

Agenda Item Report



Winnebago County
The Wave of the Future

DATE: 1/10/2023

FROM: Mike Collard, Director of Administration

RE: Resolution Establishing Spirit Fund and Transferring Funds

General Description:

This resolution will create a new special revenue fund, to be known as the Spirit Fund, transfer surplus funds from the general fund and Park View Health Center Funds to the Spirit Fund, and rename the ARPA Strategy and Outcomes Commission as the Spirit Fund Commission

Action Requested:

Approval of the attached resolution.

Procedural Steps:

Committee of Jurisdiction: ARPA Strategy and Outcomes Commission

Action taken: Approved

Meeting date: 11/30/2022

Vote: 8-0

County Board

Action taken: _____

Meeting date: 1/17/2023

Vote: _____

Background:

By Resolution 196-082021, the Board accepted the first tranche of \$16,695,459 in State and Local Fiscal Recovery Funds under the American Rescue Plan Act (ARPA). The second tranche was accepted through Resolution 109-102022, bringing the total to \$33,390,918. By Resolution 277-022022 the Board created the ARPA Strategy and Outcomes Commission, with a directive that "all ARPA spending and appropriation requests are to be submitted to the ARPA Strategy and Outcomes Commission for its recommendation prior to action by the full County Board."

Regulations promulgated by the U.S. Department of the Treasury provide several categories of expenditures for which this ARPA funding may be used. One of these is to use the funds to replace public sector revenue lost as a result of the pandemic. The Treasury regulations further provide that a county or municipality may elect to treat a minimum of \$10,000,000 as replacement of lost revenue, or may use a formula, provided in the regulations, to determine a greater amount of lost revenue. For Winnebago County, this formula leads to the result that we may treat the entire allotment of \$33,390,918 as replacement of lost revenue.

Once ARPA funds have been identified as replacement of lost revenue, the regulations allow the funds to be spent on almost any general governmental service provided after March 3, 2021, with only a few exceptions.

By Resolution 110-102022, the Board recognized the allotment of \$33,390,318 as replacement of lost public sector revenue for Winnebago County, and also identified expenses in various departments as the general government services paid for through the use of ARPA funds.

This infusion of ARPA money identified as having paid for general governmental services has created increases in our fund balances as of the end of 2022.

Policy Discussion:

Treating the entire ARPA funding as replacement of lost revenue and identifying expenses incurred in providing general government services is sufficient to meet the requirements of the State and Local Fiscal Recovery Funds regulations, and will end our reporting obligation to the U.S. Treasury Department regarding use of ARPA funds. The \$33,390,318 is now essentially just the County's money, currently in our fund balances.

We could simply end here, and the Board could use the excess fund balances created by this money when and how it sees fit. However, the ARPA Strategy and Outcomes Commission believes that in order to provide transparency and accountability regarding the impact of these funds, we should move the \$33,390,918 back out of the fund balances and again into a separate fund, where we can track the eventual uses of these fund balances.

Since these funds are no longer subject to ARPA regulations, our auditors advise that we should avoid using the name "ARPA" to refer to these funds. The name suggested for the separate fund is the "Spirit Fund," which reflects the Commission's desire to use the funds in the spirit of ARPA.

Accordingly, the resolution provides that the \$33,390,918 will be spend for purposes that fall within one or more of these categories:

- (1) Responding to public health and negative economic impacts of the pandemic, including public health, assistance to households, assistance to small businesses, assistance to nonprofits, aid to impacted industries, and restoring or supporting public sector capacity;
- (2) Providing premium pay for essential workers; and
- (3) Making investments in broadband, water, or sewer infrastructure.

These are the categories for which ARPA state and local fiscal recovery funds may be spent, other than as replacement of lost revenue.

Attachments:

U.S. Department of the Treasury, Overview of Final Rule, Replacing Lost Public Sector Revenue.



Replacing Lost Public Sector Revenue

The Coronavirus State and Local Fiscal Recovery Funds provide needed fiscal relief for recipients that have experienced revenue loss due to the onset of the COVID-19 public health emergency. Specifically, SLFRF funding may be used to pay for “government services” in an amount equal to the revenue loss experienced by the recipient due to the COVID-19 public health emergency.

Government services generally include any service traditionally provided by a government, including construction of roads and other infrastructure, provision of public safety and other services, and health and educational services. Funds spent under government services are subject to streamlined reporting and compliance requirements.

In order to use funds under government services, recipients should first determine revenue loss. They may, then, spend up to that amount on general government services.

DETERMINING REVENUE LOSS

Recipients have two options for how to determine their amount of revenue loss. Recipients must choose one of the two options and cannot switch between these approaches after an election is made.

1. Recipients may elect a “standard allowance” of \$10 million to spend on government services through the period of performance.

Under this option, which is newly offered in the final rule Treasury presumes that up to \$10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund “government services.” The standard allowance provides an estimate of revenue loss that is based on an extensive analysis of average revenue loss across states and localities, and offers a simple, convenient way to determine revenue loss, particularly for SLFRF’s smallest recipients.

All recipients may elect to use this standard allowance instead of calculating lost revenue using the formula below, including those with total allocations of \$10 million or less. Electing the standard allowance does not increase or decrease a recipient’s total allocation.

2. Recipients may calculate their actual revenue loss according to the formula articulated in the final rule.

Under this option, recipients calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Under the flexibility provided in the final rule, recipients can choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. Treasury has also provided several adjustments to the definition of general revenue in the final rule.

To calculate revenue loss at each of these dates, recipients must follow a four-step process:



- a. Calculate revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the *base year revenue*.
- b. Estimate *counterfactual revenue*, which is equal to the following formula, where *n* is the number of months elapsed since the end of the base year to the calculation date:

$$\textit{base year revenue} \times (1 + \textit{growth adjustment})^{\frac{n}{12}}$$

The *growth adjustment* is the greater of either a standard growth rate—5.2 percent—or the recipient’s average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency.

- c. Identify *actual revenue*, which equals revenues collected over the twelve months immediately preceding the calculation date.

Under the final rule, recipients must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after the date of adoption of the final rule (January 6, 2022). Specifically, the estimated fiscal impact of tax cuts and tax increases adopted after January 6, 2022, must be added or subtracted to the calculation of actual revenue for purposes of calculation dates that occur on or after April 1, 2022.

Recipients may subtract from their calculation of actual revenue the effect of tax increases enacted prior to the adoption of the final rule. Note that recipients that elect to remove the effect of tax increases enacted before the adoption of the final rule must also remove the effect of tax decreases enacted before the adoption of the final rule, such that they are accurately removing the effect of tax policy changes on revenue.

- d. Revenue loss for the calculation date is equal to *counterfactual revenue* minus *actual revenue* (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period. Revenue loss for the period of performance is the sum of the revenue loss on for each calculation date.

The supplementary information in the final rule provides an example of this calculation, which recipients may find helpful, in the Revenue Loss section.



SPENDING ON GOVERNMENT SERVICES

Recipients can use SLFRF funds on government services up to the revenue loss amount, whether that be the standard allowance amount or the amount calculated using the above approach. **Government services generally include *any service traditionally provided by a government***, unless Treasury has stated otherwise. Here are some common examples, although this list is not exhaustive:

- ✓ Construction of schools and hospitals
- ✓ Road building and maintenance, and other infrastructure
- ✓ Health services
- ✓ General government administration, staff, and administrative facilities
- ✓ Environmental remediation
- ✓ Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)

Government services is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements. Recipients should be mindful that certain restrictions, which are detailed further in the Restrictions on Use section and apply to all uses of funds, apply to government services as well.