



NADO LEGISLATIVE UPDATE

JULY 1, 2021

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ABOUT NADO

- The National Association of Development Organizations (NADO) advocates for the nation's network of hundreds of Regional Development Organizations (RDOs) across the country, and for the economic and community development programs they help implement
- NADO works closely with EDA and Economic Development Districts (EDDs), and with other federal partners and community development stakeholders

www.nado.org

Interested in becoming a NADO member?

Please contact Brittany Salazar at bsalazar@nado.org or Krystal De Leon at kdeleon@nado.org

COVID-19 RELIEF OVERVIEW

- First major stimulus bill passed March 2020: **The Coronavirus Aid, Relief, and Economic Security (CARES) Act**
- Second major stimulus bill passed March 2021: **the American Rescue Plan Act (ARPA)**

COVID-19 RELIEF TIMELINE

March 6, 2020

P.L. 116-123

The Coronavirus Preparedness and Response Supplemental Appropriations Act

March 27, 2020

P.L. 116-136

The Coronavirus Aid, Relief, and Economic Security (CARES) Act
\$2.2 trillion

August 8, 2020

Presidential Memoranda - August 8, 2020

March 11, 2021

P.L. 117-2

The American Rescue Plan Act of 2021
\$1.9 trillion

P.L. 116-127

The Families First Coronavirus Response Act

March 18, 2020

P.L. 116-139

The Paycheck Protection Program and Health Care Enhancement Act

April 24, 2020

P.L. 116-260

The Coronavirus Response and Relief Supplemental Appropriations Act, 2021
\$900 billion COVID-19 relief stimulus plus \$1.4 trillion FY 21 appropriations omnibus

December 27, 2020

AMERICAN RESCUE PLAN ACT HIGHLIGHTS

[The American Rescue Plan Act \(P.L. 117-2\)](#) includes:

- **\$3 billion** for the U.S. Department of Commerce Economic Development Administration (EDA)
- **\$350 billion** for state, local, tribal, and territorial support
- \$7.25 billion for the SBA Paycheck Protection Program (PPP)
- \$15 billion for Economic Injury Disaster Loans (EIDL)
- \$1400 direct stimulus checks for eligible individual taxpayers
- \$300 weekly federal unemployment benefits through September 6, 2021
- And many other provisions

Sources and Useful Reference Materials:

- [American Rescue Plan Section-by-Section Summary - Senate Democrats](#)
- [National Conference of State Legislatures \(NCSL\) Overview](#)

EDA FUNDS WITHIN ARPA

- **U.S. Department of Commerce Economic Development Administration (EDA)**
 - [The American Rescue Plan Act](#) contains **\$3 billion** in supplemental funding for EDA
 - For context, \$3 billion is **twice** the amount of EDA funding included in the CARES Act and nearly **ten times** EDA's typical annual appropriation
 - The bill language specifies that:
 - The EDA funding is intended to be used to “*prevent, prepare for, and respond to coronavirus, and for necessary expenses for responding to **economic injury** as a result of coronavirus*”
 - **25%** of the funds shall be allocated to “*states and communities that have suffered economic injury as a result of job and gross domestic product losses in the **travel, tourism, and outdoor recreation sectors***”
 - EDA must allocate funding no later than September 30, **2022**; funds will remain available to recipients until September 20, **2027**

EDA NOFO RELEASE FORTHCOMING

- **NADO expectations for the forthcoming EDA NOFO release:**
 - EDA guidance / NOFO will likely be released in “tranches”
 - Likely that initial EDA guidance will be released in early-to-mid July
 - Some EDA guidance may be released in the form of invitation letters
 - Unknown whether additional ***non-competitive/automatic*** funds will be available to EDDs, but regardless, planning and staffing are anticipated to be eligible activities for EDA ***competitive*** funding NOFO
 - Travel/tourism priorities are likely to be reflected in portions of the EDA guidance
 - Statewide planning and/or collaboration with State Economic Development Agencies / Governors may be reflected in portions of the EDA guidance

