

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: July 6, 2021
Reviewed by: NA

SUBJECT: Overview of Albany’s American Rescue Plan Act Allocation

REPORT BY: Heather Rowden, Finance Director

SUMMARY

This report provides an overview of the American Rescue Plan Act including the amount Albany will receive and how the funds can be used.

STAFF RECOMMENDATION

That the Council receive the report and provide staff direction for further research on the use of these funds.

BACKGROUND

The American Rescue Plan Act (ARPA), signed into law on March 11, 2021, provides recovery funds for state and local governments. The funds are intended to address the pandemic and associated economic fallout.

For purposes of the ARPA, Albany is considered a non-entitlement unit. Non-entitlement units of local government (NEUs) are classified as local governments serving a population under 50,000. Payment to NEUs are being distributed through the states and allocations are made based on 2019 population estimates. The State of California is being provided \$1,218,261,277 to allocate to NEUs.

As of the date this staff report was published, Albany’s allocation is projected to be \$4,711,702. This allocation may change if any cities decline their allocations, or if it is determined they do not qualify for the full amount of the allocation originally proposed. Each NEU’s allocation cannot exceed 75% of the budget in effect on January 27, 2020.

This is the second round of fiscal recovery provided by the federal government. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020. The City received its portion of available funds between July and October, 2020. The CARES Act funding Albany received totaled \$233,818, significantly less than the proposed ARPA funds.

The City's CARES Act allocation went towards repaying costs the City incurred in fiscal year 2019-20 to respond to the public health emergency. Reimbursed expenses included staff time for activation of the Emergency Operations Center, community outreach through the Neighborhood Services Division, personal protective equipment for staff, and software and equipment necessary to allow telework capabilities to keep City operations running even during the stay at home order. Allowable uses for ARPA funds are discussed in the Discussion/Analysis section of this report.

For the CARES Act funds, the State is acting as a fiduciary and all reporting on these funds goes through the California Department of Finance (CADO). CADO reviewed the City's recordkeeping related to these funds and provided preliminary sign off in early June that the funds were used appropriately, and all necessary documentation is being kept by the City. ARPA funds will be handled differently for reporting purposes, and while the allocations are being distributed by the states, US Treasury reporting requirements are the direct responsibility of individual recipients. The City will be required to report to the US Department of Treasury on the use of these funds. Reporting is discussed further in the Next Steps section of this report.

DISCUSSION/ANALYSIS

Allowable Uses

As of the date this staff report was drafted, the US Treasury was still working on guidance for the use of these funds. The US Treasury has issued draft guidance that is asking for comment on, so some of the items listed below may change when the final rule is issued. As detailed in the Next Steps section of this report, staff will return to Council with updates on these funds several times over the course of the next five years and any changes will be addressed at that time.

The US Treasury Interim Final Rule on the ARPA provides guidance on the Act's four distinct spending categories:

1) Public Health and Economic Impacts

Similar to the CARES Act funds, ARPA funds may be used to address public health and economic impacts. Unlike the CARES Act funds, which made numerous assumptions, such as all public safety expenses during the applicable time frame being related to the pandemic, the US Department of Treasury has specifically outlined how to determine whether a program or service is an eligible use for ARPA purposes. The two steps to determining this are: first, identify a need or negative impact; second, identify how the program or service addresses that need. ARPA funds used in this category must be responding to the disease itself or the harmful consequences of the economic disruptions resulting from the public health emergency.

Examples of City expenses that would qualify under this category include, but are not limited to:

- COVID-19 mitigation and prevention;
- Improvements made and steps taken to reduce the spread of the disease in public facilities;
- Medical expenses;
- Expenses to meet behavioral health care needs exacerbated by the pandemic; and
- Housing and homeless services.

Under this category, ARPA funds can also be used to address direct economic impacts to household, individuals, small business, and non-profits. There are several restrictions on using the funds for this purpose including amount restrictions and significant review to determine recipient eligibility. Specific criteria would need to be established to direct the aid. Generally, only assistance to individuals in qualified census tracts would be allowed; however, the interim guidance provided by the US Treasury indicates that assistance may be provided to individuals outside qualified census tracts to provide relief to those hardest-hit by the pandemic. Staff do not currently have the resources to establish or monitor a program like this in house and would need to do additional research to determine the feasibility and cost of a third party administrator for this type of program, if requested by Council.

