ARPA Fiscal Recovery Fund
Final Rule

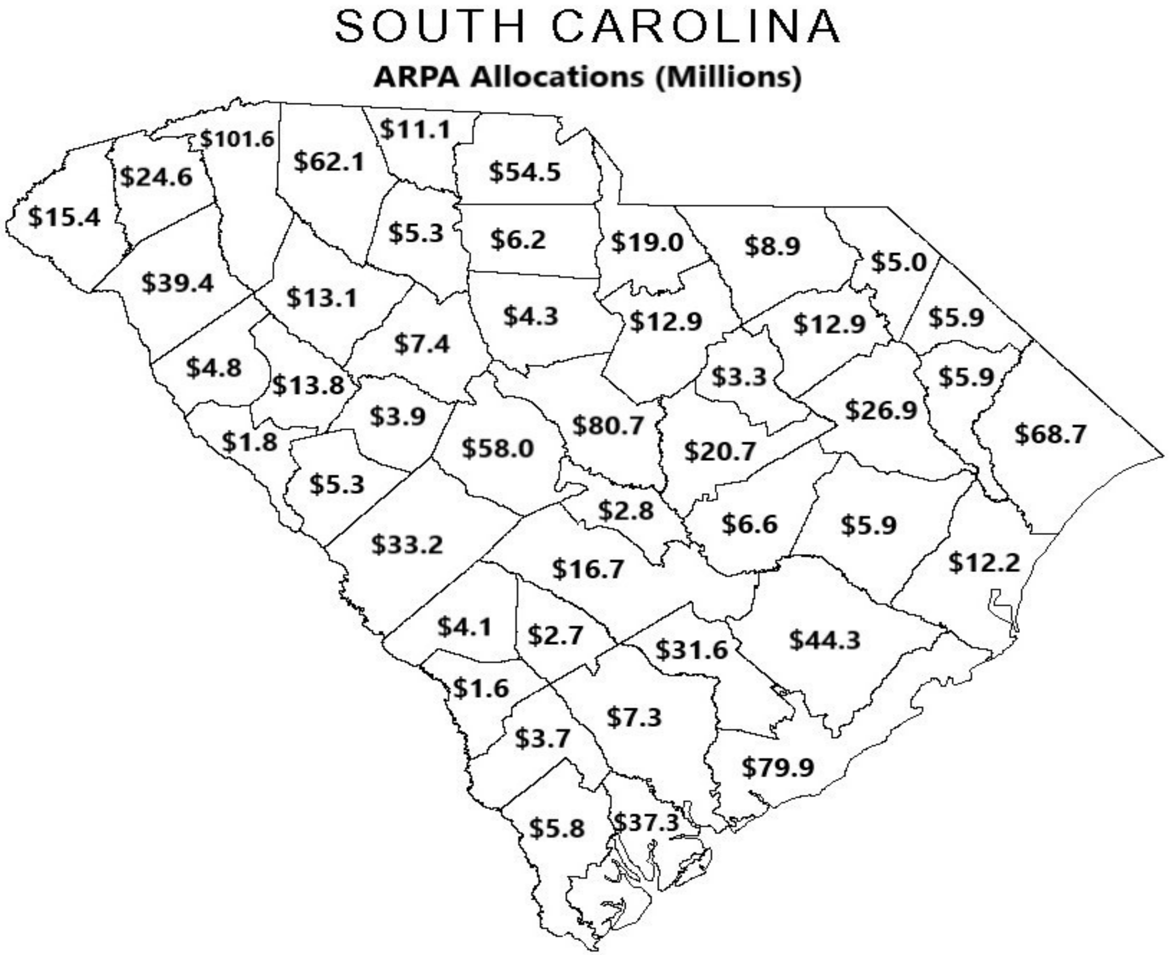
SOUTH CAROLINA
ASSOCIATION OF COUNTIES

ARPA Background

- State and Local Fiscal Recovery Fund signed into law as a part of ARPA on March 11, 2021
- Counties directly funded under the Act by Treasury
- Interim Final Rule was released on May 10, 2021, which provided initial guidance regarding the use of ARPA allocations
- Counties were able to draw down their first tranche of funds through Treasury's portal following the issuance of the IFR
- SC was one of only 8 states to have all of its counties successfully draw down funding by the end of September 2021