AMERICAN RESCUE PLAN ACT (ARPA) STATE AND LOCAL RELIEF FUNDING

- [The American Rescue Plan Act](#) includes more than **\$350 billion** for state, local tribal, and territorial support
 - Allowable uses of state and local relief funding as described in legislation:
 - *Subtitle M: Coronavirus State and Local Fiscal Recovery Funds*
 - **SEC. 603. CORONAVIRUS LOCAL FISCAL RECOVERY FUND.**
 - “(1) **USE OF FUNDS**.—Subject to paragraph (2), and except as provided in paragraph (3), a State, territory, or Tribal government shall only use the funds provided under a payment made under this section, or transferred pursuant to section 603(c)(4), to cover costs incurred by the State, territory, or Tribal government, **by December 31, 2024**—
 - “**(A)** to respond to the public health emergency with respect to the Coronavirus Disease 2019 (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;
 - “**(B)** to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the State, territory, or Tribal government that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
 - “**(C)** for the provision of government services to the extent of the reduction in revenue of such State, territory, or Tribal government due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the State, territory, or Tribal government prior to the emergency; or
 - “**(D)** to make necessary investments in water, sewer, or broadband infrastructure.

ARPA STATE/LOCAL FUNDING LINKS

- **U.S. Treasury Department Guidance - Coronavirus State and Local Relief Fund Resources:**
 - Full details – **interim final rule:** <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>
- **Additional Treasury Resources:**
 - Main page: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>
 - Fact sheet: <https://home.treasury.gov/system/files/136/SLFRP-Fact-Sheet-FINAL1-508A.pdf>
 - FAQs: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf> - new updates as of June 24
 - Non-entitlement FAQs: <https://home.treasury.gov/system/files/136/NEU-FAQs.pdf> - new updates as of June 30
 - Reference guide: <https://home.treasury.gov/system/files/136/SLFRP-Quick-Reference-Guide-FINAL-508a.pdf>
 - Allocations for counties: https://home.treasury.gov/system/files/136/fiscalrecoveryfunds_countyfunding_2021.05.10-1a-508A.pdf
 - Allocations for metropolitan cities: <https://home.treasury.gov/system/files/136/fiscalrecoveryfunds-metrocitiesfunding1-508A.pdf>

ARPA STATE/LOCAL FUNDING LINKS

- **U.S. Treasury Department Guidance - Coronavirus State and Local Relief Fund Resources:**
 - Full details – **interim final rule**: <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>
- **Non-Entitlement Units (NEU) Guidance:**
 - Additional treasury guidance to assist states with their distribution of funds to “non-entitlement units of local government” (NEUs), which are local governments typically serving a population under 50,000, can be found here:
 - General NEU guidance page: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-fund/non-entitlement-units>
 - NEU distribution information: <https://home.treasury.gov/system/files/136/Status-State-NEU-Distribution.pdf>
 - Eligible NEUs list: <https://home.treasury.gov/system/files/136/ERA-List-of-Eligible-Local-Governments-Final.pdf>
 - Non-entitlement units FAQs: <https://home.treasury.gov/system/files/136/NEU-FAQs.pdf> - new updates as of June 30

ARPA STATE/LOCAL FISCAL RECOVERY FUND ELIGIBLE USES

Eligible Uses

A. Public health and economic impacts [\(interim rule page 10\)](#)

1. Responding to COVID-19 (page 12; eligible uses begin on page 17)

COVID-19 Mitigation and Prevention (page 18) – **testing, contact tracing**, support for individuals in isolation or quarantine, enforcement of public health orders, public communication efforts, public health surveillance, **enhancement to health care capacity** through alternative care facilities, enhancement of public health data systems, capital investments in public facilities to meet pandemic operational needs