2) Premium Pay

Funds may be used to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers. Eligible workers are those who have been, and continue to be, relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities. Eligible 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.

The ARPA defines eligible premium pay as an amount up to \$13 per hour in addition to wages or remuneration the worker otherwise receives and in aggregate an amount not to exceed \$25,000 per eligible worker or 1.5 times the county's average wage (which would total \$136,731 using 2019 numbers provided by census.gov). The ARPA further indicates that if this option is used, the funds should prioritize compensation of those lower income eligible workers that perform essential work. Additional restrictions apply, and a more in-depth analysis of this would be required if Council chose to move forward with this option.

If the City moved forward with offering grants for this type of expense to local businesses, the City is responsible for managing the grant program and recipient compliance with the ARPA. This includes determining the eligibility of each recipient, ensuring that the funds are dispersed to eligible workers, and increased reporting requirements under the ARPA, among other duties. Staff do not currently have the resources to monitor a program like this in house and would need to do additional research to determine the feasibility and cost of a third party administrator for this type of program, if requested by Council.

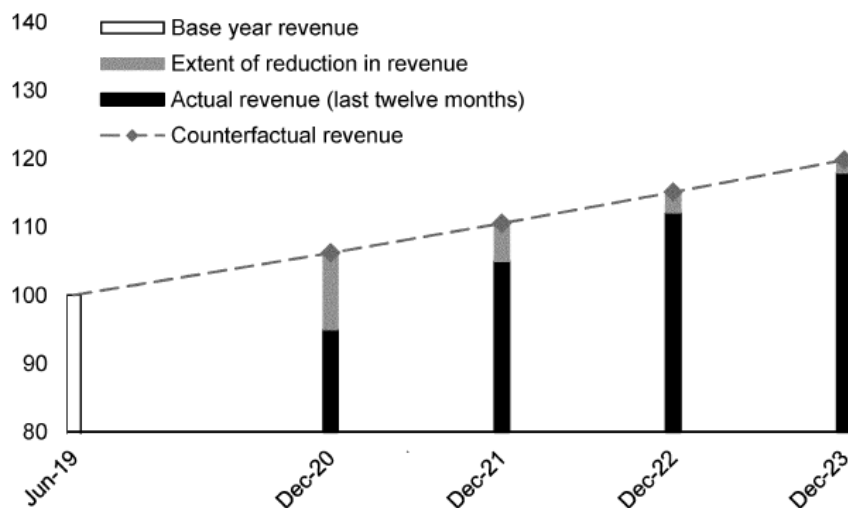
3) Revenue Loss

The ARPA allows recipients to use these funds for the provision of government services, in general, under certain cases. Funds should be used to avoid cuts to government services, allowing the continuation of essential services and to ensure that fiscal austerity measures do not hamper the broader economic recovery. The use cannot exceed the loss of revenue due to the COVID-19 pandemic. The loss is measured relative to the most recent full fiscal year that was not affected by the pandemic. For Albany, this was fiscal year 2018-19 which ended June 30, 2019.

The US Treasury has set strict guidelines for how this loss must be calculated. The current guidance defines general revenue as revenues collected by a recipient and generated from its underlying economy. The calculation includes an adjustment for revenue growth which uses the higher of actual growth over the prior three years or 4.1%. The calculation for the amount of ARPA funds that may be used to counteract revenue loss is then calculated on a calendar year basis. A calculation will need to be done each year to determine the revenue losses for December 31, 2020, 2021, 2022, and 2023. Many organizations have asked the US Treasury for this requirement to be changed to fiscal year (June 30 instead of December 31) so the calculation date may change when the final rule is issued. Multiple organizations have compiled revenue loss calculators and staff are reviewing each one to determine which one best represents the City's revenues.

The chart below comes from the US Treasury Interim Final Rule and illustrates how the revenue loss is calculated. The dark grey portion of the bars, labeled "Extent of reduction in revenue," would be the amount the City could recover in lost revenue and apply to eligible expenses in this category.