ARPA Background

SC Counties Received Approximately $1 Billion



ARPA – Eligible Uses

Support Public Health Response
Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff

Address Negative Economic Impacts
Respond to economic harms to workers, families, small businesses, impacted industries, and the public sector

Replace Public Sector Revenue Loss
Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic

Premium Pay for Essential Workers
Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors

Water and Sewer Infrastructure
Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure

Broadband Infrastructure
Make necessary investments to provide unserved or underserved locations with new or expanded broadband access

Final Rule

On January 6, 2022, Treasury released its Final Rule on the ARPA State and Local Fiscal Recovery Fund with an effective date of <u>April 1, 2022</u>

- **Expands and Simplifies the Revenue Loss Expenditure Category**
- **Clarifies eligible use of funds for "Capital Expenditures"**
- **Streamlines options for Premium Pay**
- **Broadens eligible use of funds for Water, Sewer, and Broadband Projects**
- **Authorizes re-hiring of local government staff, either at or above pre-pandemic levels**

Final Rule – Replacing Lost Revenue

- **New $10 Million Revenue Loss "Standard Allowance":**
  - Counties may allocate up to $10 million of their Recovery Fund allocation to spend on government services
  - "Standard Allowance" option simplifies the reporting requirements for counties
  - Great option for smaller counties to maximize the allowable use of funds received

Final Rule – Replacing Lost Revenue

- **Improvements To The Existing Revenue Loss Formula:**
  - **IFR formula's standard growth rate was set at 4.1%**
  - **Final Rule *increases* the default growth rate to 5.2%**
  - **Counties may choose to calculate revenue loss on a *fiscal year* or *calendar year***
  - **General Revenue now includes utility revenue or liquor store revenue, at the discretion of the county.**
  - **Counties must adjust revenue totals for effects of tax cuts/revenue increases adopted after January 6, 2022**

Final Rule – Replacing Lost Revenue

- Election between using the new “standard allowance” or using Treasury’s revenue loss calculation formula is required in your county’s next report
  - If your county declared “$0” for revenue loss in the Interim Report, your county may change and update this number in the April 2022 Project and Expenditure Report
  - Treasury will not commit a county to its reported choice if it was required to file a January 31, Quarterly Project and Expenditure Report (24 counties) and may change its election in April 2022

Final Rule – Replacing Lost Revenue

- “Government Services” generally include any service traditionally provided by a government, unless Treasury has stated otherwise
- Common examples include, but are not limited to:
  - Construction of schools & hospitals
  - Road building / maintenance + other transportation infrastructure
  - Health services
  - General government administration, staff, and administrative facilities
  - Environmental remediation
  - Police, first responders, and other public safety services
    - Including purchasing of fire trucks or police vehicles

Final Rule – Replacing Lost Revenue

- The following activities are ***not*** an eligible use of a county's "revenue loss" allowance:
  - Extraordinary contribution to a Pension Fund
  - Debt Service payment, including Tax Anticipation Notices (TANs)
  - Rainy Day or Reserve Accounts
  - Settlement Agreements, Judgements, Judicially Confirmed Debt
  - (New) Activity that Conflicts with the Purposes of ARPA

Final Rule – Capital Expenditures

- Counties may use recovery funds for Capital Expenditures that "Respond to the Public Health and Negative Economic Impacts of the Pandemic"
- Projects must be related to public health and/or negative economic impacts and must be *proportional to the impact identified*
  - **No pre-approval is required or provided by Treasury for Capital Expenditures**
- To ensure expenditure eligibility, ***counties are required*** to submit a written justification for Capital Expenditures greater than or equal to $1 million
  - **Describe the harm or need that is to be addressed**
  - **Explain why the Capital Expenditure is appropriate**
  - **Compare proposed Capital Expenditure project against at least two alternatives and show why the county's expenditure is the superior option**

Final Rule – Capital Expenditures

EXAMPLES OF ELIGIBLE PROJECTS

- Schools
- Childcare Facilities
- Medical Facilities (Generally Dedicated to Covid-19 Treatments)
- Affordable Housing
- Improvements to Vacant or Abandoned Properties
- Emergency Operation Centers