Behavioral Health Care (page 19) – **mental health** services, behavioral health services, **substance use** mitigation, crisis intervention

Public Health and Safety Staff (page 20) – funds may be used for **payroll and covered benefits** expenses for **public safety, health care, human services, and similar employees**, to the extent that their services are devoted to mitigating or responding to the COVID-19 emergency. For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the public health emergency, and therefore fully covered, if the employee or their division is primarily dedicated to responding to the COVID-19 public health emergency

Expenses to Improve the Design and Execution of Public Health Programs (page 21) – funds may be used for planning and analysis to improve programs addressing the COVID-19 pandemic, impact evaluations, and data analysis

2. Responding to Negative Economic Impacts (page 23; eligible uses begin on page 30)

Assistance to Unemployed Workers (page 32) – **job training** to accelerate rehiring of unemployed workers (including workers who were already unemployed when the pandemic began)

Assistance to Households (page 33) – **food assistance; rent, mortgage, or utility assistance**; counseling and legal aid to prevent eviction or homelessness; cash assistance; internet access or digital literacy assistance; cash transfer programs

Expenses to Improve Efficacy of Economic Relief Programs (page 34) – improve efficacy of state and local programs addressing negative economic impacts, including through data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations

Small Businesses and Non-profits (page 34) – provide **loans or grants** to small businesses and nonprofits

Rehiring State, Local, and Tribal Government Staff (page 35) – **rehiring public sector staff**, up to the pre-pandemic staffing level of the government

Aid to Impacted Industries (page 36) – speed the recovery of impacted industries such as **travel, tourism, and hospitality** services

ARPA STATE/LOCAL FISCAL RECOVERY FUND ELIGIBLE USES

Eligible Uses

B. Premium Pay for Essential Workers (page 45)

■ Such workers include:

- Staff at nursing homes, hospitals, and home care settings;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitation workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;
- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

- Funds may be used to provide premium pay to **essential workers**, both directly and through grants to third-party employers (page 45)
- “To ensure that premium pay is **targeted** to workers that faced or face **heightened risks** due to the character of their work, the Interim Final Rule defines essential work as work involving regular **in-person interactions** or regular physical handling of items that were also handled by others” (page 47)
- “Many of the workers performing critical essential services are low- or moderate- income workers....the ARPA recognizes this by defining premium pay to mean an **amount up to \$13 per hour in addition to wages or remuneration the worker otherwise receives** and in an aggregate amount **not to exceed \$25,000** per eligible worker” (page 48)
- “If premium pay would increase a worker’s total pay **above 150 percent** of their residing state’s average annual wage for all occupations, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, or their residing county’s average annual wage, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the State, local, or Tribal government must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a **written justification** of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency” (page 49)

ARPA STATE/LOCAL FISCAL RECOVERY FUND ELIGIBLE USES

Eligible Uses

C. Revenue Loss (page 51)

- Funds may be used for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency (page 51)
- Public sector revenue loss is calculated relative to the expected trend, beginning with the last full fiscal year (pre-pandemic) and adjusted annually for growth
- Recipients may recalculate revenue loss at multiple points during the program, recognizing that revenue loss may occur with a lag
- Once revenue loss is identified, recipients have broad latitude to use funds to support government services
- The interim final rule establishes a methodology that each recipient should use to calculate its reduction in revenue

Helpful video on this topic from the National Association of Counties linked below:

<https://www.naco.org/events/understanding-eligible-expenses-fiscal-recovery-fund-revenue-loss>

ARPA STATE/LOCAL FISCAL RECOVERY FUND ELIGIBLE USES

Eligible Uses

D. Water, Sewer, and Broadband (page 62)

1. Water and sewer: (page 63)

Recipients may use funds to invest in a broad range of projects that improve drinking water, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines (page 67)

Eligible uses align with Environmental Protection Agency project categories for the [Clean Water State Revolving Fund and Drinking Water State Revolving Fund](#) (page 63)

