

American Rescue Plan Act Fiscal Recovery Funds for Non-Entitlement Units of Local Government

Distribution Status Update and
Overview of Eligibility

August 5, 2021

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Distribution of Funding to Non-Entitlement Units of Government

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ARP Fiscal Recovery Funds (FRF) – Update on Distributions (as of 8/3/2021)

Complete

Category	Count (Initial Allocation)	Count (75% Rule)
DHCD Confirmed Payment	46	8
DHCD in Progress	14	12
DBM Approved, Sent to DHCD	2	2
Under DBM Review	0	0
Declined Funding		3
TOTAL		87

Outstanding

Category	Count (Initial Allocation)	Count (75% Rule)
Pending Final Review		9
Forms Missing / Incomplete	1	0
DUNS # Issue	12	10
Awaiting Response to Budget (new guidance)	-	11
2 or More Reasons	0	17
Have not Responded		1
TOTAL		61

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ARP Fiscal Recovery Funds – Common Issues Delaying Distribution

1. DUNS # Issue

- U.S. Treasury requires the State to “confirm the NEU is not excluded or disqualified in compliance with 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19” before processing the distribution.
- U.S. Treasury states this should be done through SAM.gov. The State is attempting to resolve each issue on a case-by-case basis to help expedite distributions.

2. Forms Missing / Incomplete

- U.S. Treasury requires the State to collect two (2) completed and signed forms.
- Common issues include: Signatures, addresses, and/or DUNS # are not included or not clearly legible.

3. Receipt of NEU’s total budget based on new U.S. Treasury guidance

- U.S. Treasury changed the definition of “most recent budget” to include **both operating and capital expenditure budgets**, in effect as of January 27, 2020.
- This may result in a higher distribution amount for NEUs impacted by the 75% cap.
- Consistent with U.S. Treasury guidance, the State will issue payments under the original budget amount for those NEUs that have not responded. If necessary, a subsequent distribution will take place for those NEUs that respond at a later date.

Strategic Use of Fiscal Recovery Funds

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Strategic Use of Fiscal Recovery Funds

- Fiscal Recovery Funds are meant to be “forward-looking”
- NEUs are encouraged to consider existing and planned State programs that may complement their funding priorities
- NEUs should be aware of existing and potential Federal programs that may result in additional resources for their communities

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Overview of Eligibility

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ARP Fiscal Recovery Funds - 4 Eligible Use Categories

01

Support public health expenditures/ address negative economic impacts



02

Replace lost public sector revenue

Eligible Use Categories

03

Provide premium pay for essential workers



04

Invest in water, sewer, and broadband infrastructure



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01 - Address Public Health and Economic Impacts

- These funds provide resources through the provision of care for those impacted by the virus and through services that address disparities in public health that have been exacerbated by the pandemic.
- Recipients may use this funding to address a broad range of public health needs including:
 - Services and programs to contain and mitigate the spread of COVID-19;
 - Services to address behavioral healthcare needs exacerbated by the pandemic; and
 - Payroll and covered benefits expenses for public health, healthcare, human services, public safety and similar employees, to the extent that they work on the COVID-19 response.

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01 - Address Public Health and Economic Impacts (continued)

- These funds enable recipients to provide a wide range of assistance to individuals and households, small businesses, and impacted industries, in addition to enabling governments to rehire public sector staff and rebuild capacity. Uses include:
 - Delivering assistance to households, including aid to unemployed workers and job training and aid to households facing food, housing, or other financial insecurity. Funds can also support survivor's benefits for families of COVID-19 victims.
 - Supporting small businesses by helping address financial challenges caused by the pandemic, to make investments in COVID-19 prevention and mitigation tactics, and to provide technical assistance.
 - Recipients may use funding to execute an array of loan, grant, in-kind assistance, and counseling programs to enable small businesses to rebound from the downturn.
 - Supporting the tourism, travel, and hospitality sectors that were hard-hit by the COVID-19 emergency.
 - Rebuilding public sector capacity by, for example, rehiring public sector staff and replenishing unemployment insurance (UI) trust funds up to pre-pandemic levels.

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02 - Replace Lost Public Sector Revenue

- Recipients may use funds “for the provision of government services **to the extent of the reduction in revenue** due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency.”
- There is broad latitude to use funds in relation to revenue loss, making it one of greatest areas of flexibility for governments that have experienced revenue loss.
- NEU’s should pay particular attention to the, (1) definition of “general revenue” for the purposes of calculating lost revenue, (2) methodology for calculating revenue, and (3) guidance on what the replaced revenue can and cannot be used on.

02 - Replace Lost Public Sector Revenue (continued)

- Definition of “general revenue” is based on, but not identical to, the components reported under the “General Revenue from Own Sources” in the Census Bureau’s Annual Survey of State and Local Government Finances.
- NEUs should compare actual revenue to a **counterfactual trend** representing what could have been expected to occur in the absence of the pandemic.
 - Treasury provides a step-by-step process on how to calculate the counterfactual trend
 - Calculations can be done at four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023.
- NEUs have broad latitude to use funds, up to the extent of revenue loss, for the provision of government services. Treasury provides guidance on what can and cannot be funded.