EXAMPLES OF INELIGIBLE PROJECTS

- Construction of ***New*** Correctional Facilities
- Construction of ***New*** Congregate Facilities
- Convention Centers / Stadiums
- Other larger capital projects intended for general economic development

Final Rule – Premium Pay

- Premium Pay ($13/per hour) can be provided to eligible workers performing essential work either in public sector roles or through grants to third-party employers
- Counties may award Premium Pay to workers that are not exempt from the Fair Labor Standards Act overtime provisions without written justification
- Premium Pay can be provided in installments or lump sums and can be awarded to hourly, salaried, part-time, or non-hourly workers
- Volunteers ***cannot*** receive Premium Pay

Final Rule – Premium Pay

The Final Rule outlines <u>three steps</u> for determining Premium Pay eligibility:

1. **Any work performed by an employee of the state or local government**
2. **Verify that the eligible worker performs essential work including risk of COVID exposure**
   - Regular in-person interactions
   - Regular physical handling of items that are also handled by others
   - Telework performed from a residence ≠ essential work
3. **Confirm that Premium Pay responds to workers performing essential work during the public health emergency**
   - Determine average wage for county employees
   - Any employee normally eligible for overtime as non-exempt from FLSA overtime provisions

If a worker fails to meet above requirements, the county <u>must</u> submit written justification outlining a presumptive allowance for Premium Pay

Final Rule – Water and Sewer

In addition to projects that are aligned under EPA's Clean Water Revolving Fund and Drinking Water State Revolving Fund, the Final Rule provides additional eligible projects including:

- Broadened set of lead remediation projects
- Culvert projects
- Residential well projects
- Certain dam and reservoir projects (related to drinking water)

Final Rule – Water and Sewer

NEW ELIGIBLE WATER & SEWER PROJECTS UNDER FINAL RULE	
• Culvert repair • Resizing, and removal, replacement of storm sewers, and additional types of stormwater infrastructure • Infrastructure to improve access to safe drinking water for individual served by residential wells, including testing initiatives, and treatment/remediation strategies that address contamination • Dam and reservoir rehabilitation if primary purpose of dam or reservoir is for drinking water supply and project is necessary for provision of drinking water	• Broad set of lead remediation projects eligible under EPA grant programs authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act, including: – Lead testing – Installation of corrosion control treatment – Lead service line replacement – Water quality testing, compliance monitoring, and remediation activities (i.e. replacement of internal plumbing and faucets and fixtures in schools and childcare facilities)

Final Rule - Broadband

- Under the IFR, counties were required to invest in households and businesses without reliable wireline 25 Mbps download / 3 Mbps upload
- Final Rule broadens eligible projects to allow counties to invest in locations without reliable wireline 100 Mbps download / 20 Mbps upload
- Beyond this threshold, counties have broad flexibility to define “need” in a community by looking at service *accessibility*, *affordability*, and *reliability* when identifying an area for broadband investment
- Completed projects must participate in the FCC’s Affordable Connectivity Program or a comparable low-income subsidy program