2. Broadband: (page 69)

Eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses (page 71)

Focus on households and businesses without a wireline connection capable of reliably delivering 25 Mbps download / 3 Mbps upload

Fund projects that deliver reliable, high-quality service (minimum 100 Mbps download / 100 Mbps upload speeds unless impracticable)

“Under the Interim Final Rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of **100 Mbps**. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds **100 Mbps download** and between at least **20 Mbps and 100 Mbps upload** speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds” (page 71)

Information from National League of Cities about recently updated Treasury FAQ broadband eligibility guidance: <https://www.nlc.org/article/2021/06/18/treasury-expands-broadband-eligibility-for-arpa-in-a-win-for-cities/>

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ARPA CORONAVIRUS FISCAL RECOVERY FUND TIMELINE

Timeline

- July 16, 2021 – deadline to comment on Treasury Interim Final Rule
- August 31, 2021 – deadline to submit first interim report and recovery plan performance report
- October 31, 2021 – deadline to submit first quarterly expenditure report
- December 31, 2024 – funds must be OBLIGATED (not incurred or spent)
- December 31, 2026 – funds must be spent, and all work/performance completed

TRANSFER OF FUNDS

- **U.S. Treasury Department Guidance - Coronavirus State and Local Relief Fund Resources:**
 - Full details – **interim final rule:** <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>
- Notable language on “special purpose districts” and “special purpose units of state or local government”
 - Page 105:

VI. Transfer

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan cities, and nonentitlement units of local government are collectively referred to as “local governments”) to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Specifically, under section 602(c)(3), a State, territory, or Tribal government may transfer funds to a “private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government.”¹⁸⁰ Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The Interim Final Rule clarifies that the lists of transferees in Sections 602(c)(3) and 603(c)(3) are not exclusive. The Interim Final Rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (e.g., a county is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities. This approach is intended to help provide funding to local governments with needs that may exceed the allocation provided under the statutory formula.

AMERICAN RESCUE PLAN ACT STATE AND LOCAL RELIEF FUNDING


Additional Resources: Coronavirus State and Local Relief Fund Information

Webinar Recordings:

- [National League of Cities Treasury Guidance Webinar #1 - Coronavirus State and Local Fiscal Recovery Fund](#)
- [NLC Guidance Webinar #2 - Coronavirus State and Local Fiscal Recovery Fund](#)
- [NLC ARPA Fiscal Recovery Fund Reporting Requirements Webinar Recording](#)

Email to contact Department of Treasury with questions about the Coronavirus State and Local Relief Fund:

- slfrp@treasury.gov



Other Notable Legislative Updates

As of July 2021

PRESIDENT'S FY 2022 BUDGET

- The President's [FY 2022 "Skinny budget" request](#) was released on April 9, 2021
- A [more detailed version of the President's budget](#) was released Friday May 27, 2021
- The President's budget recommends \$382.5 million for the U.S. Economic Development Administration for FY22. If enacted, this would be:
 - A nearly \$40 million increase over FY 2021 levels
 - A nearly \$50 million increase for FY 2020 levels
- The release of the President's budget proposal serves as the foundation for the negotiation process between the President and Congress to determine the distribution of funds across the government for FY 2022. Final appropriations decisions are made by Congress.

PRESIDENT'S FY 2022 BUDGET

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, for trade adjustment assistance, and for grants authorized by sections 27 and 28 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3722 and 3723), as amended, **[\$305,500,000]** **\$382,500,000** to remain available until expended, of which \$38,000,000 shall be for grants under such section 27 and \$2,000,000 shall be for grants under such section 28: *Provided*, That any deviation from the amounts designated for specific activities in the explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act), or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section **[505]** 504 of this Act. (*Department of Commerce Appropriations Act, 2021.*)

Program and Financing (in millions of dollars)

