rules, including funding debt service, legal settlements or judgments and deposits to rainy day funds or financial reserves.

Next Steps

The Chief Administrative Office has solicited ARPA funding requests from Department Heads and various community partners, including special districts, education, small businesses and nonprofit organizations. The deadline to submit these requests is July 31, 2021.

Upon receipt of all requests, the Chief Administrative Office, with the assistance of the Auditor-Controller, will review the requests to ensure the proposed use of funds is allowable pursuant to the American Rescue Plan Act. All eligible requests will then be considered based on the criteria established by the Board of Supervisors.

It should also be noted that depending on the nature of the requests and the reporting requirements, the Chief Administrative Officer may request additional staff to assist in the administration of this program over the next five years, the costs of which would be paid with ARPA funds. Some jurisdictions have chosen to contract with accounting firms to assist with the distribution and administration of ARPA funds.

Lastly, the County has established the following email address which may be used by the public and community partners to ask questions as well as make suggestions as to how the ARPA funds should be allocated: arpa@edcgov.us.

CAO RECOMMENDATION

The Chief Administrative Office is recommending the Board consider and provide direction to staff to use the following concepts in reviewing ARPA funding requests and presenting recommendations to the Board of Supervisors.

- 1) Use ARPA funds to replace lost revenue as a result of the COVID pandemic. The U.S. Treasury has provided a formula for all local governments to use to calculate lost revenue which may or may not identify lost revenue to the County.
- 2) Allocate funding in a manner that is consistent with the County's Strategic Plan goals and priorities.
- 3) Assistance for small business and nonprofits. While some businesses and nonprofits were able to secure other COVID-related emergency funding, others were not. In regards to local nonprofits, many provide an essential service to our community and were impacted due to revenue losses.
- 4) Avoid a complex distribution of ARPA funds, as this will increase the administrative burden of managing these funds over the next five years and increase the audit risk.
- 5) Departments and community partners should pursue other ARPA funding sources and only request funds from the County's direct allocation as a last resort.

ALTERNATIVES

The Board could choose to identify different priorities and concepts relative to determining how the ARPA funds are allocated.

PRIOR BOARD ACTION

N/A

OTHER DEPARTMENT / AGENCY INVOLVEMENT

All County Departments, and community partners, including special districts, education and local non-profits, were asked to provide requests for ARPA funds by July 31, 2021.

Departments and community partners were also directed to pursue other ARPA funds before submitting requests specific to the County's allocation.

FINANCIAL IMPACT

No cost to the County due to availability of ARPA funding for eligible uses. Funds must be obligated by December 31, 2024 and fully spent by December 31, 2026.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

Public Safety, Good Governance, Infrastructure, Healthy Communities, and Economic Development.

CONTACT

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