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Once the revenue loss is determined, funds can be used as revenue to cover City services. Services specifically included in the US Treasury guidance include, but are not limited to, maintenance of infrastructure, modernization of cybersecurity, health services, environmental remediation, and the provision of police, fire, and other public safety services.

4) Investment in Infrastructure

Allowable uses have also been expanded for use in meeting the critical need for necessary investment and improvements to water, sewer, and broadband infrastructure. Necessary investments in sewer and storm drain infrastructure are designed to provide an adequate minimum level of service that meets or exceeds applicable health-based standards. The City may use ARPA funds for sewer and storm drain infrastructure for improvements identified as the highest priority.

Prohibited Expenses

Expenses specifically prohibited by the ARPA include unfunded liability payments to pension funds, contributions to financial reserves, and any use that directly or indirectly offsets a reduction in the net tax revenue to the recipient.

Timing

Funds will be provided in two installments. The first 50% will be released by the State within the next month or so while the second installment will be released a year after the first. The funds are staggered to allow recipients to be able to address new and ongoing issues related to the COVID-19 pandemic as they arise.

ARPA funds may be used to cover eligible expenses authorized between March 3, 2021 and December 31, 2024. Funds approved by December 31, 2024 must be expended before December 31, 2026.

The full amount of the City's allocation does not need to be programed at this time. The City should use the first installment to address immediate health, safety, and economic needs, but may hold off on other allocations to determine the amount that can be used under the revenue loss section, or to see what long-term effects the pandemic has on the community and address those in future years. It is also important that the City not spend more than it has received at any given time. Since the first allocation should be just over \$2,355,000, no more than that should be programed at this time, with the understanding that it will not be spent until the funds are actually received by the City.

Discussion of Use

The following provides a conceptual idea to how funds could be allocated in line with the funding rules. It should be noted that the amounts listed below are estimates only, and do not directly add up to the total allocation. Staff will provide additional information on any of the items listed below pending the direction given by Council on preferences.

Expense	Amount	Spending Category
Grant Program(s)*	\$500,000	1) Public Health and Economic Recovery
Housing/Shelter/Rental assistance	\$1,000,000	1) Public Health and Economic Recovery
Local business support/promotion	\$200,000	1) Public Health and Economic Recovery
Mental Health supplemental services	\$475,000	1) Public Health and Economic Recovery
HVAC/Air Purifier upgrade for Civic Center	\$850,000	1) Public Health and Economic Recovery
Software update to allow for online payments and account management	\$15,000	1) Public Health and Economic Recovery
Green Infrastructure (Marin)	\$300,000	4) Investments in Infrastructure
Brighton Sewer Relocation	\$4,500,000	4) Investments in Infrastructure

*Grant programs could conceivably cover some of the areas already listed within the table including local business support programs. As mentioned above, staff do not currently have the resources to monitor a grant program in house and would need to do additional research to determine the feasibility and cost of a third-party administrator for this type of program. If requested by Council, staff could research this over the next few months and return in September with additional information.

SUSTAINABILITY CONSIDERATIONS

According to City policy, any purchases made with these funds will include an analysis of sustainability.

SOCIAL EQUITY AND INCLUSIVITY CONSIDERATIONS

As per City policy, and US Treasury guidelines, social equity and inclusivity will be taken into consideration of applicable uses. Staff have analyzed the eligible uses of funds and have suggested uses that assist with the immediate needs of the City and its residents, as well as long term stability of all residents.

CITY COUNCIL STRATEGIC PLAN INITIATIVES

Not applicable.

FINANCIAL CONSIDERATIONS

ARPA funds are a one-time funding source that should be used for projects and programs that do not require ongoing staffing and maintenance. These funds should not affect the City’s operating budget, but may be integrated into the Capital Improvement Plan along with other projects, subject to operational capacity.

NEXT STEPS

With Council direction, staff will research the technical and administrative ability to use the funds as requested. These funds will be reported on multiple times over the next five years

and Council will have multiple opportunities to weigh in on the use of funds. As mentioned previously, use under the revenue loss provisions will be calculated on an annual basis and would return to Council each year for allocation, if there are funds remaining after allocation to the other three allowable expense categories.