03 - Provide Premium Pay for Essential Workers

- Recipients may use this funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers who must be physically present at their jobs.
 - Includes staff at nursing homes, hospitals, and home-care settings, workers at farms, food production facilities, grocery stores, and restaurants, janitors and sanitation workers, public health and safety staff, truck drivers, transit staff, and warehouse workers, childcare workers, educators, and school staff, and social service and human services staff.
- Recipients must prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

04 - Water, Sewer, & Broadband Infrastructure

- **Investing in water and sewer infrastructure.** Funds may be used to invest in necessary improvements to their water and sewer infrastructures, including projects that address the impacts of climate change. Examples of allowable infrastructure projects include:
 - Drinking water projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines.
 - Wastewater projects, including constructing publicly-owned treatment facilities, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works.
- Types of eligible projects is aligned with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving Fund.
- Recipients retain substantial flexibility to identify those water and sewer infrastructure investments that are of the highest priority for their own communities.

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04 - Water, Sewer, & Broadband Infrastructure (continued)

- Investing in broadband infrastructure
 - Recipients should build broadband infrastructure with modern technologies in mind, specifically those projects that deliver services offering reliable 100 Mbps download and 100 Mbps upload speeds, unless impracticable due to topography.
 - The Interim Final Rule provides that investments in broadband be made in areas that are currently unserved or underserved—in other words, lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload.
- NEUs may consider working regionally, as U.S. Treasury guidance states that recipients may expend funds directly on the project or transfer funds to another government that is undertaking the project on behalf of multiple recipients.

Ineligible Uses of Funds

- For all recipients, funds ***cannot*** be used to:
 - Make deposits into a pension fund. A “deposit” is as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability.
 - Interest or principal on any outstanding debt instrument and expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money.
 - Satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services
 - Deposit to rainy day funds or financial reserves.
 - Restriction on using funds for non-federal match where barred by regulation or statute.
 - Fund other general infrastructure spending outside of water, sewer, and broadband investments or the amount allocated under the revenue loss provision. Exceptions apply.

Additional Considerations and Ongoing NEU Support

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Considerations for Effective Program Management and Implementation

- Although NEUs do not have the same reporting requirements as other FRF recipients, the US Treasury encourages recipients to identify the following prior to distributing funds:
 - **Promote equitable outcomes:** Identify ways to distribute funds equitably to address systemic public health and economic challenges that have contributed to the inequal impact of the pandemic.
 - **Encourage community engagement:** Describe how your jurisdiction's planned or current use of funds incorporates written, oral, and other forms of input that capture diverse feedback from your community.
 - **Use evidence to drive decisions:** Describe overall approach for using evidence and evaluation to build their ARP strategy. Establish outputs and intended outcomes of funds to evaluate the impact of your ARP program.

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Ongoing NEU Support

- The State will be available for ongoing technical assistance to help support NEUs
 - NEUs are encouraged to submit feedback and suggestions on the support and help they need to arpa.neuadmin@maryland.gov
 - The State will be communicating with NEUs on technical assistance and ongoing support in the coming weeks and months
 - For any questions on eligibility, compliance, reporting, or other topics, please email arpa.neuadmin@maryland.gov

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QUESTIONS?

For any questions following this webinar, please email:
arpa.neuadmin@maryland.gov

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Appendix

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Key Resources

- [State of Maryland's Website for NEUs](#)
- [Interim Final Rule \(Published Guidance\)](#)
- [Fact Sheet](#)
- [Frequently Asked Questions](#)
- [Frequently Asked Questions on Distribution of Funds to Non-entitlement Units \(NEU\) of Local Government](#)
- [Guidance to Distribute Funds to Non-entitlement Units \(NEU\) of Local Government](#)
- [Compliance and Reporting Responsibilities](#)
- [ARP: Application of Lessons Learned from the Coronavirus Relief Fund](#)

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Upcoming Reporting Requirements

- NEU's are required to submit an annual Project and Expenditure Report.
- First report covers activity from the date of the award to September 30, 2021, and must be submitted to Treasury no later than October 31, 2021.
- Key information on: Projects, Expenditures, Project Status, Project Demographic Description, Subawards, Civil Rights Compliance, and Programmatic Information.
- Additional information on NEU documentation includes:
 - NEU Recipient Number (a unique identification code for each NEU assigned by the State to the NEU as part of the request for funding).
 - Copy of the signed award terms and conditions agreement (which was signed and submitted to the State as part of the request for funding).
 - Copy of the signed assurances of compliance with Title VI of the Civil Rights Act of 1964 (which was signed and submitted to the State as part of the request for funding).
 - Copy of actual budget documents validating the top-line budget total provided to the State as part of the request for funding.

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