Identification code 013-2050-0-1-452	2020 actual	2021 est.	2022 est.
Obligations by program activity:			
0001 Planning grants	33	34	37
0002 Technical assistance grants	9	11	14
0003 Public works grants	124	125	124
0004 Economic adjustment grants	39	40	49
0005 Research Grants	2	2	2
0009 Trade Adjustment Assistance	13	14	13
0018 Disaster Supplementals Prior to FY 2018	1		
0021 Regional Innovation Strategies and Sec. 27 Science Parks Loan Guarantees	34	38	45
0022 Assistance to Coal Communities	31	34	81
0024 Assistance to Nuclear Closure Communities	5	27	10

INFRASTRUCTURE

- The Biden Administration has turned its attention toward an **infrastructure bill**
- The President unveiled the [American Jobs Plan infrastructure proposal](#) during a speech on March 31 in Pittsburgh
- The Administration's plan included:
 - **\$14 billion split between 3 agencies, including the Economic Development Administration (emphasis on Public Works), as well as USDA and HUD**
 - \$621 billion for transportation
 - \$100 billion for high-speed broadband
 - \$100 billion for workforce development
 - \$111 billion for safer drinking water
 - \$100 billion to upgrade U.S. power infrastructure
 - \$213 billion for housing
 - \$137 billion for public schools, community colleges, and child-care facilities
 - And many other provisions, including those laid out in this [White House Fact Sheet – rural priorities](#)
- Note: this is the White House's proposal, and is not necessarily representative of what Congress will do

OTHER NOTABLE LEGISLATIVE UPDATES

■ EDA Assistant Secretary Nominee

- Alejandra Castillo - [nominated on April 27](#)
- [Nomination hearing](#) on June 16



■ Surface Transportation Reauthorization

- The Senate Environment and Public Works (EPW) Committee unanimously approved a [\\$311 billion surface transportation reauthorization bill](#) in May 2021
- The House T&I Committee approved a \$547 billion surface transportation reauthorization proposal, the [INVEST in America Act](#), in June
- The FAST Act expires in September 2021

■ Biden Administration's Infrastructure Proposal

- Biden Administration's \$1.7 trillion [American Jobs Plan](#) proposal
- Biden Administration's \$1.8 trillion [American Families Plan](#) proposal and [rural fact sheet](#)

OMB FEDERAL REGISTER NOTICE “MSA” DEFINITION CHANGE

- An [OMB Federal Register Notice](#) published on January 19, 2021 requested public comment on a proposal to change the definition of a **Metropolitan Statistical Area (MSA)**
- The notice proposed changing the MSA population definition **from 50,000 to 100,000** minimum.
- **NADO submitted comments** in response to the Federal Register Notice **opposing this change**.
- Fortunately, USDOT definitions of MPO/RPO/RTPOs would likely **NOT be affected** by the OMB proposal – this is because the “50,000” population number is explicitly written in statute (23 U.S.C. §134) as the basis for MPO/RPO/RTPO definitions
- However, NADO is monitoring this issue closely in anticipation of a **potential** statutory change in the future

CENSUS FEDERAL REGISTER NOTICE

URBAN AREAS

- Another recently published [Federal Register Notice](#) requests comment on the **Census Bureau's** proposed criteria on **Urban Areas** (notice published in February 19 Federal Register)
- The proposed change is a shift away from the “Urbanized Area” population-based definition (50,000+) and a shift toward a housing unit density-based definition
- Potential implications of this notice:
 - Much like the OMB MSA issue, this proposed change could also have *potential* wide-reaching impacts, and NADO will be keeping a close watch on this issue as well
 - USDOT definitions of MPO/RPO/RTPOs would likely **NOT be affected** by the Census proposal (this is because the number “50,000” is explicitly written in statute as the basis for MPO/RPO/RTPO definitions.
 - However, this is something NADO is keeping a close watch on, especially with FAST Act (surface transportation) reauthorization on the horizon
- NADO submitted comments and is monitoring this issue closely



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