

American Rescue Plan Act
Impact on Texas Counties and Cities

Last week, President Biden signed the American Rescue Plan Act (ARP) to provide further economic relief to state and local governments, with \$130 billion going directly to cities and counties.

In Texas, counties and cities together should receive \$16 billion of ARP funds. These local governments should receive substantially more ARP dollars as compared to other federal dollars (e.g., CRF or ERA funds).

Below are most important takeaways of the brand-new ARP rules.

Takeaways

1. Counties and larger cities will receive ARP funds directly from Treasury. Larger cities and counties will receive their ARP funds directly from the US Treasury. These local governments will receive their ARP funds automatically, i.e., there is no application or qualification requirement.
2. State involvement for smaller cities. Smaller cities will receive ARP funds through disbursements from the State rather than Treasury directly. It is unclear whether smaller cities will be required to apply through the State in order to receive their allocation (but this will likely involve filing an application with TDEM).
3. More cities can participate. Unlike previous rounds of relief to local governments, this round does not have a population threshold, with nearly everyone receiving some funding.
4. Extended period. The deadline for spending ARP funds is December 31, 2024.
5. Recoupment risk. The failure to comply with the ARP rules may result in claw back or recoupment from the US Treasury.
6. Timing of the distribution of funds occurs in two tranches over 14 months or more. Texas cities and counties will receive ARP funds in two tranches: the first tranche, consisting of 50% of a recipient's allocation, and the second tranche made no earlier than 12 months after the first tranche is received. Treasury must disburse the first tranche of funds to larger cities and counties by May 10.
7. Distribution of funds to States and smaller cities. Treasury will disburse funds to each State within 60 days after receipt of the State's required certification, and the State must disburse those funds to smaller cities within 30 days of receiving such funds from Treasury.

8. Broad eligible use.¹ The eligible use of funds should fall into one of these categories:
- a. COVID-related expenditures (directly or indirectly related);
 - b. Premium pay for essential workers;
 - c. Government service programs under certain circumstances; and
 - d. Necessary improvements in water, sewer or broadband infrastructure (whether related or not to COVID-19).

Treasury guidance will likely release guidelines and frequently-asked-questions with clarification in the coming weeks.

Resources

- Statute: Included on NACO's webpage:
<https://www.naco.org/sites/default/files/documents/BILLS-117hr1319enr.pdf>
- Treasury: Guidance and FAQs (not currently available)
- Allocation: <https://www.democrats.senate.gov/final-state-and-local-allocation-output-030821>
- Other: National Association of Counties (NACO)
<https://www.naco.org/resources/naco-analysis-american-rescue-plan-act>
- Texas Municipal League (TML) resources page
<https://www.tml.org/654/Coronavirus-COVID-19-Resources>
- Carrington Coleman COVID-19 Legal Resource Center
<https://www.ccsb.com/covid19-legal-resource-center/>

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¹ Eligible uses of ARP funds include:

- Responding to the public health emergency with respect to Covid-19 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.
- Responding to workers performing essential work during the pandemic by providing premium pay to eligible workers performing services inside recipients' territories, or to eligible employers that have eligible workers who perform essential work.
- Providing government services to the extent of the reduction in revenue of such recipient due to the pandemic relative to revenues collected in the most recent full fiscal year of the recipient prior to the pandemic.
- Necessary investment in water, sewer, or broadband infrastructure.

Carrington Coleman's COVID team actively advises several local Texas governments on their strategy and compliance responsibilities of many COVID federal programs.

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