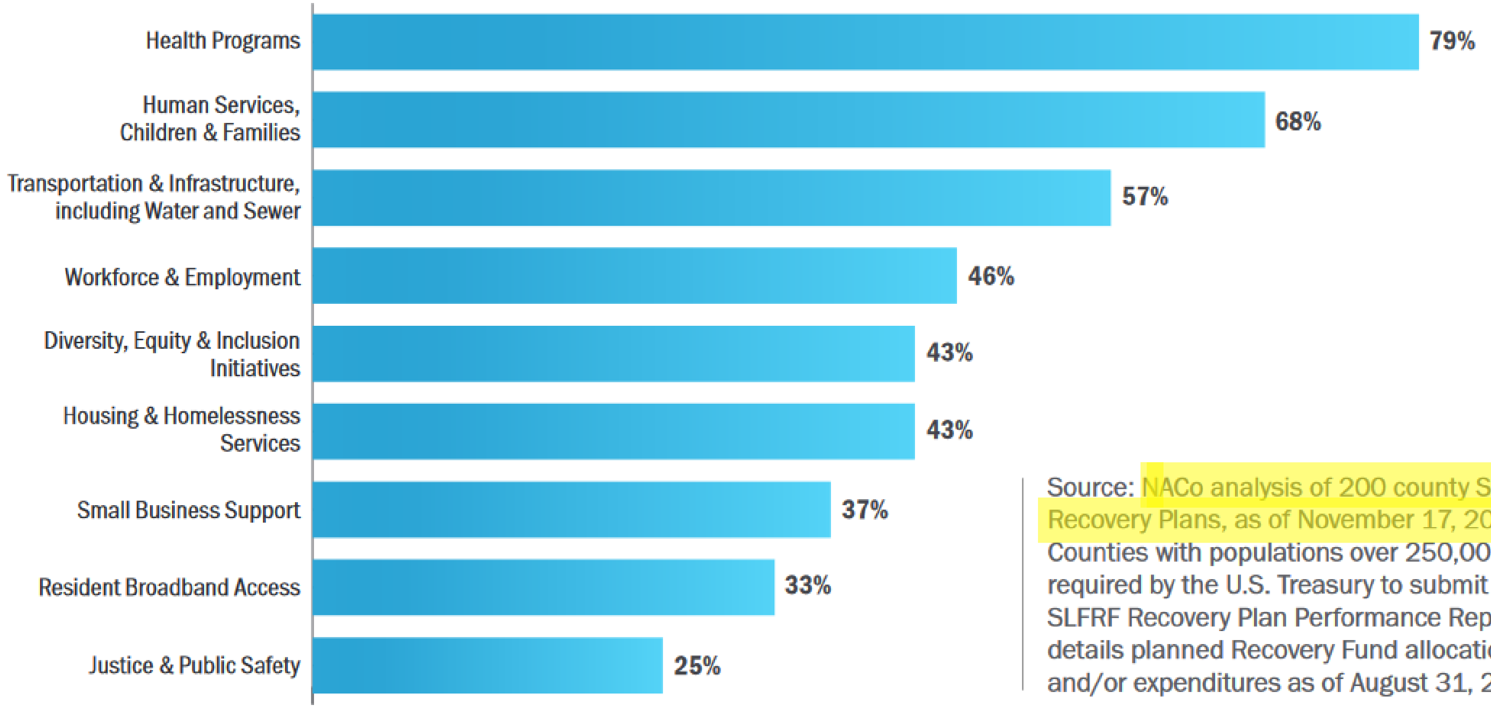
Final Rule – Bolstering the Workforce

- Final Rule clarifies that funds may be used to restore and bolster public sector capacity, including:
  - Restoring pre-pandemic employment, hiring above pre-pandemic levels, and providing retention incentives
  - Paid family and medical leave for public employees
  - Expenses relating to the treatment of long-term symptoms or effects of COVID-19

County Use of ARPA Funds

COUNTIES ARE UTILIZING RECOVERY FUNDS FOR KEY INVESTMENTS

How will counties invest the funds? NACo analysis of 200 county ARPA Recovery Fund plans reveals county-designed investments in the community across key areas of need. These local priorities are found within county plans at the rate displayed in the chart.



Source: NACo analysis of 200 county SLFRF Recovery Plans, as of November 17, 2021. Counties with populations over 250,000 were required by the U.S. Treasury to submit an SLFRF Recovery Plan Performance Report that details planned Recovery Fund allocations and/or expenditures as of August 31, 2021.

ARPA – Looking Ahead

- SCAC will continue to stay in contact with Treasury and NACo Staff to provide counties with needed resources and information
- First "**Annual Project and Expenditure Reports**" are due by <u>April 30, 2022</u>
  - *Counties with a population below 250,000 residents which received less than $10 million in funding*
- Second "**Quarterly Project and Expenditure Reports**" are also due by <u>April 30, 2022</u>
  - *Counties with a population above 250,000 residents; or*
  - *Counties with a population below 250,000 residents which received more than $10 million in funding*
- "**Recovery Plan Performance Reports**" are due by <u>July 31, 2022</u>
  - *Only required for Counties with populations above 250,000 residents*

Questions?

John Wienges, Jr.

Office: 803-252-7255 (x307)

Cell: 803-664-0774

jwienges@scac.sc

www.SCcounties.org