Future reporting

As mentioned earlier in this report, the City will be responsible for reporting to the US Treasury regarding the use of these funds. In addition to reporting on expenses made by the City directly, the City is responsible for reporting on any funds transferred to other organizations, such as funds allocated to a third-party administering a grant program authorized by Council.

The first report, the Interim Report to US Treasury, is due August 31, 2021. The report should include any proposed uses for the funds. If there is no actionable direction from Council by the time the report is due, the City will simply report that it is analyzing the best use for the funds.

Going forward, Annual Project and Expenditure Reports will be due each year on October 31 for the program year ending September 30. This report may go to the Financial Advisory Committee for review to ensure the City is using the funds as directed and reporting appropriately. It may also go to Council, if requested.

In addition to direct reporting to the US Treasury, the funds will push the City over the threshold to qualify for a Single Audit. This type of audit is required when total funds received by the federal government exceeds \$750,000. The City's current independent auditors, Chavan and Associates, will complete this audit as part of their normal audit process.



American Rescue Plan Act 2021 (ARPA)

Allocations

Non-entitlement Units of Local Government (NEUs)

- Governments serving a population of under 50,000
- Apportioned by 2019 population estimates
- Distributed by States
 - CA has \$1,218,261,277 to allocate to NEUs
- Albany's current allocation is \$4,711,702
 - NEUs may decline funds
 - Allocations cannot exceed 75% of the budget in effect on January 27, 2020

Time Frame

- First distribution within the next month
 - 50% of the allocation - \$2,355,851
- Second distribution a year later
- Can be used for qualifying expenses after March 3, 2021
- Funds must be appropriated by December 31, 2024
- Funds must be used by December 31, 2026

Reporting Requirements

Federal Reporting

- Interim Report to US Treasury – August 31, 2021
- Annual Report to US Treasury – October 31 each year through December 31, 2026
 - Covers plan year ending September 30 each year

Single Audit

- Required when a city receives more than \$750,000 in federal money
- Completed by the City's independent auditor (Chavan & Associates)

Allowable Uses

1) Public Health and Economic Impacts

- Funds must be used for:
 - Responding to the disease itself
 - Responding to the harmful consequences of the economic disruptions
- Determine if a program or service is eligible:
 - Identify a need or negative impact
 - Identify how the program or service addresses that need

1) Public Health and Economic Impacts, cont.

- COVID-19 mitigation and prevention
- Improvements made and steps taken to reduce the spread of the disease in public facilities
- Medical expenses
- Expenses to meet behavioral health care needs exacerbated by the pandemic
- Housing and homelessness services
- Grants to individuals or businesses
 - Normally must be in qualified census tracts, but ARPA opens that to “hardest-hit” individuals or businesses
 - Can be used to pay arrearages prior to March 3, 2021 to bring people current (rent, utilities, etc.)

Allowable Uses, cont.

2) Premium Pay

- May be provided to essential workers such as health care staff, grocery and restaurant workers, janitors and sanitation workers, etc.
- US Treasury guidance provides the following limits:
 - \$13 per hour
 - \$25,000
 - 1.5x the county's average wage: \$136,731 for Alameda using 2019 data (most recent available data on www.census.gov)
- Can be provided to any community essential workers, not just government employees, through grants to businesses

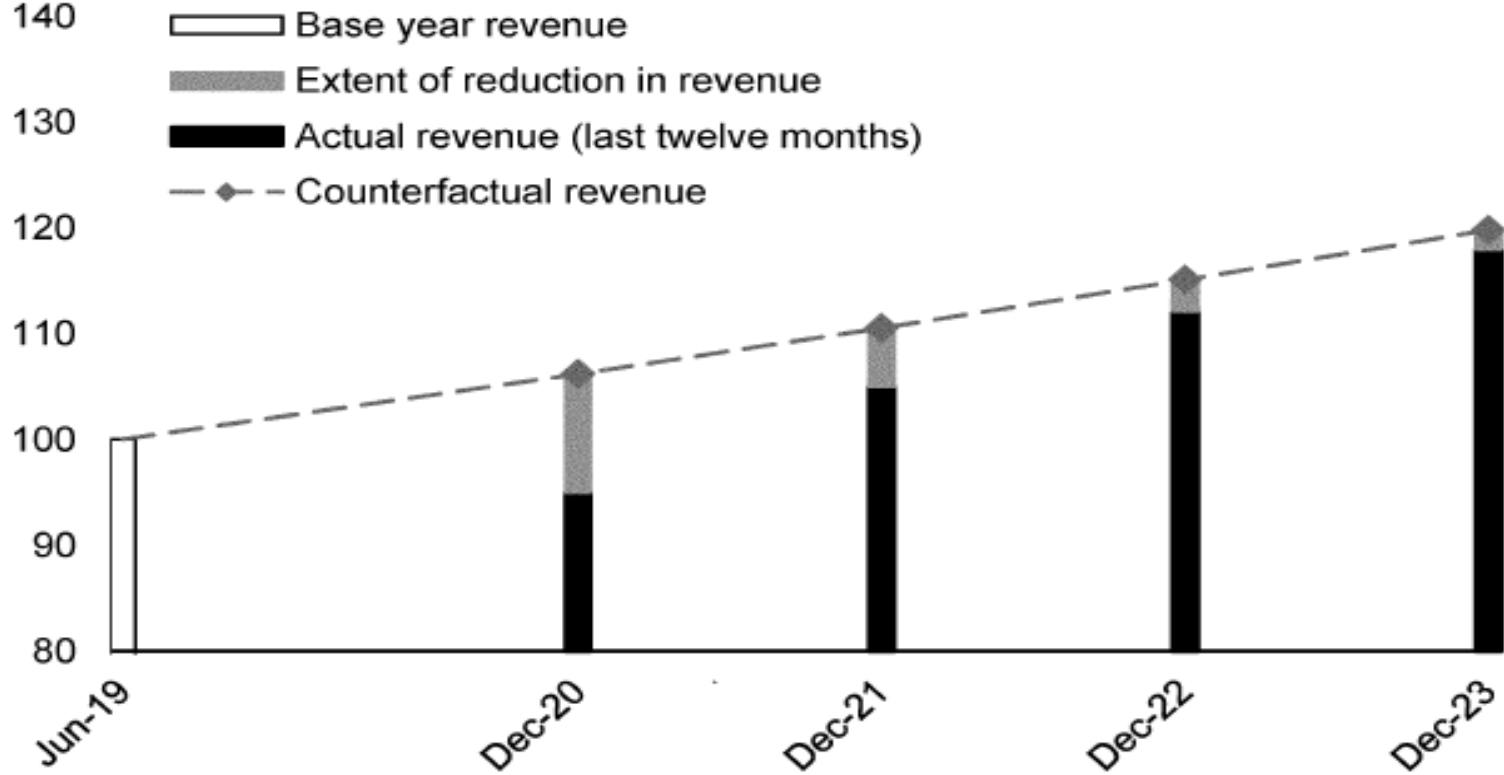
Allowable Uses, cont.

3) Revenue Loss

- Revenue loss recovery may be used to cover eligible expenses for the provision of government services
- Must be calculated on an annual basis
 - Base year for revenue calculations is fiscal year 2019
 - December 31, 2020, 2021, 2022, and 2023
 - May change based on comments on US Treasury guidance
- Items suggested in the US Treasury guidance include, but are not limited to:
 - Maintenance of infrastructure
 - Modernization of cybersecurity
 - Health services
 - Environmental remediation
 - Provision of public safety services

3) Revenue Loss, cont.

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Allowable Uses, cont.

4) Investment in Infrastructure

- Broadband
 - To assist communities with meeting minimum internet speeds
- Water
- Sewer/Storm Drain

Allowable Uses, cont.

Prohibited Expenses

- Additional payments to pension plans (does not include pension costs associated with active member salaries)
- Contributions to financial reserves
- Reductions in tax rates
- Debt service payments

Suggested Uses

EXPENSE	AMOUNT	SPENDING CATEGORY
Grant Program	\$500,000	1) Public Health & Economic Recovery
Housing/Shelter and associated homeless support services	\$1,000,000 over 5 years	1) Public Health & Economic Recovery
Local business support/promotion	\$200,000 over 5 years	1) Public Health & Economic Recovery
Mental Health supplemental services	\$475,000	1) Public Health & Economic Recovery
HVAC/Air Purifier upgrade for Civic Center	\$850,000	1) Public Health & Economic Recovery
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